



November 4, 2021

***Via Email and Certified Mail,
Return Receipt Requested***

City of Bradenton
% Gene Brown, Mayor
101 Old Main Street West
Bradenton, FL 34205
gene.brown@cityofbradenton.com

Via Email

Jim McLellan, P.E., Director
City of Bradenton Public Works and
Utilities
1411 9th Street West
Bradenton, FL 34205-7217
jim.mclellan@cityofbradenton.com

Via Email

Rob Perry, City Administrator
101 Old Main Street West
Bradenton, FL 34205
rob.perry@bradentonFL.gov

Via Email

Scott E. Rudacille, Esq.
City of Bradenton, City Attorney
Blalock Walters, P.A.
802 11th Street West
Bradenton, FL 34205
sRudacille@blalockwalters.com

Re: Sixty Day Notice of Violations of Clean Water Act and Notice of Intent to File Suit

Dear Messrs. Brown, McLellan, Perry and Rudacille,

I am writing on behalf of Suncoast Waterkeeper, Tampa Bay Waterkeeper, Our Children's Earth Foundation, and ManaSota-88 (collectively "Citizens") to notify you of ongoing violations of the federal Clean Water Act ("CWA") at the Bradenton Wastewater Treatment Facility ("WWTF") and throughout its publicly owned treatment works ("POTW") which provide for the collection, treatment, reclamation and discharge of sanitary sewage produced by the City of Bradenton.

We request a meeting between December 8 and 14, 2021, with our counsel and engineer and the following City representatives: City Attorney Scott E. Rudacille, City Administrator Rob Perry, City Director of Public Works and Utilities Jim McLellan, Engineer Susan Hochuli, and Superintendent Bill Quigley. We suggest this meeting commence with discussion among the engineers as to the City's attempts to achieve compliance and the underlying causes of the violations. Thereafter, counsel can discuss whether a sufficient opportunity exists to negotiate a settlement. Consistent with the Citizens' resolution of similar matters, our goal is to reach early agreement with the City for timely corrective actions and an appropriate civil penalty under the

CWA. Any such agreement would be memorialized in a settlement filed in federal Court that will resolve the Citizens' CWA claims.¹

The City of Bradenton is in continuing violation of the CWA by (1) its repeated bypasses at the WWTF (as recently as August 4, 2021), (2) continuous discharges of effluent from the Bradenton WWTF in clear violation of its National Pollutant Discharge Elimination System ("NPDES") Permit No. FL0021369, (3) spills of raw sewage from its wastewater collection system into area waters or into the City's stormwater system, (4) spills of partially treated sewage and reclaimed water from the Bradenton WWTF into area waters or into the stormwater system, (5) its persistent failure to properly operate and maintain its POTW, and (6) its repeated failure to adhere to the reporting requirements of its NPDES Permit. These violations apparently have occurred for years, with full knowledge of the City, and have caused and continue to cause very substantial amounts of pollutants to be discharged into the Manatee River, Wares Creek, Palma Sola Creek, and Palma Sola Bay which flow into Lower Tampa Bay, Sarasota Bay and the Gulf of Mexico (collectively, "Receiving Waters"), which are all Waters of the United States. These discharges have caused serious injury and continue to cause or threaten ongoing serious injury to the health, environmental, aesthetic and economic interests of the Citizens and their members.

Pursuant to Section 505(b)(1)(A) of the CWA, 33 U.S.C. §1365(b)(1)(A), Citizens hereby give notice of their intent to sue the City of Bradenton for violations of the CWA unless, within 60 days of receipt of this letter, the City enters into a binding agreement to cease and remediate promptly all such violations. At any time more than sixty days after providing notice, Citizens are entitled to bring suit against: "any person . . . alleged to be in violation" of an "effluent standard or limitation" established under the CWA and as that term is defined in Section 505(g). The Citizens may therefore bring suit under this law to abate the City's discharges that cause pollution as well as the pollution itself.

¹ See *Suncoast Waterkeeper, Our Children's Earth Foundation and Ecological Rights Foundation v. City of Saint Petersburg*, (Case No. 8:16-cv-03319-JDW-AEP, M.D. Fla); *Suncoast Waterkeeper, Our Children's Earth Foundation and Ecological Rights Foundation v. City of Gulfport, Florida*, (Case No. 8:17-cv-00035-SCB-AEP M.D. Fla); *Suncoast Waterkeeper, Our Children's Earth Foundation and Ecological Rights Foundation v. Sarasota County, Florida* (Case No. 8:19-cv-00956-WFJ-JSS, M.D. Fla); *Tampa Bay Waterkeeper, Our Children's Earth Foundation and Suncoast Waterkeeper v. City of Largo, Florida* (Case No. 8:20-cv-01742-AAS, M.D. Fla).

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I. IDENTITY OF PERSONS GIVING NOTICE AND THEIR COUNSEL

In accordance with 40 C.F.R. Section 135.3(b), the names, addresses, and telephone numbers of the Citizens giving notice, are as follows:

Suncoast Waterkeeper (“SCWK”) is a non-profit public benefit corporation with members throughout Southwest Florida, including throughout the Tampa Bay and Sarasota Bay watersheds and along the Gulf Coast, dedicated to protecting and restoring the Florida Suncoast’s waterways through fieldwork, advocacy, environmental education, and enforcement for the benefit of the communities that rely upon these precious coastal resources. SCWK has been registered as a not for profit corporation in Florida since 2012 and has maintained its good and current standing in Florida since that time. SCWK is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 350 separate Waterkeeper programs, such as Suncoast Waterkeeper.

Our Children’s Earth Foundation (“OCE”) is a non-profit public benefit corporation with members throughout Southwest Florida, throughout the Tampa Bay and Sarasota Bay watersheds and along the Gulf Coast, dedicated to protecting the public, especially children, from the health impacts of pollution and other environmental hazards and to improving environmental quality for the public benefit. Another aspect of OCE’s mission is to participate in environmental decision-making, to educate the public concerning environmental protection laws, and to enforce environmental laws (including via citizen suits), both federal and state, to reduce pollution. OCE has been registered as a foreign not for profit corporation in Florida since 2016 and has maintained its good and current standing in Florida since that time.

Tampa Bay Waterkeeper (“TBWK”) is a non-profit public benefit corporation with members throughout the entire Tampa Bay and Sarasota Bay watershed and along the Gulf Coast. Tampa Bay Waterkeeper is dedicated to protecting and improving the Tampa Bay watershed while ensuring swimmable, drinkable and fishable water for all. Tampa Bay Waterkeeper’s approach combines sound science, policy advocacy, grassroots community engagement and education to stand up for clean water together as a community, ensuring a clean and vibrant future for the Tampa Bay watershed. TBWK has been registered as a not for profit corporation in Florida since 2017 and has maintained its good and current standing in Florida since that time. TBWK is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 350 separate Waterkeeper programs, such as Tampa Bay Waterkeeper.

ManaSota-88 is a Florida not-for-profit, public interest corporation. ManaSota-88 has spent over 50 years fighting to protect Florida’s environment. It is dedicated to protecting the public’s health and preservation of the environment. ManaSota-88 is committed to safeguarding Floridians’ air, land, and water quality. ManaSota-88 has members that work, live, and recreate in the Tampa Bay and Sarasota Bay areas proximate to Bradenton. These members also make use of the waterways and natural areas in proximity to Bradenton for recreational, aesthetic, and related purposes. These members’ aesthetic, recreational, and other constitutionally-protected interests are injured by Defendant’s actions and omissions as set out herein.

Citizens' members use the Manatee River, Lower Tampa Bay, the rest of Tampa Bay, Palma Sola Bay, Sarasota Bay, the Gulf of Mexico and other adjoining waterways for body contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation. Citizens' members are concerned about water quality and will continue to be adversely affected by the City of Bradenton's sewage discharge violations. Citizens' members have been deprived of timely and reliable information regarding the status of the City's compliance with applicable requirements or the amount and extent of unpermitted discharges. Redressing the violations alleged in this notice letter will redress the injuries, deprivations or risks the Citizens have suffered.

Citizens may be contacted at the following addresses:

Suncoast Waterkeeper
P.O. Box 1028
Sarasota, FL 34230
Tel: (941) 275-2922
Email: jbloom@suncoastwaterkeeper.org

Tampa Bay Waterkeeper
260 First Ave S, Box 226
St. Petersburg, FL 33701
Tel: (941) 915-0684
Email: chairman@tampabaywaterkeeper.org

Our Children's Earth Foundation
1625 Trancas St. #2218
Napa, CA 94558-9998
Tel: (510) 910-4535
Email: annie.beaman@ocefoundation.org

ManaSota-88, Inc.
419 Rubens Drive
Nokomis, FL 34275
Tel: (941) 966-6256
Email: manasota88@comcast.net

Citizens have retained the same legal counsel who have represented them in similar matters.

Justin Bloom, Esq.
P.O. Box 1028
Sarasota, FL 34230
Tel: (941) 275-2922
Email: bloomesq1@gmail.com

Kathryn Schmidt, Esq.
Van Ness Feldman LLP
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Tel: 303-298-1982
Email: kschmidt@vnf.com

All communications should be addressed to legal counsel at the above addresses.

II. STATUTORY AND REGULATORY FRAMEWORK

The City of Bradenton is a municipality incorporated under the laws of the State of Florida and a person within the meaning of Section 403.031(5), Fla. Stat., and Section 502(5) of the CWA. 33 U.S.C. § 1362(5). The City of Bradenton owns and operates the POTW and appurtenant collection system, which collectively is a publicly owned treatment works as defined in CWA Section 212(2), 33 U.S.C. § 1292(2), and 40 C.F.R. Section 125.58(u). The POTW and related

collection system collects and treats sanitary sewage from the City of Bradenton residents and businesses.

The CWA prohibits the discharge of pollutants by any person to Waters of the United States except in compliance with a permit duly issued under the CWA. CWA § 301(a), 33 U.S.C. § 1311(a). The CWA authorizes the Environmental Protection Agency (“EPA”), or states with permit programs approved by EPA, to issue National Pollutant Discharge Elimination System (“NPDES”) permits allowing for the discharge of pollutants into waters of the United States. CWA § 402, 33 U.S.C. § 1342. The Florida Department of Environmental Protection (“FDEP”) has issued an NPDES Domestic Wastewater Facility Permit to the City of Bradenton for its WWTF under Chapter 403, Florida Statutes (F.S.) and applicable rules of the Florida Administrative Code (F.A.C.): Permit No. FL0021369 (“NPDES Permit”). Bradenton’s current NPDES Permit FL0021369-014-DW1P/NR was renewed September 9, 2020 and is effective through September 8, 2025. The City’s previous NPDES Permit applicable to the violations alleged in this letter is NPDES Permit FL0021369-013-DW1P/NR, effective from July 18, 2017 until the permit was renewed on September 9, 2020. The Bradenton WWTF is required to comply with its NPDES Permit with respect to discharges from the POTW or its collection system, and the manner in which it operates and maintains the POTW.

The stormwater element of the federal NPDES program is mandated by CWA § 402(p), 33 U.S.C. §1342(p), and implemented through federal regulations including 40 C.F.R. Section 122.26. EPA has approved the FDEP to administer the NPDES permit program in Florida. FDEP is authorized under Section 403.0885 of the Florida Statutes (F.S.) and Rule 62624 of the Florida Administrative Code (F.A.C.) to implement the NPDES program. As part of this program, FDEP has determined that a Municipal Separate Storm Sewer System (MS4) permit is required for the operation of the City of Bradenton’s stormwater systems. FDEP issued MS4 Permit No. FLS000037 to the City. Bradenton’s current MS4 Permit No. FLS000037-004 was issued January 12, 2017 and is effective until January 11, 2022. The previous MS4 permit for the City of Bradenton (MS4 Permit No. FLS000037-003) was effective December 1, 2011 with an expiration date of November 30, 2016. MS4 Permit Nos. FLS000037-004 and FLS000037-003 are herein collectively referred to as the “MS4 Permits.” The City of Bradenton is the “Permittee” under the MS4 Permits. Part IV of the City’s MS4 Permits contain annual reporting and reapplication requirements.

The City of Bradenton is also required to report violations of its NPDES and MS4 permits to FDEP. The Eleventh Circuit Court of Appeals has held that “accurate self-reporting is critical to the effective enforcement of environmental laws.”² Moreover, courts have held that failure to report CWA violations is just as significant a violation as the underlying violation itself.³ *See also*

² *Griffin Indus. V. Irvin*, 496 F.3d 1189, 1206-07 (11th Cir. 2007).

³ *See Hawaii’s Thousand Friends v. City and County of Honolulu*, 821 F. Supp. 1368, 1384 (D. Hawaii 1993) (“The failure to report is even more significant than the bypasses themselves”); *United States v. Smithfield Foods, Inc.*, 972 F. Supp. 33, 348 (E.D. Va. 1997), *aff’d in part*,

40 C.F.R. Part 127 (NPDES Electronic Reporting) and specifically 40 C.F.R. § 127.14 (Requirements regarding timeliness, accuracy, completeness, and national consistency); 40 C.F.R. § 122.41 (Conditions applicable to all permits [applicable to State Programs, see § 123.25]) and specifically § 121.41 (j) (Monitoring and records, (k) (Signatory requirement) and (l) (Reporting requirements).

Under Florida state law, the City of Bradenton has been subject to a consent order and two amendments for approximately three years: *Consent Order OGC No. 18-1466 (December 2018)*; *First Amendment to Consent Order (May 2019)*; *Second Amendment to Consent Order (June 2020)*. While the Consent Order, as amended, under state law has allowed higher pollution levels (called “interim limits”) for many pollutants that are limited under the NPDES Permit as a matter of enforcement discretion, an interim limit under a state-issued consent order is not itself an NPDES Permit modification. Paragraph 8 of the Consent Order, as amended two times, specifically states as follows:

These interim limits do not act as a State of Florida Department of Environmental Protection wastewater permit effluent limitation or modified permit limitation, nor does it authorize or otherwise justify violation of the Florida Air and Water Pollution Control Act, Part I, Chapter 403, Florida Statutes, during the pendency of this Consent Order.

The pollutant limits contained in the City’s NPDES Permit are the enforceable limit under the federal CWA, regardless of the State’s actions under state law to provide “interim limits” that extend for years.⁴ Furthermore, the Consent Order and its amendments were issued under a state law that is not comparable to the CWA. *Suncoast Waterkeeper, et al. v. City of Saint Petersburg, Florida, 2018 WL 502662 (M.D. Fla. January 20, 2018)*. Therefore, as a matter of law, these

rev’d in part, 191 F.3d 516 (4th Cir. 1999) (finding that reporting violations undermine the CWA and are considered serious by the court, despite the fact that they are not discharge violations, and late reports are problematic); *see also Inland Empire Waterkeeper v. Corona Clay Co.*, No. 20-55420, 2021 WL 4258829 (9th Cir. Sept. 20, 2021)(permit holder's alleged failure to file reports required by permit was an injury in fact that could support Article III standing.) Likewise, EPA has recognized that public information about water quality is an “important component” of safe drinking water. EPA, *Understanding the Safe Drinking Water Act* (June 2004), at 1 <https://www.epa.gov/sites/production/files/2015-04/documents/epa816f04030.pdf>.

⁴ The only “interim limit” now in effect under the Second Amendment to Consent Order (from April 20, 2020 until April 2024) is for Total Nitrogen (5 Year and Annual Average) at 37 tons/year, which is nearly **double** the NPDES Permit limit of 19.2 tons/year. No other interim limits exist as of the date of this letter. Thus, the NPDES Permit’s reference to an interim limit for DCBM and CDBM in the Second Amendment to Consent Order is incorrect. Despite this, the City has reported to FDEP and EPA that it is “in compliance” with “interim limits” for those pollutants that do not even exist. This is misleading to the public and to EPA who is charged with oversight of FDEP’s delegated permitting and enforcement authority of the federal NPDES program.

“interim limits” do not and cannot relieve the City of its obligations to comply with its NPDES Permit or shield the City from citizen suit enforcement of federal Clean Water Act requirements.

III. BACKGROUND

A. Description of Facilities

City of Bradenton Wastewater Treatment Facility
1810 1st Street West
Bradenton, Florida 34208-3504
Manatee County

As stated in the City of Bradenton’s Domestic Wastewater Facility Permit FL0021369 issued on September 9, 2020, at p.1:

The City of Bradenton operates a 9.0 million gallons per day (MGD) annual average daily flow (AADF) type I activated sludge advanced wastewater treatment facility consisting of: headworks with bar screens; bypass channel with manual bar screen; grit removal system; biofilter odor control system; flow splitter box; two Carrousel-type aeration basins of 2.26 million gallons (MG) each, for a total of 4.52 MG; three clarifiers of 0.705 MG each, for a total of 2.115 MG and 23,562 square feet total surface area; two below-grade filter lift stations; six single media gravity denitrification filters with air scour and water backwash providing a total of 3,000 square foot filtration surface area; one split compartment chlorine contact chamber of 0.500 MG; one reclaimed storage basin of 0.280 MG; and a de-chlorination chamber and post-aeration basin of 0.020 MG. This plant is operated to provide secondary treatment and high-level disinfection.

The biosolids handling stream consists of: one dissolved air flotation residuals thickening unit of 400 square feet total surface area; two aerobic digesters with capacities of 0.570 MG each and providing a total digestion volume of 1.140 MG; and two mechanical screw presses.

The plant is a dual train facility with the exception of the headworks. Polymer coagulant feed is available on a standby status for solids control and methanol is directed to the denitrification filters for nitrate control. Iron salts are added during secondary treatment for phosphorus control. The effluent and reclaimed water systems on-site and off are controlled, sequenced and operated according to procedures set forth in the plant Operating Protocol in order to assure maximum reliability and safeguards on the quality of the reclaimed water. Plant alarm systems are annunciated throughout the plant site and also are remoted to the plant.

City of Bradenton Sixty-Day Notice
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The City of Bradenton is authorized by NPDES Permit FL0021369 to discharge effluent to waters of the state from Outfall D-001, which is described as follows:

An existing 6.0 MGD AADF discharge to Robinson's Ditch thence the Manatee River below Braden River, a Class III Marine water, (WBID# 1848A). The outfall is a 36-inch diameter ductile iron pipe that discharges effluent through the existing Robinson's ditch storm sewer before discharging to the Manatee River. The point of discharge is located approximately at latitude 27°29' 54" N, longitude 82°33' 17" W. NPDES Permit File No. FL0021369 at Page 2.

Outfall D-001 is depicted on the following map from the Fact Sheet for NPDES Permit File No. FL0021369-014-DW1P/NR:

D-001 is an existing 6.0 MGD AADF discharge to Robinson's Ditch thence the Manatee River below Braden River, a Class III Marine water, (WBID# 1848A). The outfall is a 36-inch diameter ductile iron pipe that discharges effluent through the existing Robinson's ditch storm sewer before discharging to the Manatee River. The point of discharge is located approximately at latitude 27°29' 54" N, longitude 82°33' 17" W.



B. Facts Related to the City of Bradenton’s Bypasses and Sewage Spills

The City of Bradenton has repeatedly bypassed effluent from its full wastewater treatment process, causing millions of gallons of partially treated sewage to enter surface waters and/or storm drains. Further, the City of Bradenton has repeatedly spilled raw sewage from the City’s sewer lines, manholes, pump stations, and various other POTW equipment/conveyances that are part of the overall collection system, as well as from the WWTF.

A partial list of bypasses of partially treated sewage is attached as Exhibit 1, and a partial list of sewage spills within the last five years, also known as sanitary sewage overflows or “SSOs” is attached as Exhibit 2. The Citizens will amend the list of bypasses and SSO’s on Exhibits 1 and 2 if further review indicates that additional spills have occurred.

Summary tables of the bypasses and SSOs listed in Exhibits 1 and 2 are below:

Bypasses

Bypass Summary Table		
Year	Volume	Days
2017	Unreported	5
2018	1,500,000	2
2019	95,000,000	5
2020	51,468,000	10
2021	13,020,000	3
Totals	160,988,000	25

The Bypass Summary Table indicates *at least* 160 million gallons illegally bypassed wastewater away from full treatment by the City of Bradenton into the Manatee River in the last five years, with approximately 99% of that volume unlawfully discharged in the last 27 months. Most recently, the City bypassed 13 million gallons in August of 2021. The City’s sampling data confirms that its bypasses resulted in high levels of fecal coliform and enterococci in the Manatee River.

Sanitary Sewer Overflows

SSO Summary Table		
Year	Volume Reported to Surface Water and/or Storm System	Days
2017	332,050	14
2018	306,000	4
2019	846,500	8
2020	753,300	5
Total	2,237,850	31

The SSO Summary Table indicates *at least* 2.2 million gallons of raw sewage, partially treated sewage and reclaimed water spilled into area waters or the stormwater system without permit authorization in the last five years.

Because the City did not always report its bypass or spill volumes, the actual volume of illegal bypasses and spills to surface waters or the stormwater system cannot be calculated at this time. The figures above reflect the estimated *minimum* volume based on publicly available information. The Citizens will revise the Exhibits upon further discovery as to the volumes of all bypasses and SSOs and will add bypasses and SSOs that may have gone unreported.⁵

These bypasses and sewage spills have sent raw and partially treated sewage streaming into storm drains and/or adjacent surface waters, posing serious public health threats and creating a severe nuisance in exposing substantial numbers of people to raw sewage. Raw sewage contains a variety of human bacteriological, viral, and parasitic pathogens, and exposure to raw sewage is well known to cause various human illnesses. In addition to human waste, sanitary sewage contains various toxic chemicals from the solvents, detergents, cleansers, inks, pesticides, paints, pharmaceuticals and other chemicals discarded by households and businesses. Thus, the City of Bradenton’s sewage spills pose a serious public health risk in exposing members of the public and Citizens’ members to sewage borne pathogens and various toxic pollutants. As discussed further below, the City’s persistent, repeated illegal sewage spills of raw sewage and bypasses of partially treated sewage also cause serious harm to sensitive freshwater and marine environments in area waters, as the excessive nutrient loading and pathogens and toxic pollutants in sewage adversely affect freshwater and marine life.

⁵ For example, there appear to be several additional days in the months with reported bypasses (August 2019, September 2020 and August 2021) when the plant experienced sustained, high flows after the reported cessation of bypass.

The City's unlawful bypasses and SSOs are caused by a variety of delayed and inadequate system maintenance, operation, repair, replacement, and rehabilitation practices. These poor practices have led to the overwhelming of system capacity within the WCS and WWTF due to excessive infiltration and inflow ("I/I") of storm water and groundwater during wet weather; unaddressed defects in sewer lines such as extensive line cracking, sags in lines, and misaligned joints; blocked gravity lines; overflows at lift stations caused by contractor error, mechanical and equipment failures, power outages, and/or heavy rainfall; overflows at manholes caused by heavy rainfall and/or faulty valves; broken and/or leaking force mains; and leaking pipes at the WWTF. The City is well-aware of the issues afflicting its POTW that are causing its bypasses and SSOs. Indeed, the City has experienced similar bypasses and SSOs before the events listed within the last 5 years on Exhibits 1 and 2.⁶

Until the City accelerates its timeline of collection system repairs under federal court order to adequately address the underlying causes of the City's pervasive SSO problems, primarily its significant wet weather I/I problem causing millions of gallons of bypasses and SSOs, the City will continue to violate the CWA, causing significant harm to public health and the environment.

C. Facts related to the City's Violations of its NPDES Permit Effluent Limits

The attached Exhibit 3 lists the City's continuing violations of its NPDES Permit effluent limits for the last five (5) years for the following pollutants: Total Nitrogen ("TN"), Dichlorobromomethane (DCBM), Total Suspended Solids, and Total Residual Chlorine. The Citizens will add violations to this table for newly discovered violations after the date of this letter. For example, the City historically has been unable to meet its effluent limit for Chlorodibromomethane yet is currently reporting compliance with that effluent limit.

The NPDES Permit Effluent Limit for Total Nitrogen (5 Year and Annual Averages) is derived directly from the 2009 Reasonable Assurance Plan for Tampa Bay, approved by FDEP on December 22, 2010, which concluded a process that started in 1998, when EPA approved a Total Maximum Daily Load "TMDL" for TN for Tampa Bay required by Section 303(d) of the federal CWA. In 2007, EPA and FDEP advised the Tampa Bay Nitrogen Management Consortium that existing and future surface water discharge permit limits for entities discharging to Tampa Bay must not cumulatively exceed the federally-recognized TMDL for nitrogen loading, and that no new or renewed permits would be approved until facility-specific allocations consistent with the TMDL were developed. Over the course of several years, TN allocations were established for Tampa Bay, through a lengthy process among a large consortium of stakeholders, of which the City of Bradenton was a participant along with FDEP, EPA, Tampa Bay Estuary Program and other area municipalities and organizations. In 2009, the City of Bradenton joined the Tampa Bay Nitrogen Management Consortium in adopting a Nitrogen Management Action Plan, or Reasonable Assurance Plan ("RA"), agreeing to an allocation for TN of 19.2 tons/year (5-Year Average) and 23.1 tons/year (Annual Average). FDEP adopted the 2009 RA on December 22,

⁶ For example, the City sent 1.5 million gallons of illegal discharges to the Manatee River over 3 days (August 31, 2016 to September 2, 2016), consisting of approximately 50,000 to 100,000 of wastewater and 500,000 to 1,000,000 gallons reclaim water.

2010 by Order. The collaborative efforts of the Consortium participants have resulted in proposed equitable nitrogen load allocations to 189 permitted sources throughout the watershed, collectively meeting the federally-recognized nitrogen TMDL for Tampa Bay.

Bradenton's NPDES Permit reflects the allocations for Bradenton in the RA Plan, which are Water Quality Based Effluent Limitations, adding a limit on TN of 19.2 tons/year (5-Year Average) and 28.5 tons/year (Annual Average).

Since May 2018, the City has continuously failed to meet its NPDES permit limit of 19.2 tons/year TN (5 Year Average), now discharging a 5 Year Average amount of between 33-34 tons/year. See Exhibit 3. As a result, Bradenton has been identified as an outlier for the Lower Tampa Bay segment for its excessive TN loading from the WWTF at 58.3 tons/year (Mean 2017-2019 tons/year Entities/Facilities with % Allocations Hydrologically Normalized BASIN). *Draft 10/16/20 Spreadsheet for Remainder of Lower Tampa Bay Mean 2017-2019 tons/year Entities/Facilities with % Allocations Hydrologically Normalized BASIN (TBEP/NMC)*. The Citizens are aware that the City's TN exceedances are related to projects at its WWTF in 2018; however, Lower Tampa Bay has received a TN load from the City that is well beyond the City's 2009 RAP allocation, and it remains to be seen how long the City will continue to violate its 5 Year Average allocation reflected in its NPDES Permit effluent limit for TN.

D. Facts Related to the Receiving Waters

The Manatee River, Wares Creek, Palma Sola Creek, Palma Sola Bay, Sarasota Bay and Lower Tampa Bay are all listed on the State of Florida's CWA Section 303(d) list of impaired water bodies. A water body that is listed as impaired cannot support its designated beneficial uses. These water bodies are impaired for chlorophyll-a, mercury and fecal coliform which adversely affects their beneficial uses of recreation, fish consumption, shellfish propagation, and propagation and maintenance of a healthy, well-balanced population of fish and wildlife.⁷ The Manatee River is contiguous to Sarasota Bay estuarine system, an Outstanding Florida Water per Rule 62-30.700(9)(i)(29), FAC. Sarasota Bay is listed as impaired for mercury in fish tissue and fecal

⁷ The Manatee River below Braden River is impaired for mercury, which adversely affects its use for fish consumption. <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1848A>. Wares Creek is impaired for fecal coliform, which adversely affects its use for recreation and freshwater fish and wildlife propagation. <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1848C>. Anna Maria Sound is impaired for chlorophyll-a and mercury, which adversely affects its use for fish and wildlife propagation, fish consumption and recreation. <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1968A/2018>. Lower Tampa Bay is impaired for fecal coliform and mercury, which adversely affects its use for fish consumption and shellfish propagation. <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1558A/2018>. Palma Sola Bay is impaired for chlorophyll-a and mercury, which adversely affects its use for fish and wildlife propagation, fish consumption, recreation and shellfish propagation. <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1883/2018>.

coliform and cannot support its designated beneficial uses of fish consumption and shellfish propagation.⁸

Tampa Bay has a significant nitrogen pollution problem. Between 1950 and 1988, an estimated 42% of the seagrass acreage in Tampa Bay was lost primarily through excess nitrogen loading and related increases in phytoplankton concentrations, causing light limitation for seagrass survival and growth. In 1980, all municipal wastewater treatment plants were required to provide 100% reuse or Advanced Wastewater Treatment (AWT) for discharges directly to the bay and its tributaries. As discussed above, in 2009, the nitrogen wasteload allocations among surface water dischargers were equitably distributed across all sectors and sources of nitrogen loading within the basin, as well as the total maximum loading of nitrogen to each major bay segment. The City of Bradenton agreed to an allocation of a 5-Year Average Equivalent Load of 19.2 tons/year of Nitrogen in this “Reasonable Assurance Plan.” Yet since May 2018, the City has discharged well in excess of its allotment in violation of its NPDES Permit and does so to this day.

Harmful Algal Blooms

The Citizens and their members believe the City of Bradenton’s persistent exceedances of its allocation for Total Nitrogen, its repeated bypasses of millions of gallons of partially treated sewage, and its sanitary sewer overflows of raw and partially treated sewage and reclaim water have all been contributors to increased harmful algal blooms or “HABs” in the Tampa and Sarasota Bay Estuaries. As explained in more detail below, the harmful toxins produced as a result of HABs give rise to severe human health consequences, economic and social impacts, as well as harm to the environment, as evidenced by the large quantity of marine wildlife that is killed during “Red Tide” events – wildlife such as fish, manatees, and dolphins. The loss of seagrass further exacerbates this issue, depriving the ecosystem of needed habitat, food and the nutrient cycling role that is a key to the health of the estuaries.

HABs occur when too many nutrients exist within a marine environment, causing the rapid growth of algae, such as cyanobacterial “blue-green algae blooms” and *Karenia brevis* (“*K. brevis*”) blooms, or “Red Tides.” As the algae blooms, it depletes the oxygen in the marine environment, threatening other marine species. The algae can also release harmful toxins that cause illness in humans and animals. According to the Centers for Disease Control and Prevention, cyanotoxin exposure can cause conjunctivitis, rhinitis, earache, sore throat, and swollen lips. Respiratory effects can include atypical pneumonia and a hay fever-like syndrome. Exposure can also cause electrolyte imbalances, headache, malaise, and muscle weakness/ pain in joints and limbs. Similarly, red tide produces a neurotoxin called brevetoxin, which can cause respiratory irritation, coughing, and more serious illness for people with severe or chronic respiratory conditions such as emphysema or asthma. It can also cause neurotoxic shellfish poisoning if consumed from oysters and clams. Brevetoxin has been linked to human neurodegenerative

⁸ Sarasota Bay Impairment: <https://mywaterway.epa.gov/waterbody-report/21FL303D/FL1968B/2018>.

disease⁹ and research is currently underway to explore the human neurodegenerative impacts of *K. brevis* exposure. Several members of the Plaintiff organizations are currently participating in a study by the Roskamp Institute examining blood levels of Brevetoxin in individuals who may have been exposed to Red Tide and may have related central nervous system symptoms or signs.¹⁰

Red tide has been called “one of the most common chemical stressors impacting South Florida coastal and marine ecosystems,”¹¹ and studies suggests that nutrients including phosphorous and nitrogen from sewer and wastewater discharges as well as biomass killed by cyanobacteria can energize or reawaken red tide.¹² Red tide is caused by the dinoflagellate *Karenia*

⁹ Metcalf, J. S., Banack, S. A., Wessel, R. A., Lester, M., Pim, J. G., Cassani, J. R., et al. (2021). Toxin analysis of freshwater cyanobacterial and Marine Harmful Algal Blooms on the West Coast of Florida and Implications for Estuarine Environments. *Neurotox. Res.* 39, 27–35. doi: 10.1007/s12640-020-00248-3.

¹⁰ See <https://www.roskampinstitute.org/news/red-tide-project/>.

¹¹ Pierce, R.H. 2008. Harmful algal toxins of the Florida red tide (*Karenia brevis*): natural chemical stressors in South Florida coastal ecosystems. *Ecotoxicology*. 2008 Oct. 17(7): 623-631. Doi:10.1007/s10646-008-0241-x.

¹² Olascoaga, M.J. 2010. Isolation on the West Florida Shelf with implications for red tides and pollutant dispersal in the Gulf of Mexico. *Nonlinear Process Geophys.* 2010 Jan. 1; 17(6): 685-696. Doi:10.5194/npg-17-685-2010; Olascoaga, M.J. et al. 2008. Tracing the Early Development of Harmful Algal Blooms on the West Florida Shelf with the Aid of Lagrangian Coherent Structure. *J. Geophys. Res.* 2008; 113(c12): c12014-doi:10.1029/2007JC004533; Poulson-Ellestad, K. et al. 2014. Metabolics and proteomics reveal impacts of chemically mediated competition on marine plankton. *PNAS*. June 17, 2014. Vol. 11. No. 24. 9009-9014; Morey, J. et al. 2011. Transcriptomic response of the red tide dinoflagellate, *Karenia brevis*, to nitrogen and phosphorus depletion and addition. *Genomics* 2011, 12:346; Garrett, M. 2011. Harmful algal bloom species and phosphate-processing effluent: Field and laboratory studies. *Marine Pollution Bulletin* 62 (2011) 596-601; Heil, C.A. et al. 2014. Blooms of *Karenia brevis* (Davis) G. Hansen & O. Moestrup on the West Florida Shelf: Nutrient sources and potential management strategies based on a multi-year regional study. *Harmful Algae* 38 (2014) 127-43; Killberg-Thoreson, L. et al. 2014. Nutrients released from decaying fish support microbial growth in the eastern Gulf of Mexico. *Harmful Algae* 38 (2014) 40-49; Mulholland, M.R. et al. 2014. Contribution of diazotrophy to nitrogen inputs supporting *Karenia brevis* blooms in the Gulf of Mexico. *Harmful Algae* 38 (2014) 20-29; Redalje, D.G. et al. 2008. The growth dynamics of *Karenia brevis* within discrete blooms on the West Florida Shelf. *Continental Shelf Research* 28 (2008) 24-44; Munoz, C. 2018. Scientists: Lake Okeechobee runoff may enhance red tide. *Daily Commercial*. Oct. 11, 2018.

brevis which produces brevetoxins which kill fish,¹³ make filter-feeding fish extremely toxic to other animals, and cause respiratory and intestinal distress in humans.¹⁴ Red tide has also been linked to land mammal and bird mortality,¹⁵ and can bioaccumulate.¹⁶ Exposed fish and seagrasses can accumulate high concentrations of brevetoxins and act as toxin vectors to dolphins and manatees,¹⁷ and other marine wildlife, including Endangered Species Act-listed species like sea turtles. People generally do not become aware of its presence until it reaches above 100,000 cells/L,

¹³ Rolton, A. et al. 2014. Effects of the red tide dinoflagellate, *Karenia brevis*, on early development of the eastern oyster *Crassostrea virginica* and northern quahog *Mercenaria mercenaria*. *Aquatic Toxicology* 155 (2014) 199-206; Rolton, A. et al. 2015. Susceptibility of gametes and embryos of the eastern oyster, *Crassostrea virginica*, to *Karenia brevis* and its toxins. *Toxicon* 99 (2015) 6-15; Rolton, A. et al. 2016. Effects of field and laboratory exposure to the toxic dinoflagellate *Karenia brevis* on the reproduction of the eastern oyster, *Crassostrea virginica*, and subsequent development of offspring. *Harmful Algae* 57 (2016) 13-26; Walsh, J.J. et al. 2009. Isotopic evidence for dead fish maintenance of Florida red tides, with implications for coastal fisheries over both source regions of the west Florida shelf and within downstream waters of the South Atlantic Bight. *Progress in Oceanography* 80 (2009) 51-73.

¹⁴ Backer, L. et al. 2005. Occupational Exposure to Aerosolized Brevetoxins during Florida Red Tide Events: Effects on a Healthy Worker Population. *Environmental Health Perspectives*. Vol. 113. Iss. 5. May 2005; Bienfang, P.K. et al. 2011. Prominent Human Health Impacts from Several Marine Microbes: History, Ecology, and Public Health Implications. *International Journal of Microbiology* Vol. 2011. Art. ID 152815; CDC. 2008. Illness Associated with Red Tide – Nassau County, Florida, 2007; Fleming, L. 2005. Initial Evaluation of the Effects of Aerosolized Florida Red Tide Toxins (Brevetoxins) in Persons with Asthma. *Environmental Health Perspectives*. Vol. 113. Iss. 5. May 2005; Naar, J. 2002. Brevetoxin Depuration in Shellfish via Production of Non-toxic Metabolites: Consequences for Seafood Safety and the Environmental Fate of Biotoxins. *Harmful Algae* 2002 (2002). 2004; 10: 488-490; Steensma, D. 2007. Exacerbation of Asthma by Florida “Red Tide” During an Ocean Sailing Trip. *Mayo Clin Proc*. Sept. 2007; 82(9): 1128-1130.

¹⁵ Castle, K. et al. 2013. Coyote (*Canis latrans*) and domestic dog (*Canis familiaris*) mortality and morbidity due to a *Karenia brevis* red tide in the Gulf of Mexico. *Journal of Wildlife Diseases*, 49(4), 2013, pp. 955-64; Kreuder, C. 2012 Clinicopathologic features of suspected brevetoxicosis in double-crested cormorants (*Phalacrocorax auritus*) along the Florida Gulf coast. *Journal of Zoo and Wildlife Medicine*, 33(1):8-15.

¹⁶ Echevarria, M. 2012. Effects of *Karenia brevis* on clearance rates and bioaccumulation on brevetoxins in benthic suspension feeding invertebrates. *Aquatic Toxicology* 106-107 (2012) 85-94.

¹⁷ Flewwelling, L. et al. 2005. Red tides and marine mammal mortalities.: Unexpected brevetoxin vectors may account for deaths long after or remote from an algal bloom. *Nature*. 2005. June 9; 435(7043).

which is when it leads to fish kills,¹⁸ shellfish toxicity, and respiratory distress.¹⁹ There has been an increase in red tide in southwest Florida since 1954, in abundance and frequency.²⁰ Other red tide impacts include paralytic shellfish poisoning,²¹ neurotoxic shellfish poisoning, ciguatera fish poisoning, fish kills, loss of submerged vegetation, shellfish mortalities, and marine mammal mortalities.²² Brevetoxins are large, lipid soluble molecules that bioaccumulate in fatty tissue and are not easily shed or excreted.²³ As a result, sublethal concentrations can have lethal consequences.²⁴ Because *K. brevis* is a particularly delicate dinoflagellate, turbulence can break apart the cells and aerosolize the brevetoxins, which are then inhaled and can cause respiratory distress.²⁵

In 2017-2019, a major red tide event occurred in Southwest Florida. The 5-county region of Sarasota Bay and Tampa Bay experienced devastating effects including the killing of thousands

¹⁸ Gravinese, P. et al. 2018. The effects of red tide (*Karenia brevis*) on reflex impairment and mortality of sublegal Florida stone crabs, *Menippe mercenaria*. Marine Environmental Research 137 (2018) 145-148.

¹⁹ Bienfang 2011; Pierce, R. 2011. Compositional changes in neurotoxins and their oxidative derivatives from the dinoflagellate, *Karenia brevis*, in seawater and marine aerosol. Journal of Plankton Research. Vol. 30. No. 2.

²⁰ Brand, L and A. Compton. 2007. Long-term increase in *Karenia brevis* abundance along the Southwest Florida Coast. Harmful Algae. 2007. 6(2): 232-252. doi:10.1016/j.hal.2006.08.005.

²¹ Watkins, S. 2008. Neurotoxic Shellfish Poisoning. Mar. Drugs 2008, 6, 431-455; DOI: 10.3390/md20080021.

²² Anderson, D. et al. 2008. Harmful algal blooms and eutrophication: Examining linkages from selected coastal regions of the United States. Harmful Algae. 2008. Dec. 1; 8(1): 39-53. Doi:10.1016/j.hal.2008.08.017.

²³ Bienfang 2011.

²⁴ *Id.*

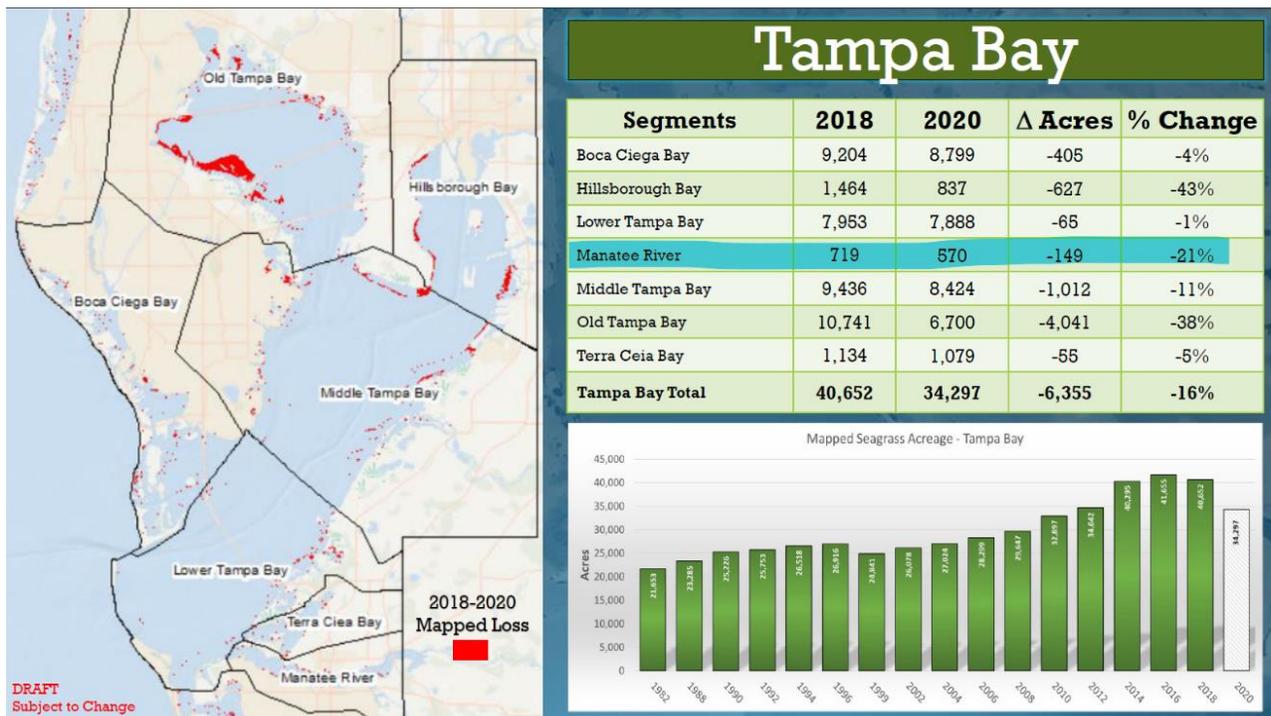
²⁵ *Id.*; Fleming, L. 2007. Aerosolized Red-Tide Toxins (Brevetoxins) and Asthma. Chest. 2007. Jan; 131(1): 187-194. Doi:10.1378/chest.06-1830; Kirkpatrick, B. et al. 2010. Inland Transport of Aerosolized Florida Red Tide Toxins. Harmful Algae. 2010. Feb. 1; 9(2): 186-189. Doi:10.1016/j.hal.2009.09.003; Kirkpatrick, B. et al. 2011. Aerosolized Red Tide Toxins (Brevetoxins) and Asthma: Continued health effects after 1 hour beach exposure. Harmful Algae 2011. Jan. 1; 10(2): 138-143. Doi:10.1016/j.hal.2010.08.005.

of tons of fish, turtles, dolphins, manatees and other marine life, and resulting in a major social and economic downturn for an economy significantly fueled by tourism dollars.²⁶

Beginning in the early summer of 2021, red tide returned to cause devastation throughout the Tampa Bay and Sarasota Bay Estuaries, with over 800 tons of dead fish washing up throughout the bays and area beaches and setting back the work of resource managers in reducing nutrient pollution in the region’s estuaries. In Tampa Bay, this year’s red tide was worse than the 2017-2019 event and the macroalgal blooms in upper Sarasota Bay in 2021 were the worst observed in over 35 years. As of the date of this letter, red tide persists in the nearshore Gulf waters of Manatee and Pinellas Counties that are influenced by the Manatee River.

Seagrass Decline

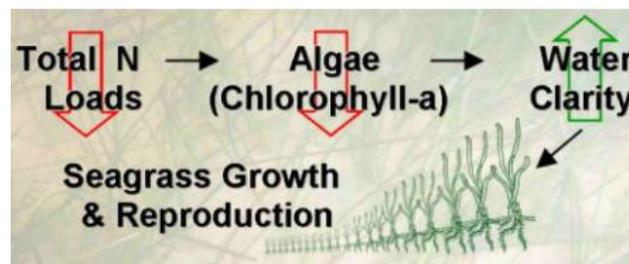
Since the 1980’s, the Tampa Bay Estuary has seen significant recovery of seagrass populations, which are essential to the health of estuarine waters and the survival of wildlife living in these waters. However, the Manatee River, where the City of Bradenton discharges its treated and partially treated sewage, has suffered a concerning **21% decline in its seagrass population since 2018, equating to 149 acres.** The following graphic presents the recent findings of the 2020 Seagrass Mapping Results.



²⁶ Science and Environment Council. 2018 Regional Red Tide Impact Assessment for Tampa Bay and Sarasota Bay. December 20, 2020 (Revised March 30, 2021).

2020 Seagrass Mapping Draft Final Results for the Tampa Bay Estuary at p.19 (blue highlighting added). High levels of Nitrogen in the effluent from the City of Bradenton’s TN Effluent Limit violations, bypasses and SSOs is a significant contributor to poor water quality and fetters the collaborative efforts of stakeholders throughout the region towards seagrass recovery and protection.

Nitrogen loading into estuarine waters causes seagrass decline because it causes increases in chlorophyll-a which contributes to poor water clarity and a resulting decrease in seagrass due to decreased sunlight. Waterbodies that are impaired for chlorophyll-a indicate excessive nitrogen pollution. As a member of the Tampa Bay Estuary Nitrogen Management Consortium, the City is well aware of the relationship between nitrogen loading and chlorophyll-a.



*Tampa Bay Estuary Program Informational Graphic.
2020 Tampa Bay Water Quality Assessments.*

Pathogens

In addition to Bradenton’s contribution of excessive Nitrogen into area waters, raw and partially treated sewage flowing into Palma Sola Creek, Palma Sola Bay, Wares Creek, the Manatee River and Sarasota Bay and Lower Tampa Bay from the City’s SSOs and bypasses contains a variety of human bacteriological, viral, and parasitic pathogens, and exposure to raw and partially treated sewage is well-known to cause various human illnesses. In addition to human waste, sanitary sewage contains various toxic chemicals from solvents, detergents, cleansers, inks, pesticides, paints, pharmaceuticals and other chemicals discarded by households and businesses.

Thus, the City of Bradenton’s sewage spills pose a serious public health risk in exposing members of the public and SCWK, OCE, TBWK and Manasota 88’s members to sewage-borne pathogens and various toxic pollutants. These persistent, repeated sewage spills also have threatened harm to the sensitive marine environment of Palma Sola Creek, Palma Sola Bay, Wares Creek, the Manatee River and Sarasota Bay and Lower Tampa Bay, as the pathogens and toxic pollutants in sewage adversely affect marine life. The receiving waters of Lower Tampa Bay are shared with, connected to, and subsequently flow into the rest of Tampa and Sarasota Bays, their estuaries, and the Gulf of Mexico, resulting in the harmful addition of the pollutants described above (i.e., pathogens, nutrients, and various toxic chemicals) to these waters.

E. Facts Related to the City’s Failure to Comply with its Reporting Obligations under its NPDES and MS4 Permits

On information and belief based on the Citizens’ review of publicly available records, the City has demonstrated a clear pattern of ignoring its reporting obligations. If the City has evidence in its possession that indicates it has adhered to the reporting obligations detailed below, it should share it with the Citizens immediately and request FDEP to post all records to the FDEP Information Portal. The Citizens will review such additional information to determine whether the reporting violations described herein are actionable in this citizen suit. Absent such evidence, the City is hereby notified that the Citizens will include the following reporting obligations in the citizen suit.

1. Improperly Certified and Erroneous DMRs

The City of Bradenton acknowledged in an April 9, 2020 letter to FDEP that it had improperly calculated nitrogen values for the reporting months listed in Table 1 below, and which Bradenton certified to FDEP as true and correct at the time of submission. In the April 9, 2020 letter Bradenton stated that it had re-submitted corrected calculations in March, 2020.

This means that at the time Bradenton submitted DMRs for the months listed in Table 1, Bradenton’s certification, as well as the substantive nitrogen data, was improper and erroneous.

Bradenton's Improperly Certified DMRs	
#	Date
1	July, 2019
2	Sept., 2019
3	Oct., 2019
4	Nov., 2019
5	Dec., 2019
6	Jan., 2020
7	Feb., 2020

Table 1

The City of Bradenton is required to provide FDEP the following certification statement with each and every DMR which the City submits:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

2. Late DMRs

Table 2 below lists the City’s failure to submit DMRs on time. Most recently, for the City’s Quarterly DMR due for the reporting period ending September 30, 2021 for DCBM and CDBM, there is no evidence in the public record that a certified DMR required under the City’s NPDES Permit was submitted for these two pollutants. In the prior quarter, the City failed to submit a Quarterly DMR for the reporting period ending June 30, 2021, and it had to be reminded by FDEP on August 31, 2021 about its missing submission and thereafter submitted the required DMR 41 days late.

Failure to Timely Submit DMRs				
Monitoring Period End Date	Due Date	Submission Date	Days Late	Description
09/30/18	10/28/18	11/28/18	31	Monthly DMR - all pollutants
03/31/21	04/28/21	05/14/21	16	Quarterly Report for Dichlorobromomethane and Chlorodibromomethane
06/30/21	07/28/21	09/07/21	41	Quarterly Report for Dichlorobromomethane and Chlorodibromomethane
09/30/21	10/28/21	Overdue	Ongoing	Quarterly Report for Dichlorobromomethane and Chlorodibromomethane*
				* There is no certified DMR in the public record for these pollutants.
Total Days Late			88	

Table 2

3. Failure to Notify FDEP of Pollution Events

Exhibits 1 and 2 hereto identify bypass and SSO events for which the public record is void of the City’s required reports to FDEP within 24 hours and 5 days of becoming aware of such events, as required under Section IX.20 of its NPDES Permit. Table 3 is a summary table of the reporting violations identified in the Exhibits.

Noncompliance Incidents with Reporting Failures	
Report Not in Public Record	19
Late Reports	10
Total	29

Table 3

It is especially concerning to the Citizens that as of the date of this letter, public records indicate no “5 day report” from the City regarding its most recent 13 million gallon bypass event over two months ago during red tide, on August 4-5, 2021, and that the City started in August 2019 its practice of not providing 5-day reports.

4. Late and Incomplete Annual Reports and Reapplication required by the City’s MS4 Permit

Part VI of the MS4 requires annual submissions by the City. The Citizens have searched publicly available records and requested records directly from the City regarding its MS4 reporting, and such records contain no evidence that the City has complied with its MS4 reporting obligations.

The Year 2 Annual Report was due on June 30, 2019. Even after the City received extensions from FDEP for this report, until August 16, 2019, it failed to submit any report as of that extended date. On September 3, 2019, the City submitted an incomplete annual report, but then failed to even respond to FDEP’s follow up requests for remaining information on September 25, 2019. The City did not provide the requested missing information until December 16, 2019 – nearly 6 months after it was due under the MS4 Permit.

The Year 3 Annual Report was due on June 30, 2020. An incomplete Year 3 Annual Report was submitted on July 31, 2020, and a purportedly complete version was submitted on August 13, 2020.

The Year 4 Annual Report was due on June 30, 2021. An incomplete Year 4 Annual Report was submitted on July 1, 2021, and a purportedly complete version was submitted on July 2, 2021. Further, the City’s Reapplication for renewal was due with the Year 4 Annual Report. While the City submitted the required reapplication with the Year 4 report, it is deficient. Part VI.C of the MS4 requires that the reapplication include: (1) an evaluation of the effectiveness of the stormwater management program (“SWMP”) in reducing pollutant loading from the MS4, accomplishments in the implementation of MS4 pollutant reduction activities, and the overall effectiveness of the SWMP implementation; (2) a description of whether stormwater pollutant loadings discharged from the MS4 have decreased; and (3) recommended SWMP revisions for each of the elements of Part III of the permit as a result of the SWMP evaluation. The City’s reapplication was a one-page document that simply stated the following: “The City of Bradenton

(City) requests the renewal of MS4 permit number FLS000037-004---Major Facility.” The City did not even attempt to fulfill the requirements of Part VI.C.

The Year 3 and 4 annual reports are of particular importance to the public, because if the City has not reduced its annual stormwater loadings to the watersheds, it is required to identify how it will reduce pollutant loadings going forward. Given the significance of these reports, while the City purports that these documents are complete, the Year 3 and Year 4 Annual Reports are substantively deficient to meet this intended purpose.

5. The City’s Pattern of Non-Reporting

Based on the Citizens’ review of public records, it appears the City does not prioritize timely or accurate reporting. This directly impairs the public’s right to know about the City’s discharges of pollution into area waters and frustrates the FDEP’s ability to carry out its responsibility under the authority delegated to it by EPA to administer and enforce the federal NPDES program, including oversight of this particular NPDES-permitted facility. *November 2007 Memorandum of Agreement between EPA Region 4 and FDEP*. As a result, the public is “in the dark” about the full story regarding Bradenton’s pollution and, as a consequence, unable to make informed health-related decisions regarding their exposure to possibly contaminated waterways. Indeed, the Citizens have not ruled out the possibility that there may have been additional pollution events than those events documented in the public record and listed on Exhibits 1 and 2. If discovery indicates the City experienced additional noncompliance events that were unreported, the Citizens will amend Exhibits 1 and 2 to include all of them.

It bears mentioning that the City similarly has ignored its separate commitments to FDEP. For example, the City failed to submit a Capacity, Management, Operation and Maintenance (“CMOM”) Analysis (using EPA’s 2005 template (USEPA document 305-B-05-002 (dated January 2005)) by June 15, 2021, as required under the Second Amendment to Consent Order). Under the Second Amendment to Consent Order at Paragraph 7.e, the City knew for a year that it was required to submit a CMOM Analysis to FDEP by June 15, 2021 (365 days from the effective date of the Second Amendment, June 15, 2020). On June 14, 2021, one day before the due date, the City requested an extension on the CMOM Analysis until September 30, 2021.²⁷ On September 29, 2021, again one day before the due date, the City requested an extension to October 29, 2021. There is no evidence in the public record that FDEP granted the extension requests, nor is there any evidence in the public record that the required CMOM Analysis has been submitted as of the date of this letter.

Until the City demonstrates reliable and consistent delivery of all reports and reapplications due under its NPDES and MS4 Permits, it remains in continuing violation of its Permits and the Clean Water Act.

²⁷ However, the Citizens note that the City did meet its obligations under Paragraph 7.d and e of the Second Amendment to Consent Order to submit reports related to I/I Analysis and the causes and remedy to its DCBM and CDBM exceedances.

F. Facts Relating To Lack of State And Federal Enforcement

The State has issued Consent Order OGC No. 18-1466 (December 2018) which it has since amended two times. The Consent Order and its two amendments under state law have not advanced the City's compliance whatsoever, such that it remains in continuing violation of its Permits and the CWA.²⁸ As mentioned in the Section above, the City has not even produced a CMOM Analysis, which is essential to remedying the problems afflicting the City's wastewater collection system. The City has delayed long enough, after multiple years of excessive wet weather flows causing bypasses and SSOs. It must now seriously attack its sewage infrastructure problems without any further delay.

To the Citizens' knowledge, EPA has not filed suit against the City.

IV. VIOLATIONS OF THE FEDERAL CLEAN WATER ACT

Claim 1: Illegal Bypasses in Violation of NPDES Permit

Section IX.22 of the City's NPDES Permit prohibits "Bypass." Bypass is defined as "the intentional diversion of waste streams from any portion of a treatment works." NPDES Permit Section IX.22.a. NPDES Section IX.22.b states as follows:

Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The permittee submitted notices as required under Permit Condition IX.22.c. of this permit.

See also Florida Rules 62-620.610(22)(a); 40 C.F.R. § 122.41(m)(4); 40 C.F.R. § 123.25(a)(12). The record indicates no facts that would satisfy each one of the Permit's exceptions, nor does it satisfy the circumstances of Section IX.22.e.

²⁸ Regardless, because the consent order was issued under Florida state law – which is not comparable to the Clean Water Act -- it cannot bar this citizen suit. *See, supra, Section II (Statutory and Regulatory Background).*

Each day the City intentionally diverts its waste stream away from full treatment is a separate violation of its NPDES Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per day of violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020).

Claim 2: Violations of the City’s NPDES Permit Effluent Limitations

The City’s NPDES Permit authorizes the City to discharge effluent from the Bradenton WWTF to Waters of the State in accordance with effluent limitations, monitoring requirements, and other provisions as set forth in the permit. The City of Bradenton is the owner and/or operator of the POTW.

Every violation of the NPDES Permit effluent limitations found in Part I.A.1 (“Surface Water Discharges”) for Total Nitrogen (19.2 tons/year maximum, 5 Year Average), Dichlorobromomethane (22.0 ug/L maximum Annual Average), Total Suspended Solids (5 mg/L maximum at sampling point EFB-01 (prior to disinfection) and 10 mg/L at sampling point EFD-01 prior to discharge), and Total Residual Chlorine (mg/L minimum) is a separate violation of Section 301 of the CWA for which a civil penalty for each day of each permit violation can be assessed up to \$56,460 per violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020).

In calculating a civil penalty under Section 309(d) of the CWA, violations of monthly averages constitute 30 days of violation and weekly averages constitute 7 days of violation.²⁹ Each day the City continues to violate its NPDES Permit Effluent Limits is a separate violation subject to the same penalty.

Claim 3: Unpermitted Discharges, in Violation of Section 301(a) of the Clean Water Act

The City of Bradenton has repeatedly unlawfully spilled raw and partially treated sewage and reclaimed wastewater from its sewage collection system and the Bradenton WWTF. By way of example, a partial list of these sanitary sewer overflows is attached as Exhibit 2. This partial list indicates the date and location of these sewage overflows and identifies whether they entered Waters of the United States and/or the MS4. All the sewage spills identified on Exhibit 2 or in the City’s own reports as having reached surface waters are examples of illegal sewage spills that have flowed directly into Waters of the United States. Section 301(a) of the CWA prohibits the discharge of untreated sanitary sewage or reclaimed water into Waters of the United States:

Except as in compliance with this section and sections . . . 1342 [which provides for NPDES permit authorization for pollutant discharges] . . . the discharge of any pollutant by any person shall be unlawful. 33. U.S.C. §1311(a).

²⁹ *Atlantic States Legal Foundation v. Tysons Foods, Inc.*, 897 F.2d 1128, 1139-40 (11th Cir. 1990).

Waters to which the City's discharges have occurred include Wares Creek, the Manatee River, and Lower Tampa Bay, and streams and other Waters that are tributaries to Tampa Bay and the Gulf of Mexico. All such discharges are unpermitted discharges under Section 301(a) of the CWA.

Every spill listed on Exhibit 2 that indicates a discharge into surface waters constitutes an unpermitted discharge in violation of Section 301 of the CWA subject to a civil penalty can be assessed up to \$56,460 per day of violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020). Each day the City continues to discharge to waters of the United States without a permit is a separate violation subject to the same penalty.

Claim 4: Unpermitted Discharges, in Violation of Part I.D of the City's MS4 Permit

Sanitary sewer overflows from the City's collection system and WWTF flowed and continue to flow into the City's MS4. By way of example, a partial list of these sanitary sewer overflows is attached as Exhibit 2. This partial list indicates the date and location of these sewage overflows and identifies whether they entered Waters of the United States and/or the MS4. All the sewage spills identified on Exhibit 2 as having reached the stormwater system are examples of illegal sewage spills that the City has discharged into the MS4.

Part I.D of the MS4 Permit requires the City to prohibit and prevent the introduction of non-stormwater into the MS4 system. Raw sewage from sanitary sewage overflows is not within the definition of stormwater. The City's sanitary sewer overflows that discharge to its MS4 represents the City's direct failure to prevent the comingling of stormwater and sewage and is clearly a violation of the MS4 Permit.

Each day the City fails to meet the requirements of this permit condition is a separate violation of both the MS4 Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020). Each day the City continues to introduce raw or partially treated wastewater into its MS4 is a separate violation subject to the same penalty.

Claim 5: Failure to Properly Certify the City's Discharge Monitoring Reports as Required by the NPDES Permit.

The City's NPDES Permit states *ten times*³⁰ the following required certification statement that must accompany all Discharge Monitoring Reports which the City must submit to the Florida Department of Environmental Protection:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in

³⁰ See Permit No. FL0021369-014-DW1P/NR at pp. 13, 21, 27, and on each customized DEP Form 62-620.910(10) (the DMR form).

accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The permit provides instructions for submissions of Part A DMRs:

Resubmitted DMR: Check this box if this DMR is being re-submitted because there was information missing from or information that needed correction on a previously submitted DMR. The information that is being revised should be clearly noted on the re-submitted DMR (e.g. highlight, circle, etc.)

Each day the City has failed and continues to fail to correct a previously submitted certified DMR which contained inaccurate information constitutes a separate violation of both the NPDES Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per day of violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020). See Table 1 (Bradenton’s Improperly Certified DMRs). See also *In re City Of Salisbury, MD*, 10 E.A.D. 263 (2002) (DMRs are appropriately regarded as, at a minimum, presumptively accurate and indicative of noncompliance).

Claim 6: Failure to Timely Submit DMRs

Part I.D.8 of the City’s NPDES Permit requires that DMR’s be submitted according to the following schedule:

REPORT Type on DMR	Monitoring Period	Submit by
Monthly	first day of month - last day of month	28 th day of following month
Once Every Two Months	January 1 - February 28/29 March 1 - April 30 May 1 - June 30 July 1 - August 31 September 1 - October 31 November 1 - December 31	March 28 May 28 July 28 September 28 November 28 January 28
Quarterly	January 1 - March 31 April 1 - June 30 July 1 - September 30 October 1 - December 31	April 28 July 28 October 28 January 28
Semiannual	January 1 - June 30 July 1 - December 31	July 28 January 28
Annual	January 1 - December 31	January 28

Each day the City failed and continues to fail to submit timely DMRs is a separate violation of both the NPDES Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per day of violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020). See, supra, Table 2 (Failure to Timely Submit DMRs).

Claim 7: Failure to Report Noncompliance under IX.20 within the Deadlines Required under the City’s NPDES Permit

The City is required under Section IX.20 of the NPDES Permit and also in Chapter 62-620, F.A.C. to report noncompliance within 24 hours and 5 days of when it “becomes aware” of such events, as follows:

(20) The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five 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 time, 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 recurrence of the noncompliance.

NPDES Permit at Section IX.20 and 62-620.610, F.A.C. General Conditions for All Permits.

A partial list of the City’s reporting violations are identified in Exhibits 1 and 2.

Each day the City has failed and continues to fail to report its noncompliance is a separate violation of both the NPDES Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020).

Claim 8: Failure to Submit Annual Reports and Reapplication Pursuant to Part VI. REPORTING REQUIREMENTS of the City’s MS4 Permits

The City’s MS4 Permit FLS000037-004, Part VI.A, contains clear requirements regarding Annual Reports.

The permittee shall prepare an ANNUAL REPORT to be submitted by no later than six months following the period covered by the report. The ANNUAL REPORT shall cover the 12-month period beginning on January 1 of each year and must be submitted no later than June 30 of each year. If the permittee has a legal agreement with another permitted MS4 to conduct any permit requirements on its behalf, the permittee shall obtain (and upon request, the other

permitted MS4 shall make available) the necessary annual report information from the other permitted MS4.

Part VI.C contains detailed requirements for the City's Reapplication that is to accompany its Year 4 Annual Report.

Each day the City has failed and continues to fail to submit ANNUAL REPORTS and REAPPLICATION is a separate violation of both the MS4 Permit and the CWA for which a civil penalty can be assessed up to \$56,460 per violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020).

Claim 9: Failure to Properly Operate and Maintain the City's POTW including the Collection System and all related Appurtenances, in Violation of Part IX. General Conditions, Paragraph 7 of the City's NPDES Permit.

Part IX.7 of the City's NPDES Permit requires the City to properly operate and maintain the Bradenton WWTF facility and related appurtenances, as follows:

The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. [62-620.610(7)]

The City's persistent and extensive CWA violations described herein evince mismanagement of the wastewater system as a whole. The City has been unwilling to take the actions necessary to comply with the terms of its NPDES and MS4 Permits, which has led to hundreds of known violations. Mismanagement of the City's various permit conditions, including the requirement to operate and maintain all systems, are core reasons why the City has failed to comply with the CWA.

Failure to properly operate and maintain an NPDES-permitted facility is a continuing violation for which no statute of limitation applies. Accordingly, the City is subject to civil penalties that can be assessed up to \$56,460 for each day of violation. 40 C.F.R. § 19.4 (effective Dec. 23, 2020).

V. CONCLUSION

Due to the high number, high volume and repetitive nature of the City's violations, the Citizens assert that the Bradenton WWTF and the City's sanitary sewer collection system have been constructed, managed and operated such that bypasses, unpermitted discharges, NPDES Permit violations, reporting violations, and CWA violations will continue. It is therefore likely that the City will remain in a perpetual state of noncompliance with the CWA until (1) the City constructs capital improvements and/or permanently modifies its operations to ensure permit

violations, bypasses and SSOs do not recur and (2) and can demonstrate consistent, timely and accurate reporting on its DMRs, its MS4 Annual Reports and Reapplications, and to the FDEP under its NPDES Permit when it experiences reportable non-compliance.

To remedy these violations, the City must take and/or accelerate steps to improve, repair and properly maintain the Bradenton WWTF, the collection system, and all other related appurtenances, specifically including an aggressive and immediate I/I reduction program. The Citizens are aware that the City has undergone some plant improvements and that the high flows experienced by the City during wet weather have contributed to the bypasses. However, the City's efforts on I/I reduction to-date have been inadequate and slow, such that wet weather-related noncompliance has and will continue to occur. The City's considerable delay in taking the necessary measures to comply with its NPDES Permit and the CWA requires that a civil penalty remove the economic benefit to the City resulting from its delayed and avoided expenditures. 33 U.S.C. §1365(d). Further, the combination of the City's high volume of illegal discharges, history of bypasses and SSO violations, harm caused to the receiving waters, and knowledge of the causes of bypasses for years with insufficient action taken to avoid them all constitute aggravating factors in support of a high civil penalty in this case. *Ibid.*

The Citizens believe that a prompt and efficient negotiated settlement for necessary work and firm timelines, memorialized through a court-approved federal consent decree which includes appropriate civil penalties, is preferable to protracted litigation. If unable to reach an enforceable settlement agreement with the City, the Citizens, through their counsel, will file suit in the United States District Court for the Middle District of Florida pursuant to Section 505(a) of the CWA after sixty days from the date of this letter. 33 U.S.C. §1365(a). This lawsuit will seek injunctive relief, appropriate monetary civil penalties, fees and costs of litigation, and such other relief as the court deems appropriate.³¹ The City's failure to remedy any of the violations set forth in this letter may result in a court order enjoining further violations and imposing civil penalties of \$56,460 per violation per day for each violation of the CWA. Furthermore, the Citizens reserve the right to seek penalties for all violations which occur after the date of this letter. The foregoing provides more than sufficient information to permit the City to identify the specific standard, limitation, order and/or regulations alleged to have been violated, the activities alleged to constitute violations, the person or persons responsible for the alleged violations, the locations of the alleged violations, the date or dates of such violations, and the full name and address, of the person giving notice.³²

³¹ The Citizens have successfully been awarded fees and costs resulting from a municipality's refusal to engage in early settlement discussions in favor of protracted and costly litigation. *See Suncoast Waterkeeper, Our Children's Earth Foundation and Ecological Rights Foundation v. City of Saint Petersburg, Florida*, 2020 WL 1512486 (Case No. 8:16-cv-3319-T-27AEP, M.D. Fla., March 30, 2020) (awarding approximately \$1.184 million to plaintiffs for attorney's fees and costs).

³² 40 C.F.R. §§ 135.3(a), 254.3(a).

City of Bradenton Sixty-Day Notice
November 4, 2021

We hope the City shares the Citizens' desire to meet early to discuss prompt and efficient resolution of this matter within the 60-day statutory notice period and urge you to contact the undersigned as soon as possible to arrange for the meeting requested above. Please be advised that the Citizens do not intend to delay filing of this suit once the 60-day notice period has expired.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justin Bloom". The signature is fluid and cursive, with a long horizontal stroke at the end.

Justin Bloom, Counsel for the
Environmental Groups

Attachments:

Exhibit 1: Table of Illegal Bypasses

Exhibit 2: Table of Illegal Sanitary Sewer Overflows to Surface Waters or MS4

Exhibit 3: Table of Violations of NPDES Permit Effluent Limits

cc:

Michael S. Regan, Administrator
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1200 Pennsylvania Avenue, N.W.
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regan.michael@epa.gov

John Blevins, Acting Regional Administrator
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Shawn Hamilton, Secretary
Florida Department of Environmental Protection
3900 Commonwealth Blvd. M.S. 49
Tallahassee, FL 32399-3000
shawn.hamilton@dep.state.fl

BRADENTON BYPASS TABLE

BYPASSES TO MANATEE RIVER FROM BRADENTON WWTF IN LAST 5 YEARS						
Year	Bypass Start Date	Bypass End Date	Reported Volume	Total Days of Bypass	24 Hour Report	5 Day Report
2017	07/31/17	07/31/17	volume unreported	1	Unreported	Timely Reported
2017	08/27/17	08/28/17	volume unreported	2	Unreported	Timely Reported
2017	09/09/17	09/10/17	volume unreported	2	Report not in Public Record	Timely Reported
2018	02/24/18	02/25/18	1,500,000	2	Report not in Public Record	Timely Reported
2019	08/14/19	08/18/19	95,000,000	5	Timely Reported	Late Report to FDEP 9/23/19 (27 Days Late)
2020	06/03/20	06/03/20	300,000	1	Report not in Public Record	Late Report to FDEP 6/18/20 (10 Days Late)
2020	06/07/20	06/09/20	22,250,000	3	Report not in Public Record	Late Report to FDEP 6/18/20 (6 Days Late)
2020	08/25/20	08/25/20	378,000	1	Timely Reported	Late Report to FDEP 9/3/20 (4 Days Late)
2020	09/08/20	09/08/20	1,100,000	1	Timely Reported	Report not in Public Record
2020	09/13/20	09/14/20	10,360,000	2	Timely Reported	Report not in Public Record
2020	11/12/20	11/13/20	17,080,000	2	Timely Reported	Report not in Public Record
2021	04/01/21	04/01/21	20,000	1	Timely Reported	Report not in Public Record
2021	8/4/2021	08/05/21	13,000,000	2	Timely Reported	Report not in Public Record
		Totals	160,988,000	25		

BRADENTON SSO TABLE

BRADENTON SANITARY SEWER OVERFLOWS IN LAST 5 YEARS													
Year	DATE OF DISCHARGE VIOLATION (BEGIN)	DATE OF DISCHARGE (CEASE)	TOTAL DAYS OF SPILLS	TOTAL DAYS OF CWA VIOLATIONS (reached water or MS4)	LOCATION OF DISCHARGE	TYPE OF DISCHARGE	SOURCE OF DISCHARGE	REPORTED CAUSE OF DISCHARGE	Estimated Total Volume of Discharge	Estimated Volume of Discharge to Surface Water	Estimated Volume of Discharge to Storm System	24 Hour Report	5-Day Report
			39	31				TOTALS -->>>	74,450	81,000	2,156,850		
2017	01/04/17	01/04/17	1	1	2700 & 2800 22nd Ave. West	raw sewage	manhole	blocked gravity line	unknown		1,000	Report not in Public Record	Timely Reported
2017	05/07/17	05/10/17	4	0	1810 1st Street West	raw sewage	sewage line	line break (line stop saddle install to repair original break from 2011)	750	contained	contained	Report not in Public Record	Timely Reported
2017	06/23/17	06/23/17	1	1	21st Ave. W. & 47th St. Ct. W.	raw sewage	manhole	the contractor's bypass hose had collapsed, causing the lift station wet well to fill.	500		unknown	Timely Reported	Late Report to FDEP (8 days late)
2017	06/25/17	06/25/17	1	0	MH 7183	raw sewage	manhole	staff noted that the contractor's bypass pump had run out of gas. Once the pump was refueled and started, the lift station wet well was again pumped down, and no further discharges were noted in the area.	<20			Timely Reported	Timely Reported
2017	07/21/17	07/21/17	1	1	1810 1st Street West	reclaimed water	water puddle in grass north of chlorine building; this is at WWTF	leaking pipe (according to gatehouse)	unknown		300	Timely Reported	Timely Reported
2017	07/31/17	07/31/17	1	1	2700 & 2800 22nd Ave. W.	raw sewage	manhole	high flows from manhole bc of heavy rainfall, Tropical Storm Emily	unknown		750	Timely Reported	Timely Reported

BRADENTON SSO TABLE

BRADENTON SANITARY SEWER OVERFLOWS IN LAST 5 YEARS													
Year	DATE OF DISCHARGE VIOLATION (BEGIN)	DATE OF DISCHARGE (CEASE)	TOTAL DAYS OF SPILLS	TOTAL DAYS OF CWA VIOLATIONS (reached water or MS4)	LOCATION OF DISCHARGE	TYPE OF DISCHARGE	SOURCE OF DISCHARGE	REPORTED CAUSE OF DISCHARGE	Estimated Total Volume of Discharge	Estimated Volume of Discharge to Surface Water	Estimated Volume of Discharge to Storm System	24 Hour Report	5-Day Report
			39	31				TOTALS -->>>	74,450	81,000	2,156,850		
2017	07/31/17	08/01/17	2	2	1810 1st Street West	partially treated	facility	heavy rainfall, Tropical Storm Emily, influent structure by-pass valve would not open due to mechanical failure to valve extension.	unknown		50,000	Timely Reported	Timely Reported
2017	08/07/17	08/07/17	1	1	Lift Station #8	raw sewage	lift station, manhole	mechanical failure	2,000		unknown	Timely Reported	Timely Reported
2017	08/27/17	08/27/17	1	1	1810 1st Street West	raw sewage	plant influent structure	heavy rainfall	unknown		5,000	Timely Reported	Timely Reported
2017	08/27/17	08/27/17	1	1	2700 22nd Ave. W.	raw sewage	manhole	heavy rainfall	1,500	unknown	unknown	Timely Reported	Timely Reported
2017	08/27/17	08/27/17	1	1	800 Virginia Drive	raw sewage	manhole	heavy rainfall	1,300	unknown	unknown	Timely Reported	Timely Reported
2017	08/27/17	08/27/17	1	1	Lift Station #14	raw sewage	lift station	heavy rainfall	2,900	unknown	unknown	Timely Reported	Timely Reported
2017	08/29/17	08/29/17	1	1	Pump station	reclaimed water	water tank	thunderstorm, overflow at reclaimed water tank	unknown	unknown	275,000	Late Report to FDEP (3 days late)	Timely Reported
2017	09/12/17	09/13/17	2	2	4208 Cortez Rd.	raw sewage	force main	broken force main		unknown	unknown	Late Report to FDEP (3 days late)	Timely Reported
2018	02/23/18	02/23/18	1	1	Lift Station #26	raw sewage	force main	force main leak	1,000	1,000		Timely Reported	Report not in Public Record
2018	02/28/18	02/28/18	1	1	300 9th Ave. W.	raw sewage	lift station	cracked force main due to "dead head situation of flow coming into treatment plant"	unknown		250,000	Timely Reported	Timely Reported
2018	05/31/18	06/01/18	2	2	13th Ave. E & 9th St. E.	raw sewage	force main	contractor error	unknown		55,000	Timely Reported	Timely Reported

BRADENTON SSO TABLE

BRADENTON SANITARY SEWER OVERFLOWS IN LAST 5 YEARS													
Year	DATE OF DISCHARGE VIOLATION (BEGIN)	DATE OF DISCHARGE (CEASE)	TOTAL DAYS OF SPILLS	TOTAL DAYS OF CWA VIOLATIONS (reached water or MS4)	LOCATION OF DISCHARGE	TYPE OF DISCHARGE	SOURCE OF DISCHARGE	REPORTED CAUSE OF DISCHARGE	Estimated Total Volume of Discharge	Estimated Volume of Discharge to Surface Water	Estimated Volume of Discharge to Storm System	24 Hour Report	5-Day Report
			39	31				TOTALS -->>>	74,450	81,000	2,156,850		
2019	01/07/19	01/08/19	2	2	WWLS #07	raw sewage	pipe at lift station	mechanical failure	unknown	80,000		Timely Reported	Timely Reported
2019	07/21/19	07/21/19	1	1	11th St. E. & Riverside Dr.	raw sewage	lift station	power failure	2,500		1,500	Timely Reported	Timely Reported
2019	08/16/19	08/19/19	4	4	Lift station 22nd Ave. West	raw sewage	lift station	heavy rainfall caused overflow at lift station	unknown		15,000	Report not in Public Record	Timely Reported
2019	08/20/19	08/20/19	1	1	9th St. E. & US-301	reclaimed water	reuse tank	pipe failure	unknown		750,000	Report not in Public Record	Timely Reported
2020	06/04/20	06/04/20	1	0	20th st e & river	raw sewage		significant rainfall and equipment failure of 2 pumps installed at lift station no.2 caused SSO	3,000 (hit ground)			Report not in Public Record	Late Report to FDEP (9 days late)

BRADENTON SSO TABLE

BRADENTON SANITARY SEWER OVERFLOWS IN LAST 5 YEARS													
Year	DATE OF DISCHARGE VIOLATION (BEGIN)	DATE OF DISCHARGE (CEASE)	TOTAL DAYS OF SPILLS	TOTAL DAYS OF CWA VIOLATIONS (reached water or MS4)	LOCATION OF DISCHARGE	TYPE OF DISCHARGE	SOURCE OF DISCHARGE	REPORTED CAUSE OF DISCHARGE	Estimated Total Volume of Discharge	Estimated Volume of Discharge to Surface Water	Estimated Volume of Discharge to Storm System	24 Hour Report	5-Day Report
			39	31				TOTALS -->>>	74,450	81,000	2,156,850		
2020	06/04/20	06/04/20	1	0	231 13th ave e.	raw sewage		significant rainfall and equipment failure of one the variable frequency drives that controls operations of 3 pumps installed at lift station no.11 caused SSO	2,000 (hit ground)			Timely Reported	Late Report to FDEP (9 days late)
2020	06/06/20	06/06/20	1	1	1810 1st St.	raw sewage		Significant rainfall and equipment malfunction at the Bradenton Water Reclamation Facility (WRF) of the two (2) mechanical bar screens installed on the headworks structure caused the overflow event. The influent that overflowed the headworks structure entered into a nearby storm drainage catch basin	60,000	unknown	unknown	Timely Reported	Late Report to FDEP (7 days late)
2020	07/07/20	07/07/20	1	0	1810 1st St.	raw sewage	force main	break in line	200 (hit ground)			Timely Reported	Report not in Public Record
2020	07/28/20	07/28/20	1	1	2500 Riverview E.	raw sewage	lift station	open bypass valve	unknown	unknown	100	Timely Reported	Report not in Public Record
2020	09/04/20	09/04/20	1	1	Lift Station #1	raw sewage	life station	break in line	2,000		200	Timely Reported	Report not in Public Record
2020	11/17/20	11/17/20	1	1	1810 1st street	reclaimed water	facility	unable to close tank valve	unknown	unknown	750,000	Timely Reported	Report not in Public Record
2020	12/29/20	12/29/20	1	1	intersection of 4th ave west and 9th st w	raw sewage	force main	sub contractor hit it	unknown	unknown	3000	Timely Reported	Report not in Public Record

NPDES Permit Effluent Limit Violations					
Month Ending	Pollutant	Units	Permit Limit	Reported Values on DMRs	Days of Violation*
04/30/17	Total Nitrogen	MAXIMUM mg/L	6.00	10.70	1
05/31/17	Total Nitrogen	MAXIMUM mg/L	6.00	28.80	1
06/30/17	Total Nitrogen	MAXIMUM mg/L	6.00	6.70	1
10/31/17	Total Nitrogen	WEEKLY AVE mg/L	4.50	6.10	7
10/31/17	Total Nitrogen	MAXIMUM mg/L	6.00	7.50	1
03/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	33.30	7
03/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	38.80	1
04/30/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	33.80	7
04/30/18	Total Nitrogen	MAXIMUM mg/L	6.00	37.50	1
05/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	35.90	1
05/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	32.40	7
05/31/18	Total Nitrogen	5-Year Average Tons per Year	19.20	21.81	31
06/30/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	30.40	7
06/30/18	Total Nitrogen	MAXIMUM mg/L	6.00	33.80	1
06/30/18	Total Nitrogen	5-Year Average Tons per Year	19.20	24.03	30
07/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	43.30	1
07/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	32.30	7
07/31/18	Total Nitrogen	5-Year Average Tons per Year	19.20	27.85	31
08/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	30.80	7
08/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	36.40	1
08/31/18	Total Nitrogen	5-Year Average Tons per Year	19.20	34.78	31
09/30/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	5.30	7
09/30/18	Total Nitrogen	MAXIMUM mg/L	6.00	7.84	1
09/30/18	Total Nitrogen	5-Year Average Tons per Year	19.20	107.80	30
10/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	5.30	7
10/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	7.84	1
10/31/18	Total Nitrogen	5-Year Average Tons per Year	19.20	107.80	31
11/30/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	15.80	7
11/30/18	Total Nitrogen	MAXIMUM mg/L	6.00	18.43	1
11/30/18	Total Nitrogen	5-Year Average Tons per Year	19.20	35.25	30
12/31/18	Total Nitrogen	WEEKLY AVE mg/L	4.50	14.60	7
12/31/18	Total Nitrogen	MAXIMUM mg/L	6.00	17.60	1
12/31/18	Total Nitrogen	5-Year Average Tons per Year	19.20	36.12	31
01/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	36.13	31
02/28/19	Total Nitrogen	5-Year Average Tons per Year	19.20	36.10	28
03/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.90	31
04/30/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.73	30
05/31/19	Total Nitrogen	MAXIMUM mg/L	6.00	8.90	1
05/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.77	31
06/30/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.48	30
07/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.41	31
08/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.19	31
09/30/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.45	30
10/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.27	31
11/30/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.13	30

NPDES Permit Effluent Limit Violations					
Month Ending	Pollutant	Units	Permit Limit	Reported Values on DMRs	Days of Violation*
12/31/19	Total Nitrogen	5-Year Average Tons per Year	19.20	35.11	31
01/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	35.04	31
02/29/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.89	29
03/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.83	31
04/30/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.81	30
05/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.81	31
06/30/20	Total Nitrogen	WEEKLY AVE mg/L	4.50	6.06	7
06/30/20	Total Nitrogen	MAXIMUM mg/L	6.00	9.20	1
06/30/20	Total Nitrogen	5-Year Average Tons per Year	19.20	35.08	30
07/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.90	31
08/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.72	31
09/30/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.78	30
10/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.66	31
11/30/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.68	30
12/31/20	Total Nitrogen	5-Year Average Tons per Year	19.20	34.68	31
01/31/21	Total Nitrogen	5-Year Average Tons per Year	19.20	34.58	31
02/28/21	Total Nitrogen	5-Year Average Tons per Year	19.20	34.89	28
03/31/21	Total Nitrogen	5-Year Average Tons per Year	19.20	34.39	31
04/30/21	Total Nitrogen	5-Year Average Tons per Year	19.20	34.22	30
05/31/21	Total Nitrogen	5-Year Average Tons per Year	19.20	34.02	31
06/30/21	Total Nitrogen	5-Year Average Tons per Year	19.20	33.73	30
07/31/21	Total Nitrogen	5-Year Average Tons per Year	19.20	33.73	31
08/31/21	Total Nitrogen	5-Year Average Tons per Year	19.20	33.94	31
08/31/21	Total Nitrogen	WEEKLY AVE mg/L	4.50	5.10	7
08/31/21	Total Nitrogen	MO AVG mg/L	3.75	4.18	31
08/31/21	Total Nitrogen	MAXIMUM mg/L	6.00	7.39	1
09/30/21	Total Nitrogen	5-Year Average Tons per Year	19.20	33.81	30
09/30/21	Total Nitrogen	WEEKLY AVE mg/L	4.50	4.89	7
09/30/21	Total Nitrogen	MO AVG mg/L	3.75	4.35	31
09/30/21	Total Nitrogen	MAXIMUM mg/L	6.00	6.11	1
06/30/21	Dichlorobromomethane	Annual Average Ug/L	22.00	31.80	90
09/30/21	Dichlorobromomethane	Annual Average Ug/L	22.00	No DMR submitted by due date**	
09/30/21	Chlorodibromomethane	Annual Average Ug/L	34.00	No DMR submitted by due date**	
05/31/17	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	25.00	1
03/31/18	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	14.70	1
04/30/18	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	13.70	1
04/30/18	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	68.00	1
05/31/18	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	115.00	1
05/31/18	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	36.00	1

NPDES Permit Effluent Limit Violations					
Month Ending	Pollutant	Units	Permit Limit	Reported Values on DMRs	Days of Violation*
06/30/18	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	160.00	1
06/30/18	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	26.00	1
07/31/18	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	33.70	1
07/31/18	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	84.00	1
08/31/19	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	41.00	1
06/30/20	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	19.00	1
09/30/20	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	15.60	1
11/30/20	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	16.70	1
11/30/20	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	35.00	1
03/31/21	Total Suspended Solids (Prior to Disinfection at EFB-01)	MAXIMUM mg/L	5.00	6.70	1
08/31/21	Total Suspended Solids (Effluent Gross at EFD-01)	MAXIMUM mg/L	10.00	10.20	1
03/31/17	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.10	1
04/30/17	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.50	1
07/31/17	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.60	1
08/31/17	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.30	1
09/30/17	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.10	1
08/31/18	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.60	1
08/31/19	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.80	1
06/30/20	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.70	1
07/31/20	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.50	1
12/31/20	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.50	1
08/31/21	Chlorine, total residual (for Disinfection)	MINIMUM mg/L	1.00	0.50	1
		Total Days of Violation*			1545
	* While the DMRs indicate only that a "MAXIMUM" level was exceeded within the monthly reporting period, the Citizens will add days of violation if further review of DMRs Part B indicate multiple days of exceedances within the same month.				
	** There is no certified DMR in the public record as to this pollutant, only raw sampling data.				