

**STATE OF RHODE ISLAND  
PROVIDENCE, SC**

**SUPERIOR COURT**

THE STATE OF RHODE ISLAND,  
BY AND THROUGH PETER F. NERONHA,  
ATTORNEY GENERAL AND THE RHODE  
ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT, BY  
AND THROUGH ITS DIRECTOR,  
TERRENCE GRAY

Plaintiffs,

v.

THE CITY OF WOONSOCKET,  
JACOBS ENGINEERING GROUP, INC., and  
SYNAGRO WOONSOCKET, LLC

Defendants.

C.A. No.: PC23-

**COMPLAINT**

The State of Rhode Island (“Rhode Island”), acting by and through its Attorney General, Peter F. Neronha, and the Rhode Island Department of Environmental Management (“RIDEM”), acting by and through its Director, Terrence Gray (hereinafter, collectively the “State”), files this Complaint against the below described Defendants and alleges as follows:

**I. INTRODUCTION**

1. The Defendants are: the City of Woonsocket (“Woonsocket” or the “City”), as the owner of the Wastewater Treatment Facility (the “Facility”) located at 11 Cumberland Hill Road, Woonsocket, Rhode Island; Jacobs Engineering Group, Inc. (“Jacobs”), which maintains and

operates the Facility; and Synagro Woonsocket, LLC. (“Synagro”), which maintains and operates the connected regional sludge processing facility.

2. Since at least November 2021, the Defendants have intermittently discharged partially treated sewage into the Blackstone River. As detailed below, these intermittent discharges have impaired the ability of the public to recreate and fish on the Blackstone River, including disrupting small businesses dependent on ecotourism, subsistence fishing, and Rhode Islander’s regular enjoyment of their natural resources.

3. Improperly treated wastewater can contain microbial pathogens, oxygen depleting substances, suspended solids, and nutrients (nitrogen and phosphorus).<sup>1</sup>

- a. The microbial pathogens and toxics found in untreated or partly treated wastewater can cause diseases ranging from stomach flu and upper respiratory infections to potentially life-threatening illnesses such as cholera, dysentery, Hepatitis B, and cryptosporidiosis.<sup>2</sup>
- b. When significant amounts of oxygen depleted substances are discharged to a waterbody, the dissolved oxygen is depleted through the decay of organic matter and the uptake of oxygen by bacteria. The depletion of dissolved oxygen in a water body can be harmful or fatal to aquatic life.<sup>3</sup>

4. The civil action is brought against the Defendants for violations of:

- a. The Rhode Island Clean Water Act, R.I.G.L. § 46-12-1, *et seq.*, and its implementing regulations, the Water Quality Regulations, 250-RICR-150-05-1 *et seq.*, which are governed by R.I.G.L. §§ 46-12, 42-17.1, and 42-17.6;
- b. The State Freshwater Wetlands Act, R.I.G.L. §§ 2-1-18 through 2-1-24;

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<sup>1</sup> United States Environmental Protection Agency, EPA 833-R-04-001, Report to Congress: Impacts and Control of CSOs and SSOs 4-2 (2004).

<sup>2</sup> United States Environmental Protection Agency, *Why Control Sanitary Sewer Overflows?*, Environmental Protection Agency (Oct. 2015), [https://www.epa.gov/sites/default/files/2015-10/documents/sso\\_casestudy\\_control.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/sso_casestudy_control.pdf).

<sup>3</sup> *Id.* at 4-4.

- c. Impairment of Public Trust Resources;
- d. The Environmental Rights Act, R.I.G.L. § 10-20-1, *et seq.*; and
- e. Common law of public nuisance.

## **II. JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action, pursuant to R.I.G.L. §§ 8-2-13, 10-1-2, 10-20-3, 46-12-17, and 42-17.4-9.

6. Venue is proper, pursuant to R.I.G.L. §§ 9-4-2, 9-4-4, and 10-1-2.

## **III. PLAINTIFFS**

7. Plaintiffs, the State of Rhode Island, by and through the Attorney General of the State of Rhode Island (“Rhode Island” or the “State”) and the Rhode Island Department of Environmental Management (“RIDEM”), acting by and through its Director, Terrance Gray, bring this action under Rhode Island General Laws, §§ § 46-12-2, 46-12-17, 42-17.1-2 and as an exercise of its authority to protect public trust resources and its police power, which includes, but is not limited to, its power to prevent pollution of the State’s waters, to prevent and abate nuisances, and to prevent and abate hazards to public health, safety, welfare, and the environment.

8. The State also brings this action in its *parens patriae* capacity for the benefit of the citizens of the State.

9. According to the Environmental Rights Act, the State, by and through the Attorney General, “may maintain an action in any court of competent jurisdiction for declaratory and equitable relief against any other person for the protection of the environment, or the interest of the public therein, from pollution, impairment, or destruction,” and may “take all possible action, including . . . formal legal action, to secure and ensure compliance with the provisions of this

chapter and any promulgated environmental quality standards.” R.I.G.L. § 10-20-3(b), (d)(1), (d)(5).

#### IV. DEFENDANTS

10. The City of Woonsocket is a political subdivision of the State of Rhode Island, pursuant to R.I. Gen. Laws § 45-2-1 *et seq.*, with its main offices held within the City Hall, located at 169 Main Street, Woonsocket, Rhode Island.

a. Woonsocket is the holder of Rhode Island Pollutant Discharge Elimination System Permit No. RI 0100111.

11. Jacobs is a Delaware corporation with its principal business address listed as 1999 Bryan Street, Suite 1200, Dallas, Texas.

a. Jacobs’ Registered Agent is listed as CT Corporation System, 450 Veterans Memorial Parkway, Suite 7A, East Providence, Rhode Island.

b. Jacobs is an engineering firm providing technical, professional, construction, and consulting services for a broad range of clients, including governments. The Defendant services clients in over 40 countries and earns an annual revenue of approximately \$14 billion.

c. In 2017, the Jacobs acquired CH2M HILL, a global engineering services company which had contracted with the City to operate its regional Wastewater Treatment Facility for a 20-year term starting in June, 2014.

d. As a result of its 2017 acquisition of CH2M HILL, Jacobs is now responsible for operating and maintaining the Facility.

12. Synagro Woonsocket, LLC, is a Delaware corporation with its principal business address listed as 435 Williams Court, Suite 100, Baltimore, Maryland.

a. Synagro’s Registered Agent is listed as CT Corporation System, 450 Veterans Memorial Parkway, Suite 7A, East Providence, Rhode Island.

b. In 1988 the City of Woonsocket entered into an agreement with Synagro to operate and maintain solids handling and the incineration part of the facility.

The agreement with Synagro saves the City over 2 million dollars annually, according to the City.

V. **RELEVANT STATE LAWS AND REGULATIONS**

13. The Rhode Island Clean Water Act (RI CWA) provides that RIDEM is the designated state water pollution control agency for all purposes of the federal Clean Water Act, 33 U.S.C. § 1251, *et seq.*, and is authorized to take all action necessary or appropriate to secure to the State the benefits of that act.<sup>4</sup>

14. Under the RI CWA, it is unlawful for any person or company to discharge any pollutant into the waters of the state except as in compliance with R.I.G.L. § 46-12 and pursuant to the terms and conditions of a permit.<sup>5</sup>

15. The State Freshwater Wetlands Act (the “Act”), governed by R.I.G.L. §§ 2-1-20.1, 42-17.1, and 42-17.6, regulates all freshwater wetlands in the State, including rivers.

16. The Act’s purpose is to preserve, protect, and restore these wetlands for all beneficial purposes, and to protect the health, welfare, and general wellbeing of the people and the environment of Rhode Island.<sup>6</sup>

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<sup>4</sup> R.I.G.L. § 46-12-2

<sup>5</sup> *Id.*

<sup>6</sup> State of Rhode Island and Providence Plantations Department of Environmental Management, Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act (2009) (available at <http://risos-apa-production-public.s3.amazonaws.com/DEM/5918.pdf>).

17. The Act prohibits any project or activity, subject to a few limited exceptions, from altering any freshwater wetland without a permit issued by RIDEM. Specifically, no person may place sewage or other effluents upon a freshwater wetland without a permit.<sup>7</sup>

18. The Act requires any person or company seeking a RIDEM permit to alter freshwater wetlands to comply with RIDEM's Water Quality Regulations.

19. The State's Water Quality Regulations are governed by R.I.G.L. §§ 46-12, 42-17.1, and 42-17.6. These regulations are further promulgated pursuant to the requirements and provisions of all chapters of the Rhode Island General Laws relating to the duties and responsibilities of the Director of Environmental Management (the "Director") for the waters of the State.<sup>8</sup>

20. The State's Water Quality Regulations prohibit the discharge of pollutants into any waters of the State or the performance of any activities alone or in combination, which the Director determines will likely result in the violation of any State water quality criterion or interfere with one or more of the existing or designated uses assigned to the receiving waters.<sup>9</sup>

21. According to the Water Quality Criteria regulations for Class B1 freshwater, the allowable amount of sludge deposits, solid refuse, floating solids, oil, grease, and scum is none.<sup>10</sup>

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<sup>7</sup> "Effluent" refers to wastewater—treated or untreated—that flows out of a treatment plant, sewer, or industrial outfall. Generally refers to wastes discharged into surface waters. U.S. Environmental Protection Agency, *Terms of Environment: Glossary, Abbreviations and Acronyms*, EPA (last updated June 17, 2022), <https://webarchive.library.unt.edu/eot2008/20081019221825/http://www.epa.gov/OCEPAterms/terms.html>.

<sup>8</sup> 250-RICR-150-05 *et seq.*

<sup>9</sup> 250-RICR-150-05-01 §1.11(A).

<sup>10</sup> *Id.*

22. The allowable amount of color and turbidity for Class B1 freshwater is “[n]one in such concentrations that would impair any usages specifically assigned to this class. Turbidity not to exceed 10 NTU over natural background.”<sup>11</sup>

23. The allowable amount of taste and odor for Class B1 freshwater is “[n]one other than of natural origin and none associated with nuisance algal species.”<sup>12</sup>

24. The requirements set forth in the Defendant’s permit are from the State’s Water Quality Regulations and the State’s Regulations for the Rhode Island Pollutant Discharge Elimination System, both filed pursuant to R.I.G.L. § 46-12.<sup>13</sup>

25. Finally, the State Environmental Rights Act, R.I.G.L. § 10-20-3, provides a separate cause of action to enforce or restrain the violation of any environmental quality standard which is designed to prevent or minimize pollution, impairment, or destruction of the environment.

26. R.I.G.L. § 10-20-1 declares that “each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state,” and that “it is in the public interest to provide an adequate civil remedy to protect air, water, land, and other natural resources located within the state from pollution, impairment, or destruction.”

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<sup>11</sup> *Id.*

<sup>12</sup> 250-RICR-150-05-01 §1.10

<sup>13</sup> RIDEM’s authority over the RIPDES program comes from the EPA’s delegation of the National Pollutant Discharge Elimination System (NPDES) program in September 1984 under the Federal Clean Water Act.

27. R.I.G.L. § 10-20-2(6) defines “pollution, impairment, or destruction” to include “any conduct which materially adversely affects or is likely to materially adversely affect the environment.”

28. The Rhode Island Attorney General “may maintain an action in any court of competent jurisdiction for declaratory and equitable relief against any other person for the protection of the environment, or the interest of the public therein, from pollution, impairment, or destruction,” and may “take all possible action, including . . . formal legal action, to secure and ensure compliance with the provisions of this chapter.”<sup>14</sup>

29. In such an action maintained by the Attorney General, “[t]he court may grant declaratory relief, temporary and permanent equitable relief, or may impose such conditions upon a party as are necessary or appropriate to protect the air, water, land, or other natural resources located within the state from pollution, impairment, or destruction, considering the health, safety, and welfare of the public, and the availability of feasible, prudent, and economically viable alternatives.”<sup>15</sup>

## **VI. FACTUAL BACKGROUND**

### ***THE BLACKSTONE RIVER***

30. The Blackstone River flows 48 miles from Worcester, Massachusetts down to Pawtucket, Rhode Island, changing its name to the Seekonk River before it reaches Providence, Rhode Island, making it the longest tributary to the Narraganset Bay.<sup>16</sup>

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<sup>14</sup> R.I.G.L. § 10-20-3(b), (d)(1), (d)(5).

<sup>15</sup> R.I.G.L. § 10-20-6.

<sup>16</sup> [Re-Zapping the Blackstone: Keeping the River Recovery Going! | US EPA](#)

31. The Blackstone River Watershed originates in Worcester, Massachusetts and flows southward to the National Estuary of Narragansett Bay in Pawtucket, Rhode Island. The watershed is approximately 540 square miles and encompasses 30 cities and towns in south central Massachusetts and northern Rhode Island.

32. Blackstone River flows through Central Falls and Pawtucket.

- a. RIDEM has formally designated Central Falls and Pawtucket as Environmental Justice Communities, pursuant to Executive Order 12898 on Environmental Justice, because they are in the 84th and 95th percentile, respectively, for low-income and minority residents.
- b. The EPA defines “environmental justice” as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental justice laws, regulations, and policies.”

33. Historically, the Blackstone River Valley served as an invaluable resource for the Narragansett, the Nipmuc, and the Wampanoag tribes, who hunted and fished in the Blackstone River Watershed.

34. In 1793, the first water-powered textile mill opened in Pawtucket, Rhode Island on the banks of the Blackstone River. As the American Industrial Revolution spurred the development of water-driven technology, a proliferation of water-powered mills sprang up alongside the Blackstone River, earning it the nickname of “America’s hardest working river.”

35. The Blackstone River’s intense industrial use left its waters severely polluted with untreated sewage, solvents, heavy metals, and industrial waste. The river was named “one of America’s most polluted rivers” by Audubon magazine in 1971 and “the most polluted river in the country with respect to toxic sediments” by the Environmental Protection Agency (EPA) in 1990.

36. However, due to the federal Clean Water Act, state and local regulations, and grassroots efforts such as the “Zap the Blackstone” clean up in 1972, the water quality of the Blackstone River has seen substantial improvements over the past 50 years.

37. The Blackstone River is currently listed as Class B1 freshwater, designated for “primary and secondary contact recreational activities and fish and wildlife habitat. [It] shall be suitable for compatible industrial processes and cooling, hydropower, aquacultural uses, navigation, and irrigation and other agricultural uses. These waters shall have good aesthetic value. Primary contact recreational activities may be impacted due to pathogens from approved wastewater discharges. However[,] all Class B criteria must be met.”<sup>17</sup>

### ***THE FACILITY***

38. The Facility treats sewage from Woonsocket, Rhode Island; North Smithfield, Rhode Island; Bellingham, Massachusetts; and Blackstone, Massachusetts.<sup>18</sup>

39. Full treatment consists of: Coarse Screening, Communion, Aerated Grit Removal, Primary Settling, Biological Treatment w/ Nutrient Removal, Secondary Settling, Effluent Polishing Filters, Chlorination, and Dechlorination.<sup>19</sup>

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<sup>17</sup> 250-RICR-150-05-01 §1.9(B)(3).

<sup>18</sup> Wastewater Commission, *Wastewater Plant Information*, Woonsocket Rhode Island (last visited June 17, 2022), [https://www.woonsocketri.org/sites/g/files/vyhlf5231/f/uploads/wastewater\\_plant\\_information.pdf](https://www.woonsocketri.org/sites/g/files/vyhlf5231/f/uploads/wastewater_plant_information.pdf).

<sup>19</sup> Rhode Island Department of Environmental Management, Office of Water Resources, *Woonsocket Regional Wastewater Treatment Facility Final Permit No. RI0100111* (2017). [Woonsocket Regional Wastewater Commission; RI0100111, Final Permit \(epa.gov\)](https://www.epa.gov/ri0100111)

40. Synagro processes all sludge that is generated from the Facility's treatment of the raw influent (up to 11 dry tons per day).

41. Before Synagro receives the sludge, Jacobs is responsible for ensuring that all City sludge is delivered to the appropriate holding tank or gravity thickener, and then coordinating the management of its sludge handling facilities with Synagro.

42. On October 1, 2008, RIDEM issued a revised Rhode Island Pollutant Discharge Elimination System Permit No. RI 0100111 to Defendant Woonsocket, which required more stringent water quality discharge requirements for the Facility, specifically lower limits for both the facility's seasonal effluent total nitrogen and total phosphorus concentrations.

43. In order to address these new permit modifications, the City entered into a Consent Agreement (RIA-368) with the RIDEM (finalized and signed February 2011) agreeing to submit a Facilities Plan Amendment to develop a proposed solution and implementation schedule for necessary improvements to achieve compliance with the new effluent total nitrogen and total phosphorus limits.

44. On October 24, 2017, RIDEM issued the Facility's latest RIPDES permit, No. RI0100111, which became effective on January 1, 2018 with an expiration date of January 1, 2023.<sup>20</sup> The permit provides the following:

- a. The Facility is still required to meet the seasonal total effluent nitrogen and phosphorus concentrations detailed in the 2008 RIPDES permit.

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<sup>20</sup> Rhode Island Department of Environmental Management, Office of Water Resources, *Woonsocket Regional Wastewater Treatment Facility Final Permit No. RI0100111* (2017). [Woonsocket Regional Wastewater Commission; RI0100111, Final Permit \(epa.gov\)](#)

- b. All wastewater must be fully treated before being discharged into the receiving water body.
- c. If any wastewater is discharged which violates the conditions of the permit, the Defendant has a duty to mitigate. The Defendant must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- d. Any permit noncompliance constitutes a violation of R.I.G.L. § 46-12-5.
- e. Reporting Requirements
  - i. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.
  - ii. Twenty-four hour reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment . . . A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - iii. The following information must be reported immediately: (1) Any unanticipated bypass which causes a violation of any effluent limitation in the permit; or (2) Any upset which causes a violation of any effluent limitation in the permit; or (3) Any violation of a maximum daily discharge limitation for any of the pollutants specifically listed by the Director in the permit.

45. On July 22, 2020, the Department of Environmental Management, Office of Air Resources approved the application for revisions to the City of Woonsocket’s minor source permit issued for a fluidized bed combustor and associated scrubber system, and for the installation of a carbon adsorption system located at the Woonsocket Regional Wastewater Treatment Facility. The revised minor source permit Approval Numbers are 1823-1824 and 2479.

46. Additionally, per an additional Executed Consent Agreement, OCI-WP-17-15 and RIPDES R110100111, entitled “Standard Operating Procedure for Gravity Thickener (“GT”) High

Blanked dated 2/10/22”, Synagro is required to monitor sludge blanket levels in the GT daily, and there is a Standard Operating Procedure in place, which details actions to be taken when the GT blanket exceeds 7 feet.

### ***UNAUTHORIZED DISCHARGES AND OTHER VIOLATIONS***

47. On November 30, 2021, RIDEM issued Woonsocket a letter of non-compliance for violating RIPDES permit R10100111, citing “significant non-compliance” for amount of Total Phosphorus as P effluent discharge for July, August, and October of 2021, Total Nitrogen for July 2021, Total Suspended Solids for July 2021, and an effluent PH violation recorded in October 2021.

48. In December 2021, there was one (1) permit limit violation recorded for the month. A pH value of 5.4 S.U. was recorded on December 9, 2021. The daily minimum permit limit is 6.0 S.U. There were also six (6) odor complaints filed that month with the Facility.

49. On March 11, 2022, Anthony Turchetta, Facility Superintendent, met with regional Jacobs staff and Facility staff regarding their July 2021 report recommendations on operations and repairs of the facility. Turchetta advised that “while their recommendations are well intentioned and that all these processes do require maintenance, performing the work simultaneously would not be beneficial.” That day, three of the six main parts of the treatment process were being worked on, which included the sand filters, aeration basin A-stage #2 and the chlorine contact tanks.

50. On March 11, 2022, there was also an Enterococci exceedance of 24,200 cfu/100mL against the daily maximum limit of 175 cfu/100mL.

- a. Enterococci is a type of bacteria found in the gastrointestinal tract of animals and humans. Most strains of enterococci do not cause human illness however they are indicators of other disease-causing agents harmful to humans including viruses, bacteria, and pathogens.<sup>21</sup> Such agents may cause gastroenteritis, urinary tract infections, soft tissue infections, bacteremia, and endocarditis.<sup>22</sup>

51. During the week of March 14, 2022, the variable frequency drive of the sand filter influent pump failed taking all the sand filters offline with it.

52. By March 16, 2022, the influent pump was repaired, and two sand filters were brought back online, but by March 18, 2022, the sand filters had sludge/biosolids throughout the bottom of the system, negatively impacting the treatment process and a call is made to bypass this process since the entire building was non-operational.

53. During the weekend of March 20, 2022, the Facility experienced daily exceedances, including: TSS daily maximum limit of 50.0 mg/L was exceeded with a value of 102 mg/l; TSS Loadings daily maximum limit of 6,670 lbs./day was exceeded with a value of 7,246 lbs./day; and CBOD daily maximum limit of 45.0 mg/L was exceeded with a value of 51.0 mg/l.

54. On **March 21, 2022**, RIDEM received an anonymous complaint that the Facility was releasing partly treated sewage into the Blackstone River.

55. That day, RIDEM inspected the Facility, finding: “Water from the facility’s outfall is light brown with white foam making its way into the river. The white foam breaks apart in the outfall but does not completely dissipate for approximately 50 m downstream of the outfall. The brown water can be seen clearly from the Blackstone River Bike Path. There is a faint odor of

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<sup>21</sup> [Indicators: Enterococci | US EPA](#)

<sup>22</sup> Nelson Aguedelo Higuera & Mark Huycke, *Enterococcal Disease, Epidemiology, and Implications for Treatment*, (Feb. 4, 2014), <https://www.ncbi.nlm.nih.gov/books/NBK190429/>

sepsis mixed with the smell of sodium bisulfite, so evidently, there is a lot of NaOCl and NaHSO<sub>3</sub> being added, in addition to defoamer.”

56. Initial tests performed by a state-certified laboratory on March 21, 2022, showed elevated levels of fecal coliforms and enterococci, indicating the possible presence of pathogens. Specifically, the Fecal Coliform daily maximum limit of 400 MPN/100mL was exceeded with a value of 19,900 MPN/100mL and the Enterococci daily maximum limit of 175 cfu/100mL was exceeded with a value of 15,500 cfu/100mL.

57. By March 23, 2022, RIDEM inspection reports state that the Facility’s sand filters were still offline and that the sand filters will remain offline through the following day due to an error with purchase order from the vacuuming company hired to remove the sludge/biosolid accumulation.

- a. RIDEM received no notification of the bypass of the system within the mandatory 24-hour notification period.

58. That same day, RIDEM and the Rhode Island Department of Health issued an advisory recommending that residents refrain from wading, swimming, canoeing, kayaking, or fishing and from eating any fish caught in the river from the Facility to the Slater Mill dam in Pawtucket.

59. In an email to RIDEM on March 23, 2022, Jacobs provided the following description of the conditions at the plant prior to this release:

- a. “The maximum depth of blanket (in feet) in the final clarifiers between March 10th and March 20th were...11,13,11,12,10,8,11,10,11,12 and 10, respectively. ... and when we came in on Monday the 14th, there was a significant amount of solids coming from both tanks.”

- b. “Apparently, one or more of the final clarifiers had breached solids at some point over the weekend... the suspended solids being discharged on Monday morning were higher than normal.”
- c. “There was also a large amount of foam in the effluent channel of the chlorine contact tanks... high amounts of foam in the channel were observed while CCT cleanings were under way but the VAC hoses in the channel seemed to block its path.”

60. RIDEM did not lift the advisory on the Blackstone River until March 25, 2022, four (4) days after event.

61. For the month of March 2022, the final effluent Ammonia monthly average limit of 15 mg/L was exceeded with a calculated average of 21.6 mg/L and the TSS Removal Percentage monthly average requirement of 85% was not met with a calculated average 74%.

62. During the month of April 2022, there were two (2) permit limit exceedances recorded. The Total Phosphorus (TP) Monthly Average limit of 0.1 mg/L was exceeded with a calculated average of 0.25 mg/L. A pH value of 5.5 S.U. was recorded on April 30, 2022. The daily minimum permit limit is 6.0 S.U.

63. During the month of May 2022, there was one (1) permit limit exceedance recorded. The Total Phosphorus (TP) Monthly Average limit of 0.1 mg/L was exceeded with a calculated average of 0.15 mg/L. The Facility also received the following odor complaints:

- a. On May 15, 2022, the Facility received an odor complaint stating “it smells very bad today on Cumberland Hill Rd.”
- b. On May 16, 2022, the Facility received two odor complaints stating “it smells like waste.” In response, Syangro “found dewatering scrubber faulted.”
- c. On May 25, 2022, the Facility received a complaint stating “it smells really bad.”

64. On the morning of **June 5, 2022**, RIDEM was notified that partially treated sewage from the Woonsocket Facility was again being discharged into the Blackstone River and issued a no-contact advisory.

65. In the weeks leading up to this discharge, the gravity thickener blanket levels were at 15 feet.

66. On June 7, 8, 10, and 13, RIDEM performed inspections, noting permit violations as follows:

- a. On June 6, 2022, RIDEM inspector noted that “DOBs for the secondary clarifiers are at their maximum.”.
- b. “Jacobs indicates that at the time of the Discharge the sludge blanket levels in all primary (2) and secondary (3) clarifiers were ‘maxed out at 12 feet’ indicating a significant excess inventory of solids had developed.”
- c. On June 7, 2022, RIDEM found the following violations: (1) F038B Biosolids: Other Management Practice Violation; (2) A0012 Effluent Violations – Numeric effluent violation; (3) B0020 Management Practice Violations – Improper Operation and Maintenance.
- d. On June 8 RIDEM found the following violations: (1) F038B Biosolids: Other Management Practice Violation; (2) A0012 Effluent Violations – Numeric effluent violation; (3) B0020 Management Practice Violations – Improper Operation and Maintenance.
- e. On June 10 RIDEM performed an inspection and found the following violations: (1) F038B Biosolids: Other Management Practice Violation; (2) A0012 Effluent Violations – Numeric effluent violation; (3) B0020 Management Practice Violations – Improper Operation and Maintenance.
- f. On June 13 RIDEM performed an inspection and found the following violations: (1) F038B Biosolids: (2) B0020 Management Practice Violations-Improper Operation and Maintenance. Detailed in the corresponding inspection report are the following conditions, amongst others:
  - i. “There is a high volume of solids in each of the effluent overflow channels...”

- ii. “One of the secondary clarifiers . . . has sludge billowing throughout the tank. The water in the clarifier appears highly turbid.”
- iii. “The weir of one of the secondary clarifiers['] effluent has a high concentration of pin floc, signifying that some solids are washing out of the clarifer.”

67. RIDEM, again, immediately advised residents to refrain from primary contact recreational water activities (wading, swimming), secondary contact activities (canoeing, kayaking, rowing, fishing), and to avoid consuming any fish from the river from the location of the discharge at Cumberland Hill Road to the Slater Mill Dam in Pawtucket.

68. The no-contact advisory was continued on June 10, 2022, adding that residents should avoid consuming fish from any waters that receive flow from the Blackstone River, including but not limited to the Blackstone Canal and Scott Pond.

69. On June 17, 2022, twelve days after RIDEM was first notified of the June 2022 discharge, RIDEM lifted the no-contact advisory for the Blackstone River.

70. On June 17, 2022, a Notice of Noncompliance was issued to the Woonsocket WWTF Superintendent, Anthony Turchetta, for odors extending beyond the property line. The causes of the offensive odors include but are not limited to the operation of the belt filter presses (BFPs) and the septic primary clarifiers.

71. On June 29, 2022, the Department of Public Works of Woonsocket Rhode Island stated that “[w]hat is clear is that for some yet to be determined reason the sludge processing capacity in the solids management systems at the site as a whole, was insufficient to handle the quantity and or quality of the sludge received.”

72. For the month of June 2022, there were ten (10) odor complaints and there were sixteen (16) permit limit exceedances recorded for the month. There were exceedances in the following parameters: Enterococci, Fecal, Effluent TSS, Effluent CBOD, TRC, Total Nitrogen, and Total Phosphorus.

- a. The City provided the following in its monthly report to RIDEM: “The plant experienced a process upset beginning on June 5, 2022 and ending on June 10, 2022. The gravity thickener, that is operated by Synagro, had been at its maximum capacity for weeks, causing it to overflow back to our facility, which prevented us from properly removing inventory from the WWTF. This event would lead us to the exceedances . . . On June 9, 2022, we cleaned out our chlorine contact tanks to remove all the solids that settled out during the process upset, this would lead us to have a Fecal, Enterococci, and TRC exceedance . . .”

73. The Facility was in compliance with its permit effluent limitations from July 2022 through November 2022.

74. During the month of December 2022, there were two (2) permit exceedances. The first was on December 16, 2022, and the second on December 23, 2022. Both exceedances were for enterococci.

75. During the month of January 2023, there were seven (7) odor complaints filed with the Facility:

- a. On January 13, 2023, there was a complaint of a “bad odor on Cumberland Hill and Congress,” and both Synagro and Jacobs indicated that the “[c]ake bay is full.”
- b. On January 17, 2023, a complaint was filed stating that, “the smell is terrible and unacceptable.” Jacobs noted that the “cake bay doors open and cake around the site [*sic.*]”
- c. On January 18, 2023, there was another complaint that “it smells horrible.” Jacobs and/or Synagro notes that “[c]ake bay doors open due to broke track. Scrubber 5001 has no bleach and sniff tubes smell.”

76. The Facility was in compliance with its permit effluent limitations for January 2023.

77. On **March 1, 2023**, yet another unauthorized discharge was reported to RIDEM via a citizen reporter who used Twitter to post video evidence of the visually apparent discharge. The citizen reporter was following his “regular running route toward the Rivers Edge entrance to the Blackstone River Bikeway in Woonsocket” when “a horrible stink assaulted [his] nostrils, nearly physically stopping [him] in [his] tracks.” As of the date of this Complaint, upon information and belief, the discharge is ongoing.

78. RIDEM immediately issued a no-contact advisory for the Blackstone River. DEM advised the public to refrain from both primary contact recreational water activities (wading, swimming) and secondary contact activities (canoeing, kayaking, rowing, and fishing) and to avoid consuming any fish from the river from the location of the discharge, at Cumberland Hill Road in Woonsocket, to the Slater Mill Dam in Pawtucket. This no-contact advisory still in place as of the date of this Complaint.

### ***INSTITUTIONAL PROBLEMS AT THE FACILITY***

79. On August 12, 2022, Woonsocket submitted to RIDEM a Corrective Action Recommendations, prepared by environmental consultants Weston & Sampson, stating the following causes for the June 2022 release:

- a. “A deficiency exists with real-time information/data sharing between staff from Jacobs and Synagro, regarding variations in sludge quality and levels within the comprehensive system.”

- b. “Neither company takes responsibility for the maintenance or repair of the Gravity Thickener (GT), though both entities use it in their operation and/or require it for liquid sludge/centrate storage.”
- c. “Synagro is required to monitor sludge blanket levels in the Gravity Thickener daily, and there is a Standard Operating Procedure in place, which details actions to be taken when the Gravity Thickener blanket exceeds 7 feet. Based on review of data provided, it does not appear that this procedure was followed in advance of the recent upset event.”
- d. “Due to the dynamic relationship of the two facilities, both contributed to the events that led to the June 5, 2022 upset.”
- e. “Based on review and analysis of data provided and summarized in the sections below, there were also some rather clear signs that if identified and addressed earlier by Jacobs’ WWTF Operations staff earlier, it may have allowed the staff to address the creeping inventory before it resulted in the Discharge. While the WWTF has redundancy and flexibility in most process areas (except solids dewatering and disposal), all of the available tankage became inundated prior to the Discharge. Had process analysis been done, temporary dewatering actions may have been implemented sooner and prevented the Discharge.”
- f. “The day before the [June 2022] Discharge was observed, indicates system inventory was almost 3 times the design inventory.”
- g. “The existing solids handling, and processing equipment typically operates at or very near its design capacity with little redundancy and as such leaves little capacity to address seasonal variations in processing demand and is vulnerable to equipment failure. As the recent events have shown, such failures can cripple the capacity which has broad implications not only for the WWTF, but for the Region’s wastewater management as a whole.”

80. On September 9, 2022, Synagro sent follow up comments to RIDEM on the Corrective Action Recommendations, stating the following “core causes” of the June 2022 event:

- a. “In late March and April 2022, poor primary wasting resulted in a gradual but substantial increase at the WWTF in solids inventory, proliferation of filamentous growth, and sludge septicity. The inventory build-up caused by the inadequate wasting resulted in solids merely being circulated throughout the WWTF, degrading the solids quality and building up exceedingly high inventory levels.”
- b. “In April 2022, although Synagro’s dewatering capture was normal, poor settling sludge impacted gravity thickener blankets, solids accumulated in the primary clarifiers, and solids inventory in the WWTF continued to increase into

May 2022. Although there was in April adequate capacity in sludge storage tank and at Synagro's Facility to accept from the WWTF and dewater a substantial portion of the primary solids inventory build-up, no such volumes were provided to Synagro to alleviate the inventory build-up."

- c. "Septicity in late April 2022 resulted in sludge that was difficult to dewater and reduced dewatering capture into May 2022. Nevertheless, Synagro still had capacity in the sludge storage tank to accept and dewater (albeit at reduced efficiencies) additional sludge volumes, but none were provided."
- d. "As a result of the above, in May 2022, Synagro's capacity in the sludge storage tank to accept additional primary solids wasted by the WWTF became limited. Given the above-described root causes, we have concluded that the most effective corrective action to prevent future upset events at the WWTF is to implement a process of pumping primary solids to the sludge storage tank before solids washout to the secondary system. This will alleviate the resulting additional load on the gravity thickener by wasting these solids in waste activated sludge. It is particularly important during times of gravity thickener upsets."

81. Shortly thereafter, on September 7, 2022, during executive session, members of the Board of Certification of Operators of Wastewater Treatment Facilities motioned to send Jacobs and the City of Woonsocket a letter with the following recommendations in response to a complaint on improper staffing procedures:<sup>23</sup>

- a. If staffing challenges occur to the extent that out of state operators are needed to temporarily fill shifts, contact, and communicate with the Board the plan to fill shifts.
- b. If staffing the Facility becomes an issue, operators that do not possess a Rhode Island license (including operators in training) are not placed on consecutive shifts.
- c. All eligible members voted in favor as such the meeting resumed in open session.

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<sup>23</sup> STATE OF RHODE ISLAND BOARD OF CERTIFICATION OF OPERATORS OF WASTEWATER TREATMENT FACILITIES Meeting Minutes September 7, 2022, Minutes Page 2.

82. On March 8, 2023, the Director of the Woonsocket Department of Public Works sent a letter to the Administrator of Surface Water Protection at the Rhode Island Department of Environmental Management. This letter contained, *inter alia*, the following information:

- a. “On the night of February 28th, Anthony Turchetta (Jacobs) was informed by the operator on site that the secondary clarifiers and sand filters were breaching, causing solids to enter the Chlorine Contact Tank (CCT).” Jacobs informed DEM and worked “with site staff to make adjustments to alleviate pressure on the back end of the plant [ . . . ] At the time the final effluent flow was approximately 8.5 mgd.”
- b. DEM informed Jacobs of the citizen reporter’s Twitter post of the visually apparent discharge at 1pm on March 1, 2023. A meeting was held to determine next steps at 3pm.
- c. Thereafter, “Jacobs began taking daily bacteria samples of the final effluent and the Blackstone River, upstream and downstream of the outfall. [ . . . ] Jacobs also began wasting from the secondary clarifiers to the plant drain to reduce blankets level in the secondary clarifiers and alleviate pressure on the back of the plant.”
- d. On the same day, March 1, 2023, at “5:00 pm, the city directed Synagro to stop accepting liquid merchant sludge. [ . . . ] Primary clarifier blankets remained at, or below, 10.5 and 10 feet.”
- e. “On March 2, representatives from the city and Weston and Sampson met with [the Administrator of Surface Water Protection at RIDEM] and RIDEM staff to discuss updates and strategies to address the upset event including operating status, progress on process and options for interim improvements and process monitoring.”
- f. Synagro implemented “a more comprehensive plan for collection and immediate on-site analysis of daily grab/composite samples of centrifuge sludge feed, dewatered cake, and centrate to be analyzed on site for %TS, %TS, and TSS, respectively.
- g. “[O]n March 7, the city authorized Synagro to start receiving liquid merchant sludge again at an initial rate of up to 10 tankers per day. Late in the afternoon of March 7, Synagro requested and the City authorized receipt of an additional two tankers for that day.”

83. Despite the analyses done and corrective action plans presented to RIDEM, the Defendants have failed to operate the WWTF in a manner ensuring the public’s continuous use

and enjoyment of the uses of Class B1 waters, such as fishing, swimming, kayaking, and canoeing. Moreover, as citizens have publicly stated as recently as March 1, 2023, even uses of public lands adjacent to the river have been impaired by Defendants' failure to effectively and consistently treat wastewater.

**VII. COUNT I**  
***IMPROPER DISCHARGES IN VIOLATION OF R.I.G.L. § 46-12-5***  
*City of Woonsocket*

84. The State repeats and realleges the allegations set forth in paragraphs 1 through 83 as if fully set forth herein.

85. The Defendant's RIPDES permit requires wastewater to be fully treated before being discharged to the receiving water body.

86. The Defendant has unlawfully discharged partly treated sewage into the Blackstone River, in clear violation of the terms and conditions of its RIPDES permit.

87. The Defendant's unauthorized discharge of pollutants into the Blackstone River violates the Rhode Island Clean Water Act, R.I.G.L. § 46-12-5.

88. For its violations of R.I.G.L. § 46-12-5, the State is entitled to civil penalties of twenty-five thousand dollars (\$25,000) for each day during which the violation has occurred. R.I.G.L. § 46-12-13.

89. Wherefore, the State prays for relief as set forth below.

**VIII. COUNT II**

***IMPROPER DISCHARGES IN VIOLATION OF THE FRESHWATER WETLANDS ACT***  
*City of Woonsocket*

90. The State repeats and realleges the allegations set forth in paragraphs 1 through 89 as if fully set forth herein.

91. The allegations set forth herein include conduct which violates the rules and regulations adopted pursuant to the Freshwater Wetlands Act, §§ 2-1-18—2-1-24.

92. The Defendant's failure to properly treat its wastewater before discharging it into the Blackstone River is detrimental to the "purity and integrity of the freshwater wetlands . . . of this state" and adversely affects the "health, welfare, and general well-being of the populace." R.I.G.L. § 2-1-19.

93. The Defendant's discharge of partly treated sewage is in clear violation of the terms and conditions of its RIPDES permit and the State's Water Quality Regulations.

94. For the Defendant's violation of the Freshwater Wetlands Act, the State is entitled to civil penalties of ten thousand dollars (\$10,000) for each violation. R.I.G.L. § 2-1-23.

95. Wherefore, the State prays for relief as set forth below.

**IX. COUNT III**

***IMPAIRMENT OF PUBLIC TRUST NATURAL RESOURCES***  
*City of Woonsocket, Jacobs, and Synagro*

96. The State repeats and realleges the allegations set forth in paragraphs 1 through 95, as if fully set forth herein.

97. The Rhode Island Constitution provides for the broad protection of the State's natural resources and guarantees that its citizens "shall be secure in their rights to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values." R.I. Const. art. I, §17.

98. The allegations set forth herein include conduct which qualifies as "pollution, impairment, or destruction" of the natural resources of the State.

99. By engaging in the acts and omissions alleged in this Complaint, Defendants have altered the character and/or quality of the Blackstone River and unreasonably interfered with the use and enjoyment of public trust resources.

#### **X. COUNT IV**

##### ***STATE ENVIRONMENTAL RIGHTS ACT, EQUITABLE RELIEF ACTION*** *City of Woonsocket, Jacobs, and Synagro*

100. The State repeats and realleges the allegations set forth in paragraphs 1 through 99 as if fully set forth herein.

101. The allegations set forth herein include conduct which qualifies as "pollution, impairment, or destruction" of the natural resources of the State.

102. The allegations set forth herein include conduct which "materially adversely affects or is likely to materially adversely affect the environment" due to water quality impairment of the Blackstone River.

103. Additionally, the Defendant's conduct violates environmental quality standards set by the State's Water Quality Regulations and the Defendant's RIPDES permit.

104. In sum, Defendant, through its failure to properly treat its wastewater, has polluted and/or impaired the water of Rhode Island, all of which is actionable pursuant to R.I.G.L. § 10-20-1, *et seq.*

105. For its violations of the Environmental Rights Act, the court may grant declaratory relief, temporary and permanent equitable relief, or may impose such conditions upon a party as are necessary or appropriate to protect the Blackstone River. R.I.G.L. § 10-20-6.

106. Wherefore, the State prays for relief as set forth below.

**XI. COUNT V**  
***COMMON LAW OF PUBLIC NUISANCE***  
*City of Woonsocket, Jacobs, and Synagro*

107. The State repeats and realleges the allegations set forth in paragraphs 1 through 106 as if fully set forth herein.

108. Rhode Island case law defines a public nuisance as “an unreasonable interference with a right common to the general public: it is behavior that unreasonably interferes with the health, safety, peace, comfort or convenience of the general community.” *Citizens for Preservation of Waterman Lake v. Davis*, 420 A.2d 53, 59 (R.I. 1980).

109. Three principal elements are essential to establishing public nuisance: (1) an unreasonable interference; (2) with a right common to the general public; (3) by a person or people with control over the instrumentality alleged to have created the nuisance when the damage occurred. *State v. Lead Indus. Ass’n*, 951 A.2d 428, 446 (R.I. 2008).

110. A public right includes those indivisible resources shared by the public at large, such as air and water.<sup>24</sup>

111. Recreational use of and safe access to Blackstone River is a public right.

112. The allegations set forth herein include conduct which constitutes a public nuisance that unreasonably interferes with the public right to unpolluted, safe, and clean natural resources, specifically water.

113. The Defendants' failure to fully treat its wastewater before releasing it into the Blackstone River created an unreasonable interference with the public's right to safely use and enjoy the river.

114. The interference is unreasonable, as it violates the terms of Defendant's RIPDES permit, the State's Water Quality Regulations, as well as R.I.G.L. § 46-12-5.<sup>25</sup> Moreover, it has gone unremedied despite notice of the violations and multiple corrective action plans being submitted.

115. The Defendants collectively have control over the instrumentality causing the nuisance, namely, the Woonsocket Wastewater Treatment Facility and its component parts through their roles and responsibilities in operating and maintaining portions of, or in the case of Woonsocket, the entire, facility and its equipment and function of wastewater treatment.

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<sup>24</sup> 4 *Restatement (Second) Torts* § 821B.

<sup>25</sup> See *Lead Indus. Ass'n*, 951 A.2d at 447 (“Activities carried out in violation of state laws or local ordinances generally have been considered unreasonable if they interfere with a public right.”)

116. Because the Defendants control the operation and maintenance of the Facility, they are best positioned to abate the nuisance by operating the facility in a manner guaranteeing properly treated wastewater.

117. The Defendants' failure to ensure proper treatment of the wastewater is a cause-in-fact of the unreasonable interference with the public right to use the river.

118. The Defendants' failure to ensure proper treatment of the wastewater is also a proximate cause of the unreasonable interference with the public right to use the river.

119. Given the strict regulatory requirements of Defendant's permit, and the conditions of various contracts and agreements between and among the parties, it was reasonably foreseeable that the release of partly treated sewage would interfere with the public's right to use and enjoy the Blackstone River.

120. The Defendant's failure to properly treat its wastewater has caused substantial injury to the property and water of Rhode Island, in which the public has interests represented by and protected by Rhode Island in its *parens patriae* capacity.

121. Wherefore, the State prays for relief as set forth below.

## **XII. PRAYER FOR RELIEF**

The Plaintiff, STATE OF RHODE ISLAND, seeks judgment against DEFENDANTS for:

1. Payment of penalties allowed by regulation or statute, including but not limited to R.I.G.L §§ 46-12-13, 2-1-23, and 10-20-6;

2. Compensatory damages arising from the health impacts to the citizens of Rhode Island;
3. Compensatory damages arising from the contamination of natural resources, specifically water, including, but not limited to:
  - a. Cost of investigation;
  - b. Cost of testing and monitoring;
  - c. Damages to reimburse the State for any other response costs or other expenditures incurred to address water pollution from the Facility;
  - d. Damages sufficient to remediate damages to natural resources caused by the effluent herein described;
  - e. Interest on the damages according to law;
4. Injunctive and equitable relief to compel Defendants to comply with State Water Quality Regulations and its RIPDES permit and to abate the nuisance;
5. Costs (including reasonable attorney's fees, court costs, and other expenses of litigation);
6. Prejudgment interest; and
7. Any other and further relief as the Court deems just, proper, and equitable.

### **XIII. JURY TRIAL DEMAND**

Plaintiffs hereby demand a jury trial on all causes of action for which a jury is available under the law.

Respectfully submitted,

THE STATE OF RHODE ISLAND

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ATTORNEY GENERAL

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TERRENCE GRAY  
in his capacity as Director,  
RHODE ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

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