

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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CLERK
U.S. DISTRICT COURT
HARTFORD, CONN.

CONNECTICUT FUND FOR THE ENVIRONMENT)
152 Temple Street)
New Haven, Connecticut 06510)

and)

NATURAL RESOURCES DEFENSE)
COUNCIL, INC.)
122 East 42nd Street)
New York, New York 10168)

Plaintiffs,)

v.)

AVCO/LYCOMING DIVISION)
Stratford Army Engine Plant)
550 South Main Street)
Stratford, Connecticut 06497)

Defendant.)

184 441
Civil Action No.

mjb

COMPLAINT

Statement of the Case

1. This is a citizens' suit, brought under Section 505 of the Clean Water Act ("the Act"), 33 U.S.C. Sec. 1365, for the defendant's violations of the terms and provisions of its National Pollutant Discharge Elimination System ("NPDES") permit number CT0002984.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claims set forth in this complaint, by virtue of Sec. 505(a)(1) of the Act, 33 U.S.C. Sec. 1365(a)(1).

3. On September 23, 1983, plaintiffs gave notice of the violations and their intent to file suit to the Administrator of the United States Environmental Protection Agency ("EPA"), to the Connecticut Department of Environmental Protection, and to the defendant, as required by Section 505(b)(1)(A) of the Act, 33 U.S.C. Sec. 1365(b)(1)(A).

4. More than sixty days have passed since notice was served and the violations complained of therein have not ceased and neither EPA nor the Connecticut Department of Environmental Protection has commenced and diligently prosecuted a court action to redress the violations.

5. Venue is appropriate in the District of the State of Connecticut pursuant to Section 505(c)(1) of the Act, 33 U.S.C. Sec. 1365(c)(1), because the source of the violations complained of is located within this District.

Parties

6. Plaintiff Connecticut Fund for the Environment ("CFE") is a non-profit corporation organized in 1978 under the laws of the State of Connecticut, with its principal place of business in New Haven, Connecticut, and another office in Hartford, Connecticut. CFE is a statewide conservation organization with over 3,000 members, dedicated to protecting natural resources, including water.

7. Members of CFE reside in Connecticut, in the vicinity of the Housatonic River, and recreate in, on or near,

and otherwise use and enjoy, the Housatonic River and the water system of which it is a part. The quality of the nation's waters and the waters of the State of Connecticut directly affects the health, recreational, aesthetic, and environmental interests of CFE's members. The interests of CFE's members have been, are being and will be adversely affected by the defendant AVCO/Lycoming Division's failure to comply with its NPDES permit requirements.

8. Plaintiff Natural Resources Defense Council, Inc. ("NRDC") is a not-for-profit membership corporation organized under the laws of the State of New York, with offices in New York, Washington, D.C. and San Francisco, California. NRDC has over 1,175 individual members in the State of Connecticut. NRDC is dedicated to the preservation, protection and defense of the environment, its wildlife and natural resources, and actively supports effective enforcement of Federal and State implementation of the Clean Water Act on behalf of its members.

9. Members of NRDC reside in Connecticut, in the vicinity of the Housatonic River, and recreate in, on or near the Housatonic River and the water system of which it is a part. The quality of the nation's waters and the waters of the State of Connecticut directly affects the health, recreational, aesthetic and environmental interests of NRDC's members. The interests of NRDC's members have been, are being and will be adversely affected by the defendant AVCO/Lycoming Division's failure to comply with its NPDES permit requirements.

10. Defendant AVCO/Lycoming Division is a corporation organized under the laws of the State of Delaware. Defendant operates an engine manufacturing plant in Stratford, Fairfield County, Connecticut.

Background

11. Section 301(a) of the Act, 33 U.S.C. Sec. 1311(a), prohibits the discharge of pollutants from a point source into navigable waters of the United States, unless in compliance with various enumerated sections of the Act. Among other things, Section 301(a) prohibits such discharges not authorized by or in violation of the terms of an NPDES permit pursuant to Section 402 of the Act, 33 U.S.C. Sec. 1342.

12. Under Section 402(a)-(b) of the Act, 33 U.S.C. Sec. 1342(a)-(b), the Administrator of EPA has authorized the Connecticut Department of Environmental Protection to issue NPDES permits. The applicable Connecticut law is CT. GEN. STAT. ANN., tit. 25, ch. 474a, Sec. 25-54a et. seq. (the "Statute").

13. The State of Connecticut Department of Environmental Protection pursuant to Section 25-54i of the Statute, issued to defendant NPDES permit number CT0002984 on May 20, 1980, as amended and modified, authorizing defendant to discharge limited quantities of pollutants into the Housatonic River.

14. Section 308 of the Act, 33 U.S.C. Sec. 1318, requires NPDES permittees to establish and maintain records;

install, use and maintain monitoring equipment; sample effluents; and report on a regular basis to the permit-issuing Agency regarding the facility's discharge of pollutants. The reports consist of Discharge Monitoring Reports (DMRs) and Non-Compliance Reports (NCRs).

General Allegations

15. Defendant operates an engine manufacturing plant in Stratford, Fairfield County, Connecticut. It discharges the treated wastes from its operations through a point source into the Housatonic River pursuant to NPDES permit number CT 0002984. The Housatonic River is a navigable water of the United States.

16. Defendant has violated the waste water discharge limits contained in its NPDES permit, as set forth in a letter to defendant dated September 23, 1983, attached hereto as Exhibit A and incorporated by reference herein.

17. Defendant has continued to violate its discharge permit since plaintiffs' letter dated September 23, 1983. Such violations, reported by defendant in its DMRs, are set forth at Exhibit B, attached hereto and incorporated by reference herein.

18. Plaintiffs believe and allege that, without the imposition of appropriate fines and issuance of an injunction, defendant AVCC/Lycoming Division will continue to violate its NPDES permit to the further injury of plaintiffs.

Claim for Relief

19. Plaintiffs reallege and incorporate by reference herein the allegations of paragraphs 2 through 18 of this Complaint.

20. Defendant's waste water discharges identified in paragraphs 16 and 17 are discharges from a point source into navigable waters of the United States within the meaning of 33 U.S.C. Sec. 1311.

21. Each of defendant's waste water discharges identified in paragraphs 16 and 17 is a separate violation of Section 301(a) of the Act, 33 U.S.C. Sec. 1311(a), for each day on which it occurred.

Relief Requested

22. Wherefore, plaintiffs Connecticut Fund for the Environment and Natural Resources Defense Council, Inc. respectfully request this Court to grant the following relief:

A. Declare defendant AVCO/Lycoming Division to have violated and to be in violation of the Clean Water Act, 33 U.S.C. Sections 1311 and 1342;

B. Enjoin defendant from operating its engine manufacturing plant in Stratford, Fairfield County, Connecticut in such a manner as will result in the further violation of defendant's NPDES permit number CT0002984;

C. Provide plaintiffs with a copy of all reports which defendant submits to the State or Federal government related to defendant's NPDES permit at the time it is submitted to these authorities;

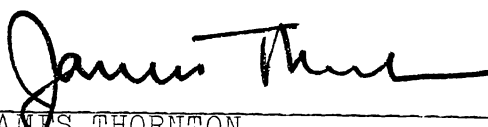
D. Order defendant to pay civil penalties of \$10,000 per day of violation for each violation pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C., Sections 1319(d) and 1365(a).

E. Award plaintiffs costs (including reasonable attorney, witness and consultant fees) as authorized by the Act, 33 U.S.C. Sec. 1365(d); and

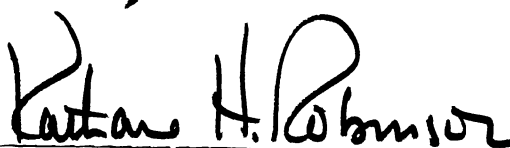
F. Award such other relief as this Court deems appropriate.

April 11, 1984

Respectfully submitted,



JAMES THORNTON
Natural Resources Defense Council, Inc.
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New York, New York 10168



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