



BRICKLIN & NEWMAN LLP  
lawyers working for the environment

Reply to: Seattle Office

February 6, 2023

***VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED***

Angie Lee  
Mayor  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Vernena Jorgensen  
City Council President  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Brett Laird, Supervisor  
Public Works Department  
City of Parma  
406 E. South St.  
Parma, ID 83660

Von Bowman  
City Council Member  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Kevin Sitts  
City Council Member  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Scott Hoskins  
City Council Member  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Mike Richard  
City Council Member  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

Joseph Giardelli  
City Council Member  
City of Parma  
305 N. 3rd Street  
Parma, ID 83660

**Re: Notice of Violations and Intent to File Suit under the Clean Water Act**

To Whom It May Concern:

Snake River Waterkeeper (“SRW”)<sup>1</sup> hereby gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice as required by 40 C.F.R., part 135 (the “Notice”) to the addressed persons of SRW’s intent to file suit in United States District Court of the District of Idaho—seeking appropriate equitable relief, civil penalties, and other relief—no earlier than 60 days from the postmarked date of this Notice.

The City of Parma, Idaho (“City”), its directors and officers acting in their official capacity, and persons with operational control over the City’s Wastewater Treatment Plant Facility (“WWTP” or “Facility”) are the persons, as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. The City owns and operates the WWTP located at W Sinclair Ave, Parma, ID 83660 and permitted under Idaho Pollutant Discharge Elimination System (IPDES) Permit ID0021776.

As a result of the City’s operations, the Facility releases a variety of pollutants into Sand Hollow Creek and downstream receiving waters including the Snake River approximately 4.9 miles downstream from Outfall 001, which is within the Snake River Basin. Based on available information, SRW believes that the City has violated and continues to violate the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, and the City’s National Pollutant Discharge Elimination System (“NPDES”) Permit No. ID0021776 in operating the Facility.

Dischargers of pollutants must comply with the requirements of an NPDES permit issued under Section 402 of the CWA, 33 U.S.C. § 1342. Section 301(a) of the Act prohibits discharges not authorized by, or in violation of, the terms of a valid NPDES discharge permit. NPDES discharge permits contain pollutant sampling and monitoring requirements and limits on the amount or concentration of allowable pollutants in addition to requirements regarding control measures, best management practices, and recordkeeping and reporting.

The discharge of any pollutant in violation of an NPDES permit, failure to conduct required monitoring for pollutant discharges, and failure to comply with other requirements of a NPDES permit are all violations of the Clean Water Act, 33 U.S.C. § 1311(a).

During the 5 years prior to the date of this letter, the City has repeatedly discharged pollutants from the Facility into waters of the Snake River Basin from and through point sources in concentrations and amounts that exceed the discharge limits set in its NPDES permit. The City has also failed to complete regulated Facility activities by certain dates as required by the NPDES permit.

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<sup>1</sup> SRW is a not-for-profit 501(c)(3) organization dedicated to the conservation and protection of the Snake River Basin. SRW’s address is 2123 N. 16<sup>th</sup> St., Boise, ID 83702, and its phone number is (208) 806-1303.

Additionally, the City has failed to properly operate and maintain the Facility as required under the NPDES permit.

More specifically, the City’s violations are as follows.

The Facility has violated its numeric effluent limits more than once per day for the last five years. There have been 1,825 days in the last five years, and according to USEPA’s Effluent Limit Exceedances Report,<sup>2</sup> the Facility has had 2,143 days of violation from March 31, 2018 to December 31, 2022. The reason that the number of days of violations is greater than the number of days is that Facility often had multiple numeric effluent violations on a single day, each of which is counted separately. A summary of these violations of numeric effluent limits appears below:

<b>Parameter Description</b>	<b>statistical_base_short_desc</b>	<b>Days with Exceedances</b>
BOD, 5-day, 20 deg. C	MO AVG	482
BOD, 5-day, 20 deg. C	WKLY AVG	84
pH	INST MAX	10
Solids, total suspended	MO AVG	641
Solids, total suspended	ROLL AVG	39
Solids, total suspended	WKLY AVG	77
Phosphorus, total (as P)	MO AVG	59
E. coli, MTEC-MF	INST MAX	7
E. coli, MTEC-MF	MO AVG	31
Chlorine, total residual	MO AVG	302
Chlorine, total residual	WKLY AVG	14
BOD, 5-day, percent removal	MO AV MN	274
Solids, suspended percent removal	MO AV MN	123

According to USEPA’s Enforcement and Compliance history Online (“ECHO”) database,<sup>3</sup> the facility has violated its numeric effluent limits every quarter for the last twelve quarters, often by several hundred percent of the numeric effluent limits. The Facility’s current status is “Significant/Category I Noncompliance.”

In addition, the Facility has violated its reporting requirements under the Permit schedule every quarter for the last twelve quarters. The Facility has also repeatedly failed to report sanitary sewer overflows.

<sup>2</sup> [https://echo.epa.gov/trends/loading-tool/reports/effluent-exceedances?permit\\_id=ID0021776](https://echo.epa.gov/trends/loading-tool/reports/effluent-exceedances?permit_id=ID0021776)

<sup>3</sup> [https://echo.epa.gov/detailed-facility-report?fid=110010027210#/#/](https://echo.epa.gov/detailed-facility-report?fid=110010027210#/)

Each violation is a separate and distinct violation of the City's NPDES permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311, 1342. SRW's lawsuit will, at a minimum, include allegations regarding all of these violations.

Additional information, including information in the City's possession, may reveal additional violations. This letter expressly covers violations occurring after the date of the most recent publicly available DMR data. This letter also covers violations that continue or reoccur, or that can reasonably be expected to continue or reoccur, after the date of this letter, to the full extent permitted by law.

Every day on which the City has failed and continues to fail to comply with the requirements of the CWA and NPDES Permit No. ID0021776 is a separate and distinct violation of the City's NPDES permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a). Moreover, multiple violations on a single day each count as a separate and distinct violation.

These violations are ongoing, continuous, and presumed likely to continue indefinitely barring changes to bring the Facility into full compliance with the permitting requirements of the Clean Water Act.

The City, its directors and officers acting in their official capacity, and persons with operational control over the City's WWTP Facility are liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§19.2, 19.4, each separate violation of the Act subjects IDOC to a penalty up to \$64,618 per day, per violation. SRW intend to seek the full penalties allowed by law.

In addition to civil penalties, SRW will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. SRW will seek an order from the Court requiring the City to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), SRW will seek recovery of its litigation costs, including attorneys' and experts' fees.

## **CONCLUSION**

During the 60-day notice period, SRW is willing to discuss possible remedial measures for the violations described above that may avoid the necessity of litigation. If you wish to engage in preliminary settlement negotiations, please have your attorney contact Zachary Griefen and Bryan Telegin within the next 20 days so that negotiations may be completed before the end of the 60-

day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are ongoing at the conclusion of the 60-day period.

Very truly yours,

BRICKLIN & NEWMAN, LLP

A handwritten signature in blue ink, appearing to be 'Zachary Griefen', written over a faint circular stamp.

Zachary Griefen  
Bryan Telegin  
David A. Bricklin  
Legal Counsel  
Bricklin & Newman, LLP  
123 NW 36th Street, Suite 205  
Seattle, WA 98107  
[griefen@bnd-law.com](mailto:griefen@bnd-law.com)  
[telegin@bnd-law.com](mailto:telegin@bnd-law.com)  
[bricklin@bnd-law.com](mailto:bricklin@bnd-law.com)

cc: *via* U.S. Certified Mail, Return Receipt Requested:

Michael S. Regan  
Administrator  
Environmental Protection Agency  
Office of the Administrator  
Mail Code: 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Casey Sixkiller  
Regional Administrator  
U.S. EPA, Region 10  
1200 Sixth Avenue  
Suite 155  
Seattle, WA 98101

Jess Byrne  
Director  
Idaho Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706

cc: Client, *via* e-mail