

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SUNCOAST WATERKEEPER, OUR  
CHILDREN’S EARTH FOUNDATION, and  
ECOLOGICAL RIGHTS FOUNDATION,

Plaintiffs,

v.

CITY OF ST. PETERSBURG,

Defendant.

Civil Case No.: 8:16-cv-03319-JDW-AEP

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

Suncoast Waterkeeper (“SCWK”), Our Children’s Earth Foundation (“OCE”) and  
Ecological Rights Foundation (“EcoRights”) (collectively, “Plaintiffs”), by and through their counsel,  
hereby allege:

**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 September 28, 2016, Plaintiffs issued a sixty (60) day notice letter (“Notice Letter”)  
to the City of St. Petersburg (“Defendant” or “St. Petersburg”). The Notice Letter informed St.  
Petersburg of its violations of the Clean Water Act and of Plaintiffs’ intention to file suit against St.  
Petersburg. The Notice Letter was sent to the Administrator of the United States Environmental

1 Protection Agency ("EPA"), the Administrator of EPA Region IV, and the Secretary of the Florida  
2 Department of Environmental Protection ("DEP") as required by section 505(b)(1)(A) of the Clean  
3 Water Act, 33 U.S.C. § 1365(b)(1)(A). The Notice Letter was also sent to the Executive Director of the  
4 Southwest Florida Water Management District ("Regional District").

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

7 4. Plaintiffs are informed and believe, and thereon allege, that neither EPA nor the state of  
8 Florida has commenced or is diligently prosecuting an action to redress the violations alleged in the  
9 Notice Letter and in this complaint under section 505(b)(1)(B) of the Clean Water Act, 33 U.S.C. §  
10 1365(b)(1)(B). This action is not barred by any prior administrative penalty under section 309(g) of the  
11 Clean Water Act, 33 U.S.C. § 1319(g).

12 5. Venue is proper in the Middle District of Florida, Tampa Division, pursuant to section  
13 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located  
14 within this judicial district, specifically Pinellas County.

15  
16 **II. INTRODUCTION**

17 6. Plaintiffs allege the following violations of the Clean Water Act: (1) discharges of  
18 pollutants to waters of the United States without National Pollution Discharge Elimination System  
19 ("NPDES") Permit authorization in violation of section 301(a) of the Clean Water Act, 33 U.S.C.  
20 §1311(a); and (2) violations of the *State of Florida Municipal Separate Storm Sewer System Permit*,  
21 NPDES Permit No. FLS000007-004, ("MS4 Permit"). St. Petersburg's violations of the Clean Water  
22 Act and its NPDES permit are ongoing and continuous.

23  
24 **III. PARTIES AND BACKGROUND**

25 **A. Plaintiffs**

26 7. SCWK is a non-profit public benefit corporation with members throughout the Tampa  
27 Bay area, dedicated to protecting and restoring the Florida Suncoast's waterways through enforcement,  
28 fieldwork, advocacy, and environmental education for the benefit of the communities that rely upon

1 these precious coastal resources. Pinellas County waterways and communities are included in SCWK's  
2 area of operation. SCWK has been registered as a non-profit corporation in Florida since 2012 and has  
3 maintained its good and current standing in Florida since that time. SCWK is a licensed member of  
4 Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 300  
5 separate Waterkeeper programs, such as SCWK. SCWK's office is located in Sarasota, Florida.

6 8. OCE is a non-profit public benefit corporation with members throughout the United  
7 States, including Florida and specifically the Tampa Bay area, dedicated to protecting the public,  
8 especially children, from the health impacts of pollution and other environmental hazards and to  
9 improving environmental quality for the public benefit. Another aspect of OCE's mission is to  
10 participate in environmental decision making, enforce environmental laws (including via citizen suits),  
11 both federal and state, to reduce pollution, and to educate the public concerning those laws and their  
12 enforcement.

13 9. EcoRights is a non-profit public benefit corporation with members across the United  
14 States, including Florida and specifically the Tampa Bay area. Among other work it does, EcoRights  
15 focuses on protecting surface waters from pollution and degradation. EcoRights represents citizens who  
16 are striving to protect waterways from pollution and secure the multitude of public and private benefits  
17 that follow from clean, vibrant waters: safe drinking water, abundant and diverse wildlife populations,  
18 healthy recreational activities, and economic prosperity from commercial, sport, and subsistence fishing;  
19 and other commercial activities that depend on clean water. To further its environmental advocacy goals,  
20 EcoRights actively seeks federal and state agency implementation of state and federal water quality  
21 related laws, and as necessary, directly initiates enforcement actions on behalf of itself and its members.

22 10. SCWK, OCE and EcoRights' members use and enjoy the ocean and bay waters and other  
23 waters adjoining and in St. Petersburg for body contact water sports and other forms of recreation,  
24 wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation.

25 11. St. Petersburg's illegal discharges of raw and/or partially treated sewage to ocean and  
26 bay waters and other waters adjoining and in St. Petersburg degrade water quality and harm aquatic life  
27 in these waters, and thus impairs Plaintiffs' members' use and enjoyment of the ocean and bay waters  
28 and other waters adjoining and in St. Petersburg.

1           12.     The interests of Plaintiffs' members have been, are being, and will continue to be  
2 adversely affected by St. Petersburg's failure to comply with the MS4 Permit and the Clean Water Act.  
3 The relief sought herein will redress the harms to Plaintiffs caused by St. Petersburg's activities.  
4 Continuing commission of the acts and omissions alleged above will irreparably harm Plaintiffs'  
5 members, for which harm they have no plain, speedy, or adequate remedy at law.

6           **B.       City of St. Petersburg**

7           13.     St. Petersburg is a municipality incorporated under the laws of the state of Florida and a  
8 person within the meaning of Section 403.031(5), Fla. Stat.

9                   **1.       The Sewage Collection and Treatment System**

10          14.     St. Petersburg owns and operates wastewater reclamation facilities ("WRFs") and  
11 appurtenant sewage wastewater collection and transmission systems ("WCTS") which collectively  
12 constitute a publicly owned treatment works ("POTW") as defined in CWA section 212(2) and 40  
13 C.F.R. section 125.58(s).

14          15.     The WCTS consists of pipes and other manmade conveyances, and constitutes a point  
15 source under the Clean Water Act. *See* 33 U.S.C. § 1362(14).

16          16.     All wastewater collected within St. Petersburg is transported to the POTW. The POTW  
17 includes the following WRFs and associated WCTS serving the City of St. Petersburg and other portions  
18 of Pinellas County.

19                   Albert Whitted Water Reclamation Facility, 601 8th Ave. S.E.

20                   Northeast Water Reclamation Facility, 1160 62nd Ave. N.E.

21                   Northwest Water Reclamation Facility, 7500 26th Ave. N.

22                   Southwest Water Reclamation Facility, 3800 54th Ave. S.

23                   St. Petersburg Master Reuse System, 1650 Third Ave. N.

24          17.     The WRFs are individually permitted under the State of Florida Domestic Wastewater  
25 Facility Permit Program ("State Permits").<sup>1</sup>

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26                   <sup>1</sup> Albert Whitted Water Reclamation Facility, Wastewater Permit No. FLA128830; Northwest Water Reclamation Facility,  
27 Wastewater Permit No. FLA128821; Northeast Water Reclamation Facility, Wastewater Permit No. FLA 128856; Southwest  
28 Water Reclamation Facility, Wastewater Permit No. FLA128848.

18. St. Petersburg has reported numerous overflows and discharges of raw and/or partially treated sewage from its WRFs and WCTS since September 28, 2011. These overflows and discharges are referred to as sanitary sewer overflows (“SSOs”). St. Petersburg’s SSOs are documented in its internal SSO reports, call out reports, service requests, spreadsheets and tables summarizing SSOs from the WCTS, SSO reports submitted by St. Petersburg to DEP and the Pinellas County Department of Health, and in other correspondence to and from St. Petersburg. The dates and locations of, and all other pertinent details concerning, St. Petersburg’s sewage spills are well known to St. Petersburg, as St. Petersburg is required to monitor and report these spills to the DEP. *See* State Permits, General Conditions, § IX.20.a.(4) and (b).

19. Each of these spills that has caused pollutants to flow into waters of the United States constitutes a separate violation of CWA section 301(a).

20. St. Petersburg is responsible for operating and maintaining the WCTS, tasks which include, but are not limited to: collecting and conveying sewage through the WCTS, conducting routine maintenance, cleaning, and inspection of the WCTS; and responding to citizens’ complaints regarding discharges of raw and/or partially treated sewage.

21. St. Petersburg is responsible for operating and maintaining the WRFs, tasks which include, but are not limited to, treating and properly disposing of sewage conveyed to the WRFs, conducting routine maintenance, cleaning, and inspection of the WRFs, and responding to citizens’ complaints regarding discharges of raw and/or partially treated sewage.

22. St. Petersburg is responsible for operating and maintaining the MS4, tasks which include, but are not limited to, preventing the discharge of non-stormwater (*i.e.*, any substances other than storm water including but not limited to sewage) into the MS4.

23. As owner and operator of the WRFs and WCTS, St. Petersburg is responsible for violations of Clean Water Act section 301(a) and MS4 Permit alleged herein.

## 2. The Municipal Separate Storm Sewer System

24. DEP has issued MS4 Permit Number FLS000007-004 (the “MS4 Permit”) to St. Petersburg.

25. The MS4 Permit authorizes St. Petersburg to discharge stormwater to waters of the State

1 in accordance with the approved Stormwater Management Program, effluent limitations, monitoring  
2 requirements, and other provisions as set forth in the permit.

3 26. St. Petersburg owns and operates the MS4. *See* MS4 Permit § I.A.

4 27. Under the terms of the MS4 Permit, St. Petersburg is required to effectively prohibit the  
5 discharge of non-stormwater into its storm sewer system. *Id.* § I.D.

6 28. Additionally, St. Petersburg is required to implement procedures to prevent, contain, and  
7 respond to spills that may discharge into the MS4. *See* MS4 Permit, Illicit Discharges and Improper  
8 Disposal, § 7(d).

9 29. St. Petersburg's MS4 serves the areas also served by the WCTS. The MS4 contains  
10 numerous storm drain inlets that lead to underground storm drain pipes, which discharge to Tampa Bay,  
11 the Gulf of Mexico, and other waters of the United States in or adjoining St. Petersburg.

12 30. As owner and operator of the MS4, St. Petersburg is responsible for violations of the  
13 Clean Water Act alleged herein related to discharges of sewage into or from the MS4.

14 **C. The Local Waterways that Receive St. Petersburg's Illegal Discharges and the**  
15 **Environmental Impacts from those Discharges**

16 31. The WRFs and WCTS are located in watersheds that drain to Tampa Bay, the Gulf of  
17 Mexico, and other water bodies, streams, or tributaries in or adjoining St. Petersburg. The storm pipes in  
18 the MS4 owned by St. Petersburg also discharge to these waters.

19 32. SSOs from the WRFs and WCTS, as well as SSOs that enter the MS4 from the WRFs  
20 and WCTS and/or from privately-owned lateral lines, are discharged to Tampa Bay, the Gulf of Mexico,  
21 and other water bodies, streams, or tributaries in or adjoining St. Petersburg.

22 33. Tampa Bay, the Gulf of Mexico, and other water bodies, streams, or tributaries in or  
23 adjoining St. Petersburg are waters of the United States, and/or have a significant nexus to waters of the  
24 United States and thus are navigable waters as defined by the Clean Water Act and controlling authority.

25 34. Tampa Bay is an ecologically sensitive water body and a defining feature of Southwest  
26 Florida. Tampa Bay is an important and heavily used resource, with special aesthetic and recreational  
27 significance for people living in the surrounding communities. The Tampa Bay shoreline has numerous  
28 highly valued beaches and points of public access that offer unique recreational opportunities for

1 swimmers, kayakers, windsurfers, sport fishers and other recreational users. Included amongst these  
2 resources are specially recognized and protected waterways such as the Terra Ceia Aquatic Preserve,  
3 Boca Ciega Bay Aquatic Preserve, and the Pinellas County Aquatic Preserve, all of which are  
4 designated Outstanding Florida Waters, pursuant to 62-302.400 F.A.C., as worthy of special water  
5 quality protections because of their natural attributes.

6 35. SSOs harm Tampa Bay, the Gulf of Mexico, and other water bodies, streams, or  
7 tributaries in or adjoining St. Petersburg and pose a serious risk to fisheries, wildlife habitat, and human  
8 health. SSOs contain human waste, viruses, protozoa, mold spores and bacteria. In addition, SSOs  
9 contain chemicals that cause cancer or reproductive toxicity. These chemicals come from solvents,  
10 detergents, cleansers, inks, pesticides, paints, pharmaceuticals, and other chemicals used by households  
11 and businesses and then discarded to sewage collection systems. SSOs from the WRFs and WCTS that  
12 discharge to Tampa Bay, the Gulf of Mexico, and other waters in or adjoining St. Petersburg, as well as  
13 SSOs that enter the MS4 and subsequently flow directly or with storm water to Tampa Bay, the Gulf of  
14 Mexico and other waters in or adjoining St. Petersburg, result in the addition of these pollutants to these  
15 waters.

16 36. The intensive use of Tampa Bay and the Gulf of Mexico for commercial and sport  
17 fishing, shellfish harvesting, and water-contact recreation increases the likelihood that people will come  
18 into direct contact with SSOs and the pollutants they contain. SSOs also affect people who eat fish  
19 caught in these waters. Toxic chemicals bio-accumulate in the affected waters' food webs; *i.e.*,  
20 contaminants absorbed by plankton accumulate in fish and birds farther up the food chain, and  
21 ultimately transfer in higher doses to human consumers.

22 37. Portions of Tampa Bay and many of its estuaries, channels, and tributaries, which receive  
23 St. Petersburg's SSOs, are listed on the State of Florida's 2016 Clean Water Act Section 303(d) list of  
24 impaired water bodies. A water body that is listed as impaired cannot support its designated beneficial  
25 uses. The beneficial uses of the waters that receive St. Petersburg's SSOs include habitat support for  
26 commercial fishing and sport fishing, estuarine habitat, wildlife habitat, fish migration, fish spawning,  
27 preservation of rare and endangered species, shellfish propagation and harvesting, contact and non-  
28 contact water recreation, industrial service and agricultural water supply, and navigation. DEP Water

Quality Standards 62-302 (2010). Lower and Lower North Tampa Bay are listed as impaired for bacteria (in shellfish). Clam Bayou is listed as impaired for dissolved oxygen, fecal coliform, mercury, and excess nutrients (Chlorophyll-a). Boca Ciega Bay is listed as impaired for fecal coliform and mercury. Booker Creek is listed as impaired for fecal coliform. Several of the tributaries to these bays are also listed as impaired due to excessive levels of various pollutants. Some or all of these pollutants are in St. Petersburg's SSOs.

38. By discharging SSOs and their associated pollutants directly to Tampa Bay, the Gulf of Mexico, and/or its tributaries in violation of the Clean Water Act, as well as discharging SSOs to the MS4 which subsequently flow untreated to Tampa Bay, the Gulf of Mexico, and/or its tributaries, St. Petersburg contributes to the continuing impairment of these waters. As such, St. Petersburg's violations of the Clean Water Act directly harm Plaintiffs' members' use and enjoyment of the Tampa Bay environment.

#### **IV. STATUTORY AND LEGAL REQUIREMENTS**

##### **A. The Clean Water Act**

39. Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutant into waters of the United States unless the discharge complies with various enumerated sections of the Clean Water Act. Among other things, section 301(a) prohibits discharges not authorized by, or in violation of, the terms of a NPDES permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. § 1342.

40. Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p), requires an NPDES Permit for municipal storm water discharges.

41. The MS4 Permit is a NPDES Permit issued by DEP pursuant to section 402 of the Clean Water Act, 33 U.S.C. § 1342. *See* MS4 Permit.

42. Any violation of the MS4 Permit is a violation of the Clean Water Act. *See* 40 C.F.R. § 122.41(a) (2001).

43. Section 505(a) of the Clean Water Act provides for citizen enforcement actions against any "person," for violations of (1) any effluent standard or limitation or (2) an order issued by the Administrator or a State with respect to such a standard or limitation. *See* 33 U.S.C. §§ 1365(a), 1365(f),



1 1362(5).

2 44. St. Petersburg is a “person” within the meaning of Clean Water Act section 502(5), 33  
3 U.S.C. § 1362(5).

4 45. Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), authorizes an action for  
5 injunctive relief.

6 46. Each separate violation of the Clean Water Act subjects the violator to a penalty of up to  
7 \$37,500 per day per violation for violations occurring from January 12, 2009, to November 2, 2015 and  
8 \$51,570 per day per violation for violations occurring after November 2, 2015 and assessed on or after  
9 August 1, 2016. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4 (2016) (Adjustment of Civil Monetary Penalties  
10 for Inflation).

11 47. Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing or  
12 substantially prevailing parties to recover litigation costs, including attorneys’ and experts’ fees.

13 **B. The Requirements of the MS4 Permit**

14 48. The MS4 Permit was reissued in 2007 and subsequently amended in 2013.

15 49. The MS4 Permit contains prohibitions and limitations on the discharge of pollutants into  
16 St. Petersburg’s MS4.

17 50. The MS4 Permit requires that St. Petersburg effectively prohibit discharges of non-storm  
18 water into its MS4. MS4 Permit, Limitations on Coverage, § I.D.

19  
20 **V. CLAIMS FOR RELIEF**

21 **FIRST CAUSE OF ACTION**

22 **Discharges of SSOs to Waters of the United States Without NPDES Permit  
Coverage in Violation of the Clean Water Act**

23 51. St. Petersburg has reported numerous overflows and discharges of raw and/or partially  
24 treated sewage from its WRFs and WCTS since September 28, 2011. These overflows and discharges  
25 are referred to as sanitary sewer overflows (“SSOs”). St. Petersburg’s SSOs are documented in its  
26 internal SSO reports, call out reports, service requests, spreadsheets and tables summarizing SSOs from  
27 the WCTS, SSO reports submitted by St. Petersburg to DEP and the Pinellas County Department of  
28 Health, and in other correspondence to and from St. Petersburg.

1           52.     St. Petersburg has discharged and continues to discharge SSOs from the WRFs and  
2     WCTS to waters of the United States, and/or into its MS4 that then discharges to waters of the United  
3     States, without NPDES permit coverage, in violation of section 301(a) of the Clean Water Act, 33  
4     U.S.C. § 1311(a) and the MS4 Permit.

5           53.     Of the SSOs from the WRFs and WCTS since September 28, 2011, St. Petersburg has  
6     reported that many have discharged to surface waters and/or into the municipal separate storm sewer  
7     systems (“MS4”) operated by St. Petersburg.

8           54.     St. Petersburg has discharged SSOs from its WRFs and WCTS to waters of the United  
9     States, and/or into its MS4 that then discharges to waters of the United States, on at least 40 separate  
10    occasions since September 28, 2011. These days of discharge are listed in the Table that is set forth at  
11    the end of this Complaint.

12          55.     SSOs from the WRFs and WCTS, as well as SSOs that enter St. Petersburg’s MS4 from  
13    the WCTS and/or from privately-owned lateral lines, are discharged to Tampa Bay, the Gulf of Mexico,  
14    and other waters of the United States in or adjoining St. Petersburg, and/or to the MS4 that then  
15    discharges to waters of the United States.

16          56.     St. Petersburg has taken inadequate steps to eliminate its violations of the Clean Water  
17    Act. Specifically, St. Petersburg has failed to adequately operate, maintain, repair, replace, and/or update  
18    the WRFs and WCTS, thus resulting in SSOs.

19          57.     St. Petersburg has reported that many of the SSOs from the WCTS are the result of  
20    unaddressed defects in sewer lines such as extensive line cracking, sags in lines, and misaligned joints;  
21    broken sewer lines, pump station equipment failures, and undersized sewer lines or pump station  
22    pumping and/or storage capacity.

23          58.     St. Petersburg has reported that many of the SSOs from the WCTS are dry weather spills  
24    caused by fats, oil and grease in sewer lines, and blockages caused by roots and debris.

25          59.     Another major source of St. Petersburg’s SSOs is wet weather spills caused by the  
26    WCTS’s inadequate capacity to handle peak wet weather flows. Flows through the WCTS increase  
27    considerably during wet weather due to the infiltration and inflow of storm water and groundwater into  
28    sewer pipes, thus overwhelming the capacity of the WCTS and WRFs causing SSOs.



**Discharges into the MS4 in Violation of the MS4 Permit  
and the Clean Water Act**

70. DEP has issued MS4 Permit Number FLS000007-004 to St. Petersburg. St. Petersburg owns and operates the MS4. *See* MS4 Permit § I.A.

71. St. Petersburg has discharged and continues to discharge SSOs from the WRFs and WCTS to waters of the United States, and/or into its MS4 that then discharges to waters of the United States without NPDES permit coverage, in violation of section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a) and § I.D. of the MS4 Permit.

72. An MS4 is defined as “a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains)” owned or operated by a state, city, or town that is designed or used for collecting or conveying storm water and that discharges to waters of the United States. *See* 40 C.F.R. §§ 122.26(b)(8)(i)-(iv); *see also* 40 C.F.R. § 122.26(b)(18). The MS4 Permit authorizes St. Petersburg to discharge stormwater to waters of the State in accordance with the approved Stormwater Management Program, effluent limitations, monitoring requirements, and other provisions as set forth in the permit.

73. Under the terms of the MS4 Permit, St. Petersburg is required to effectively prohibit the discharge of non-stormwater into its storm sewer system. *See* MS4 Permit, § I.D. Raw or partially treated sewage that is discharged into the MS4 is not stormwater.

74. Additionally, St. Petersburg is required to implement procedures to prevent, contain, and respond to spills that may discharge into the MS4. *See* MS4 Permit, Illicit Discharges and Improper Disposal, § 7(d).

75. St. Petersburg’s MS4 serves the areas also served by the WCTS. The MS4 contains numerous storm drain inlets that lead to underground storm drain pipes, which discharge to Tampa Bay, the Gulf of Mexico, and other waters of the United States in or adjoining St. Petersburg. The MS4 owned and operated by St. Petersburg is a point source under the Clean Water Act. *See* 33 U.S.C. § 1362(14).

76. SSOs that enter St. Petersburg’s MS4 from the WCTS and/or from privately-owned lateral lines are discharged to Tampa Bay, the Gulf of Mexico, and other waters of the United States in

1 or adjoining St. Petersburg.

2 77. St. Petersburg has taken inadequate steps to eliminate its violations of the MS4 Permit  
3 and/or the Clean Water Act. Specifically, St. Petersburg has failed to adequately operate, maintain,  
4 repair, replace, and/or update the WRFs and WCTS, thus resulting in SSOs which enter the MS4 and  
5 discharge to waters of the United States.

6 78. St. Petersburg has reported that many of the SSOs from the WCTS which enter the MS4  
7 are the result of unaddressed defects in sewer lines such as extensive line cracking, sags in lines, and  
8 misaligned joints; broken sewer lines, pump station equipment failures, and undersized sewer lines or  
9 pump station pumping and/or storage capacity.

10 79. St. Petersburg has reported that many of the SSOs from the WCTS which enter the MS4  
11 are dry weather spills caused by fats, oil and grease in sewer lines, and blockages caused by roots and  
12 debris.

13 80. Another major source of St. Petersburg's SSOs which enter the MS4 is wet weather spills  
14 caused by the WCTS's inadequate capacity to handle peak wet weather flows. Flows through the WCTS  
15 increase considerably during wet weather due to the infiltration and inflow of storm water and  
16 groundwater into sewer pipes, thus overwhelming the capacity of the WCTS and WRFs causing SSOs.

17 81. SSOs from the WRFs and WCTS which enter the MS4 are also caused by the  
18 deterioration of sewage infrastructure, under-funding of repairs, and mismanagement.

19 82. St. Petersburg's WRFs and WCTS are deteriorating, and deferral of repairs allows the  
20 continued discharge of SSOs to the MS4 and waters of the United States in violation of the MS4 Permit  
21 and the Clean Water Act.

22 83. St. Petersburg closed the Albert Whitted WRF despite express analysis by its routine  
23 consultant expert advising St. Petersburg that closure of the Albert Whitted WRF would leave the City  
24 without adequate capacity to treat sewage and avoid SSOs during some wet weather events. Closure of  
25 the Albert Whitted WRF caused several days of large SSOs from the WCTS, at least some of which  
26 flowed through the MS4 into waters of the United States in violation of the MS4 permit and the Clean  
27 Water Act.

28 84. St. Petersburg has discharged SSOs from the WRFs and/or WCTS into its MS4 in

violation of the MS4 Permit's discharge prohibitions on at least 17 separate occasions since September 28, 2011. These days of discharge are listed in Table 1 that is set forth at the end of this Complaint.

85. St. Petersburg's SSO discharges from the WRFs and WCTS into its MS4 in violation of the MS4 Permit's discharge prohibitions are ongoing and continuous.

86. Each SSO discharge in violation of the MS4 Permit is a separate and distinct violation of the Clean Water Act.

87. St. Petersburg's violations will continue each occasion it discharges SSOs into its MS4 in violation of the requirements of the MS4 Permit and the Clean Water Act.

88. Significantly more SSOs than reported by St. Petersburg will likely be discovered through this enforcement action. Each such additional SSO that violates the MS4 Permit is a separate violation of the Clean Water Act.

89. By committing the acts and omissions alleged above, St. Petersburg is subject to an assessment of civil penalties pursuant to Clean Water Act sections 309(d) and 505(a), 33 U.S.C. §§ 1319(d), 1365(a), occurring from at least September 28, 2011 to the present.

90. An action for declaratory judgment is authorized by 28 U.S.C. § 2201.

91. An action for injunctive relief under the Clean Water Act is authorized by 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above will irreparably harm Plaintiffs and the public, for which harm they have no other plain, speedy, or adequate remedy at law.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

## **VI. RELIEF REQUESTED**

92. Plaintiffs respectfully request that this Court grant the following relief:

a. declare St. Petersburg to have violated and to be in violation of section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), for its discharges of SSOs to waters of the United States without a NPDES permit;

b. declare St. Petersburg to have violated and to be in violation of the Clean Water Act for discharging pollutants without complying with the substantive and procedural requirements of the MS4 Permit;

1 d. enjoin St. Petersburg from discharging SSOs to waters of the United States  
2 without a NPDES permit, in violation of section 301(a) of the Clean Water Act, 33 U.S.C. §  
3 1311(a);

4 e. enjoin St. Petersburg from violating the substantive and procedural requirements  
5 of the Clean Water Act and the MS4 Permit;

6 f. assess civil penalties against St. Petersburg of up to \$37,500 per day per violation  
7 for violations occurring from January 12, 2009, to November 2, 2015 and \$51,570 per day per  
8 violation for violations occurring after November 2, 2015 and assessed on or after August 1,  
9 2016. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4 (2016) (Adjustment of Civil Monetary Penalties for  
10 Inflation).

11 g. award Plaintiffs their reasonable costs of suit, including attorney, witness, and  
12 consultant fees, as provided for under by sections 309(d) and 505(a) of the Clean Water Act, 33  
13 U.S.C. §§ 1319(d) and 1365(a); and

14 h. any such other relief as the Court deems appropriate.

15  
16 Dated: December 7, 2016

17 /s/ Justin Bloom  
18 Justin Bloom  
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## Southwest WRF

DATE OF DISCHARGE VIOLATION	LOCATION OF DISCHARGE	TYPE OF DISCHARGE	SOURCE OF DISCHARGE	CAUSE OF DISCHARGE	Estimated Total Volume of Discharge	Estimated Volume of Surface Water	Estimated Volume of Discharge to Storm System	FLOWED TO SURFACE WATER (NAME)	FLOWED TO STORMWATER SYSTEM (NAME)	REACH SURFACE WATER (Y=1/N=0)	REACH STORM DRAIN (Y=1/N=0)	NOTES
9/1/2011	3800 54th Av. S.	RAS sludge	other	line break	27,304,460.00	15,308,500.00				19		
9/1/2011	3800 54th Av. S.	RAS sludge	other	line break	15.00	0.00	0.00	na	na	0	0	
9/1/2011	3800 54th Av. S.	RAS sludge	other	line break	50.00	0.00	0.00	na	na	0	0	
9/1/2011	3800 54th Av. S.	RAS sludge	other	line break	5.00	0.00	0.00	na	na	0	0	
2/25/2011	St. Petersburg County Club Golf Course	aluminum sulfate liquid 48.5% by wt.	other	contractor	2,480.00	2,480.00	2,480.00	pond along hole #2 at SP CC	pond along hole #2 at SP CC	1	1	
5/17/2011	550 34 St. S.	na	manhole overflow	grease	30.00	0.00	0.00	na	na	0	0	
5/24/2011	3010 58th ave. S.	na	manhole overflow	grease	5.00	0.00	0.00	na	na	0	0	
8/1/2011	SWWRF	raw sewage	other	debris	300.00	0.00	0.00	na	na	0	0	
8/30/2011	SWWRF	digested sludge	cut hose	contractor	100.00	0.00	0.00	na	na	0	0	
9/1/2011	3800 54th Av. S.	RAS sludge	other - hole in hose	line break	5.00	0.00	0.00	na	na	0	0	
9/10/2011	4074 24th Av. S	wastewater	manhole overflow	other	12,000.00	12,000.00	0.00	Clam Bayou Cr.	na	1	0	
10/13/2011	3800 54th Av. S. WAS	sludge	plumbed sample line	debris	10.00	0.00	0.00	na	na	0	0	
1/3/2012	na	reclaimed water	reclaimed water line	mechanical failure	50.00	0.00	0.00	na	na	0	0	
3/4/2012	3800 Beach Dr. SE	na	na	grease	10.00	0.00	0.00	na	na	0	0	
4/27/2012	Underground in front of GBT building	reclaimed water	reclaimed water line	line break	750.00	750.00	0.00	na	na	1	0	
5/9/2012	536 52nd St. S.	na	manhole overflow	grease	25.00	0.00	25.00	na	na	0	0	
6/24/2012	4th St. S	raw sewage	manhole overflow	extreme weather	2,000.00	2,000.00	0.00	Tampa Bay	na	1	0	
6/25/2012	4936 Sunrise Dr. S	raw sewage	manhole overflow	extreme weather	700.00	700.00	0.00	Tampa Bay	na	1	0	
9/4/2012	interstate 275 N. near exit 22	biosolids	trailer from sludge hauler	traffic incident	3 cubic yards	3 cubic yards	0.00	na	na	0	0	
9/14/2012	SWWRF	reclaimed water	air release	debris	500.00	0.00	0.00	na	na	0	0	
11/9/2012	54th ave S.	reclaimed water	reclaimed water line	contractor	420.00	0.00	0.00	na	na	0	0	
12/26/2012	34 Av. N.	raw sewage	manhole overflow	line break	100.00	100.00		Lake Maguire	na	1	0	
4/23/2013	4751A Osprey Dr. S	raw sewage	force main	contractor	200.00	1,000.00	0.00	na	na	1		inconsistent discharge amount



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4/28/2013	Country Club	raw sewage	manhole overflow	grease	20.00	0.00	0.00	na	na	0	0	
7/16/2013	SW Plant	reclaimed water	plant effluent	mechanical failure	1,100,000.00	0.00	0.00	na	na	0	0	
8/21/2013	757 18th Ave	raw sewage	manhole overflow	grease	50.00	50.00	0.00	na	na	1	0	
9/25/2013	3800 54th Av. S	partially treated distribution wet well	bypass deep bed filters	extreme weather	10,462,000.00	0.00	0.00	na	na	0	0	
9/29/2013		reclaimed water	reclaimed water line	mechanical failure	150.00	0.00	0.00	na	na	0	0	
10/25/2013	275 57th St. N	raw sewage	manhole overflow	roots	100.00	0.00	0.00	na	na	0	0	
12/14/2013	2546 Kingston St. S.	raw sewage	manhole overflow	grease	40.00	0.00	0.00	na	na	0	0	
1/25/2014	4600 Emerson Av.	raw sewage	manhole overflow	grease	50.00	0.00	0.00	na	na	0	0	
3/16/2014	3735 45th Way. N.	raw sewage	manhole overflow	grease	50.00	0.00	50.00	na	na	0	1	
3/26/2014	RAS Pumping Station	RAS sludge	RAS pump leak	mechanical failure	75.00	0.00	0.00	na	na	0	0	
4/25/2014	6145 Sun Blvd.	raw sewage	manhole overflow	grease	660.00	400.00	100.00	Boda Ciega Bay?	na	1	0	
5/17/2014	3311 19th Av. S.	raw sewage	manhole overflow	grease	100.00	0.00	100.00	na	na	0	1	
5/17/2014	4600 Fairfield Av. S	raw sewage	manhole overflow	grease	120.00	0.00	120.00	na	na	0	1	
11/6/2014	2540 Roy Hanna Dr. S.	raw sewage	manhole overflow	Other	8,000.00	0.00	0.00	na	na	0	0	
1/17/2015	6242 3rd Av. S.	raw sewage	manhole overflow	roots	60.00	40.00	20.00	na	na	1	0	
1/27/2015	2824 54th Av. S.	raw sewage	manhole overflow	debris	100.00	60.00	40.00	na	na	1	1	
2/13/2015	4327 Juanita Way. S.	raw sewage	manhole overflow	contractor	50,000.00	40,000.00		Coquino Key?	na	1	0	
8/3/2015	1400 38th St. N.	raw sewage	manhole overflow	extreme weather	950.00	470.00		Jorgensen Lake run-off pond	na	1	0	
7/20/2015	5th Ave. S. 114th St. S.	raw sewage	manhole overflow	contractor	150.00	0.00	150.00	Booker Cr.	na	na	1	surface water provided, but no gallons reported flowing into it, only to stormwater sewer

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8/2/2015	SW Water Reclamation Facility	raw sewage	other	extreme weather	450,000.00	15,000,000.00	na	Clam Bayou	na	1	1	To avoid sewer water backing up into homes and spilling from manholes, the city elected to pump down the collection system into Clam Bayou until the flows were manageable at the plant.
8/5/2015	50th Street / 31st Avenue	raw sewage	manhole overflow	extreme weather	186,000.00	186,000.00	0.00	Boca Ciega Bay	na	1	0	
1/29/2015	2350 Lamparilla Way S.	raw sewage	manhole overflow	grease	80.00	50.00	30.00	not provided	not provided	1	1	
8/3/2015	1400 38th St. N.	raw sewage	manhole overflow	extreme weather	950.00	0.00	950.00	na	not provided	0	1	
8/2/2016	53rd Av. N and 10th St. N.	raw sewage	manhole overflow	extreme weather	25,000.00	0.00	25,000.00	na	not provided	0	1	not clear where discharge flowed.
8/8/2015	Albert Whitted Reclamation Facility	treated water	storage tank	extreme weather	15,000,000.00							
6/7/2016	Beach Drive @ Coffee Pot Blvd + 1st St. @ 30th Ave		manhole overflow	extreme weather	60,000.00	60,000.00		Coffee Pot Bayou		1		type of discharge not reported
6/8/2016	38th St. South, 26th Ave South	raw sewage	manhole overflow	rain	57,750.00		57,750.00		Clam Bayou	0	1	
8/29/2016	2125 Anastasia Way South	raw sewage	force main	hole in force main	over 1,000.00		over 1,000.00		"pond on golf course"	unclear	1	
8/31/2016	26th Ave. S.	raw sewage	manhole overflow	rain	unknown	unknown	unknown					
9/5/2016	601 8th Ave SE	partially treated effluent	hydraulic overload	rain	between 78 and 93 million gallons	between 78 and 93 million gallons		Tampa Bay		1		
9/9/2016	507 12th Ave. S.	raw sewage	manhole overflow	"work at Albert Whitted Pump Station"	2,400.00	2,400.00		Booker Creek		1	0	
9/19/2016	5800 54th Ave. S.	treated effluent	operator failed to return valve	operator error	69,000.00							contained onsite

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7/12/2011	5932 Dartmouth Ave N	raw sewer	manhole	grease	708,925	14,240	0	0 na	na	9	0	0
6/12/2013	Northwest WRF East side of Chlorine Contact Basin	treated effluent	chlorine contact basin	mechanical failure/contractor	205,000	4,000	0	0 not provided	na	1	0	0
8/14/2013	7202 Dartmouth Ave N	reclaimed water	reclaimed water line	line break	500	200	200	200 not provided	not provided	1	1	1
12/7/2011	108 108th Ave.	raw sewer	manhole	grease	75	0	0	0 na	na	0	0	0
3/27/2012	1st S. & Sunset Dr. S	raw sewer	discharge hose	line break	80,000	0	80,000	na	not provided	0	1	1
9/4/2012	Northwest WRF 6191 24th Ave N	digested sludge	#2 digester	mechanical failure	300	0	0	0 na	na	0	0	0
1/13/2013	22nd Av @ 60th Way N	raw sewer	manhole	extreme weather	7,500	0	7,500	from storm sewer to retention pond	not provided	1	1	1
6/7/2016	Sunset Blvd. & Central Ave	raw sewer	manhole	extreme weather	900	900	0	0 Bridge	na	1	0	0
6/7/2016	691 56th St. N	raw sewer	manhole	extreme weather	7,500	7,500	7,500	0 Jungle Lake	not provided	1	1	1
6/7/2016	plant lift station	partially treated	lift station	mechanical failure	500	50	0	na	not provided	0	0	0
8/31/2015	10324 Paradise Blvd.	raw sewer	lift station	mechanical failure	400,000	0	400,000	na	not provided	0	1	1
5/13/2013	Northwest WRF	WAS sludge	sample port	line break	200	0	0	na	na	0	0	0
12/18/2013	between clarifiers 2 and 4	reclaimed water	reclaimed water line	line break	450	0	0	na	na	0	0	0
2/5/2014		reclaimed water	line	line break	1,200	0	1	na	na	0	1	1
3/18/2014	2901 55th St. N.	treated effluent	other	mechanical failure	50	0	0	na	na	0	0	0
10/15/2014		raw sewer	manhole	line break	400	0	0	na	na	0	0	0
8/2/2015	120 108th Ave	raw sewer	air release valve	mechanical failure	2,000	0	0	na	na	0	0	0

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6/10/2016	south digester #1	digested sludge	digester	extreme weather	5	0	0	na	na	0	0	
6/11/2016	north digester #2	digested sludge	digester	extreme weather	5	0	0	na	na	0	0	
8/30/2016	Influent Head Works	raw sewer	other headworks	alarm failure	500	50		Jungle Lake		1		
8/31/2016	Headworks-East Barscreen	raw sewer	East headworks barscreen	power failure	2,000	0	0					flowed to in-plant system
8/31/2016-9/7/2016	6049 22 Ave N;	raw sewer	manholes	not specified	over 1000 gallons at each location	not specified	not specified	not provided	not provided			
	245 76th St. N;											
	435 Park St. N;											
	430 Park St. N;											
	5753 1st Ave N;											
	5701 1st Ave N;											
	5778 5th Ave N;											
	441 57th St. N;											
	5575 5th Ave N;											
	601 56th St. N;											
9/1-9/7/2016	424 Park St. N;	raw sewer	manholes	not specified	over 1000 gallons at each location	not specified	not specified	not provided	not provided			
	8400 36th Ave. N											
	storage tanks and chlorine contact chamber at NW WRF	treated effluent	pump bypass, RMS storage tank, plant effluent, other chlorine contact chamber	extreme weather, "treating more water than we could discharge down the wells"	58 million gallons	not specified	not specified	Jungle Lake stormwater pond	Walter Fuller Park area	1	1	

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5/25/2011	1160 62nd Av. NE	reclaimed water	reclaimed water line	line break	295,085	115,030				12		
8/15/2011	900 62nd Av. NE	raw sewer	air release valve	pipe break	5,000	5,000	0	0 na	na	0	0	
10/13/2011	1160 62nd Av. NE	reclaimed water	chlorine contact chamber	installation of replacement level sensor	50	0	0	0 na	na	0	0	
10/30/2011	418 45th Av. N	raw sewer	manhole	grease	30	0	0	30 na	not provided	0	1	
2/28/2012	1160 62nd Av. NE	treated effluent	reclaimed water line	line break	200	0	0	0 na	na	0	0	
3/31/2012	1160 62nd Av. NE	reclaimed water	reclaimed water line	mechanical failure	50	0	0	0 na	na	0	0	
6/25/2012	701 52nd Av. N	raw sewer	manhole	extreme weather	500	500	0	creek at 54 Av N and 7 St. N	na	1	0	
1/13/13	3941 26th St. N Grand Canal Blvd. & Bayou Grande Blvd.	raw sewer	manhole	roots	25	0	25	na	storm grate mouth of ally, 2576 40th Av. N	0	1	
6/24/2013	875 62 Av. NE	raw sewer	sanitary sewer line	pipe break	7,500	200	1,000	not provided	not provided	1	0	
8/7/2013	260 Bayview Dr. NE	raw sewer	manhole	grease	80	80	0	0 Tampa Bay	na	1	0	
12/3/2013	inlet chlorine contact chamber	reclaimed water	plant effluent	open filter valve	850	0	0	0 na	na	0	0	
3/4/2014	northeast WWTP	partially treated	manhole	cleaning filter	5,000	0	0	0 na	na	0	0	
3/16/2014	200 78th Av. N	raw sewer	manhole	not provided	50	0	50	na	na	0	1	
3/17/2014	clarifier	reclaimed water	not provided	mechanical failure	7,000	0	0	0 na	na	0	0	
4/7/2014	contact basin	treated effluent	plant effluent	operator miscalculation	250	0	0	0 na	na	0	0	
6/23/2014	1101 116th Circle, N.	raw sewer	pipe	line break	100	50	0	retention pond and creek located on 116th Circle N. at 1100 block	na	1	0	
10/31/2014	northeast WWTP	raw sewer	underground sewer line	line break	16,000	0	50	na	not provided	0	1	
2/20/2015	1160 62nd Av. NE	reclaimed water	in-plant service line	line break	5,000	0	0	na	na	0	0	
4/18/2015	1160 62nd Av. NE	reclaimed water	reclaimed water line	line break	30,000	200	not provided	ditch to unnamed lake on east side of plant grounds	dry pond NE of plant grounds	1	1	

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5/5/2015	plant irrigation 1160 62nd Av.	reclaimed water	plant irrigation reclaimed water	line break	850	0	0	na	na	0	0	
6/10/2015	NE	reclaimed water	line	line break	49,500	0	0	na	na	0	0	
8/2/2015	53rd Av N & 10th St.	raw sewer	manhole	extreme weather	25,000	18,000	7,000	drainage canal south side of 54th ave.	na	1	1	not clear how much to surface water, how much to storm water.
3/2/2016	346 31st Av. N	raw sewer	not provided	grease	500	500		catch basin NW corner of 31st Av & 2nd St.				
6/7/2016	1st St. N @ 42nd Av	raw sewer	manhole	extreme weather	45,000	45,000	0	canal on easement side of 1st st. N by way of stormwater box culvert	na	1	0	
6/7/2016	52nd Av N @ 10th St	raw sewer	manhole	extreme weather	51,300	0	0	canal between 53rd and 54th	na	1	0	
6/8/2016	not provided	raw sewer	manhole	extreme weather	45,000	45,000	0	unnamed canal	na	1	0	
7/21/2016	519 Applan Way NE	raw sewer	manhole	grease	50	0	0	na	na	0	0	
8/9/2016	1021 53rd Ave N	raw sewer	manhole	rain	250	0	250		drainage ditch	0	1	
8/9/2016	948 51st Ave. N	raw sewer	manhole	rain	50				drainage ditch		1	
8/9/2016	5100 MLK St.	raw sewer	manhole	rain	50		50		drainage ditch		1	
8/10/2016	701 50th Ave N	raw sewer	manhole	rain	75	0	0		flowed to drainage ditch		1	
8/22/2016	1101 116th St. Circle N.	raw sewer	bypass hose	pipe break	900	0	0					
8/24/2016	NE WRF	WAS sludge	other	contractor	2,500	500	0	tidal pond		1		

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8/31/2016- 9/7/2016	4200 1st St. N; 4139 7th St. N; 701 50th Ave. N; 701 51st Ave N; 701 52nd Ave. N; 918 52nd Ave. N; 948 52nd Ave. N; 1020 52nd Ave. N; 1030 53rd Ave. N; 1200 52nd Ave. N; 1220 52nd Ave. N; 916 50th Ave N; 966 50th Ave. N; 982 50th Ave. N; 3900 25th St. N	raw sewer	manholes	extreme weather	over 1,000.00 gallons	over 1000.00	over 1,000.00	unspecified- "widely distributed"		1	1	
9/1/2016	7500 26th Ave. N.	treated effluent	not provided	extreme weather	58 million gallons	not provided	not provided	not provided	not provided			