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16  
17 UNITED STATES DISTRICT COURT  
18 CENTRAL DISTRICT OF CALIFORNIA  
19 WESTERN DIVISION  
20

21 UNITED STATES OF AMERICA,

22 Plaintiff,

23 v.

24 PARKER-HANNIFIN CORP.,

25 Defendant.

Civil Action No. 2:20-cv-11332

**COMPLAINT FOR CIVIL  
PENALTIES AND  
INJUNCTIVE RELIEF  
UNDER THE CLEAN  
WATER ACT**

26 The United States of America (“United States”), by authority of the Attorney  
27 General of the United States and on behalf of the Administrator of the United  
28 States Environmental Protection Agency (“EPA”), files this Complaint and alleges  
as follows:

**NATURE OF THE ACTION**

1  
2       1.     This is a civil action under Sections 309(b) and (d) of the Federal  
3 Water Pollution Control Act (“Clean Water Act” or “CWA”), 33 U.S.C.  
4 §§ 1319(b) and (d). Plaintiff seeks civil penalties and injunctive relief against  
5 Defendant Parker-Hannifin Corporation for (1) violating Section 307 of the  
6 CWA, 33 U.S.C. § 317, and the pretreatment standards contained in an industrial  
7 wastewater discharge permit issued to Defendant under a State pretreatment  
8 program approved pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b);  
9 and (2) for failing to comply with an administrative order on consent (“AOC”)  
10 that EPA issued to Defendant under Section 309(a) of the CWA, 33 U.S.C.  
11 § 1319(a). These violations relate to Defendant’s membrane and filter  
12 manufacturing facility in Oxnard, California.

**JURISDICTION, AUTHORITY, VENUE, AND NOTICE**

13  
14       2.     This Court has subject matter jurisdiction over this action under 33  
15 U.S.C. § 1319(b) and 28 U.S.C. §§ 1331, 1345, and 1355.

16       3.     Venue is proper in the Central District of California under Section  
17 309(b) of the CWA, 33 U.S.C. § 1319(b), as well as 28 U.S.C. §§ 1391(b) and  
18 1395(a), because it is the judicial district in which the alleged violations occurred  
19 and where Defendant conducts business.

20       4.     Authority to bring this action is vested in the United States  
21 Department of Justice under 33 U.S.C. §§ 1319(b) and 1366 and 28 U.S.C. §§ 516  
22 and 519.

23       5.     The United States has provided notice of the commencement of this  
24 action to the State of California under Section 309(b) of the CWA, 33 U.S.C.  
25 § 1319(b).

**DEFENDANT**

26  
27       6.     Defendant is an Ohio corporation with a principal place of business  
28 at 6035 Parkland Boulevard in Cleveland, Ohio.

1           7. Defendant is the current owner and operator of a membrane and filter  
2 manufacturing facility located at 2340 Eastman Avenue in Oxnard, California  
3 (“Facility”).

4                   **STATUTORY AND REGULATORY BACKGROUND**

5           8. The objective of the CWA is to “restore and maintain the chemical,  
6 physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To  
7 that end, the CWA prohibits the discharge of pollutants into the navigable waters  
8 of the United States, except discharges that are in compliance with Sections 307  
9 and 402 of the CWA, 33 U.S.C. §§ 1317 and 1342, among others. *See* 33 U.S.C.  
10 § 1311(a).

11           9. Section 307 of the CWA, 33 U.S.C. § 1317, establishes a regulatory  
12 scheme for sources of pollutants that do not directly discharge into waters of the  
13 United States, but instead introduce pollutants into publically owned treatment  
14 works (“POTWs”), which in turn discharge pollutants into navigable waters. A  
15 POTW is a treatment works that is owned by a state or municipality. 40 C.F.R.  
16 § 403.3(q).

17           10. Section 307(b) of the CWA, 33 U.S.C. § 1317(b), directs the  
18 Administrator of EPA to publish regulations establishing pretreatment standards  
19 governing the introduction of pollutants into POTWs that are not susceptible to  
20 treatment by POTWs or that would interfere with the operation of POTWs.

21           11. Under the authority of Section 307(b) of the CWA, 33 U.S.C.  
22 § 1317(b), EPA promulgated National Pretreatment Standards, which are codified  
23 at 40 C.F.R. Part 403.

24           12. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits any  
25 owner or operator of any source to operate in violation of any pretreatment  
26 standard promulgated under Section 307 of the CWA.

27           13. “Pretreatment Standard” means “any regulation containing pollutant  
28 discharge limits promulgated by the EPA in accordance with section 307(b) and

1 (c) of the [Clean Water] Act, which applies to Industrial Users . . . includ[ing]  
2 prohibitive discharge limits established pursuant to § 403.5.” 40 C.F.R. § 403.3(l).

3 14. An “Industrial User” is defined as “a source of Indirect Discharge,”  
4 40 C.F.R. § 403.3(j); “Indirect Discharge” is the “introduction of pollutants into a  
5 POTW from any non-domestic source regulated under section 307(b), (c) or (d)”  
6 of the CWA, 40 C.F.R. § 403.3(i).

7 15. “Pretreatment” means “the reduction of the amount of pollutants, the  
8 elimination of pollutants, or the alteration of the nature of pollutant properties in  
9 wastewater prior to or in lieu of discharging or otherwise introducing such  
10 pollutants into a POTW. The reduction or alteration may be obtained by physical,  
11 chemical or biological processes, process changes or by other means . . . .”  
12 40 C.F.R. § 403.3(s).

13 16. The National Pretreatment Standards require certain POTWs to  
14 develop POTW Pretreatment Programs that control, through permits, orders, or  
15 other means, the contribution of each Industrial User to the POTW to ensure  
16 compliance with applicable pretreatment standards. 40 C.F.R §§ 403.8(a) and (f).

17 17. POTW Pretreatment Programs must provide for issuance of permits  
18 or equivalent individual control mechanisms to each “Significant Industrial User.”  
19 40 C.F.R § 403.8(f)(1)(iii). A Significant Industrial User is defined, *inter alia*, as  
20 an Industrial User that discharges an average of 25,000 gallons per day or more of  
21 process wastewater to the POTW or is designated as having a reasonable potential  
22 for adversely affecting the POTW’s operation or for violating any pretreatment  
23 standard or requirement. 40 C.F.R. § 403.3(v)(1)(ii).

24 18. Section 403.5 of the National Pretreatment Standards establishes  
25 prohibitive discharge limits for pollutants introduced into POTWs. Subsection (c)  
26 authorizes POTWs to establish “local limits” to ensure the POTW’s compliance  
27 with the terms of its own National Pollutant Discharge Elimination System  
28

1 (“NPDES”) permit, which governs the discharge of pollutants from the POTW  
2 into navigable waters. *See* 40 C.F.R. §§ 403.5(c), 403.8(a), 403.10(e).

3 19. Under 40 C.F.R. § 403.5(d), local limits developed by a POTW in  
4 accordance with 40 C.F.R. § 403.5(c) constitute pretreatment standards that are  
5 federally enforceable under Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

6 20. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the  
7 Administrator of EPA to issue an order requiring compliance with enumerated  
8 sections of the Act, including Section 307, whenever the Administrator finds that  
9 any person is in violation of those sections or any condition or limitation that  
10 implements those sections. *See* 33 U.S.C. §§ 1319(a)(1), (a)(3).

11 21. Under Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b)  
12 and (d), and 40 C.F.R. § 19.4, any owner or operator of a source who operates that  
13 source in violation of any pretreatment standard promulgated under Section 307  
14 of the CWA, 33 U.S.C. § 1317, or who violates any order issued by the  
15 Administrator under Section 309(a) of the CWA, 33 U.S.C. § 1319(a), is liable for  
16 injunctive relief and civil penalties not to exceed \$37,500 per day for each  
17 violation that occurred after January 12, 2009 through November 2, 2015; and  
18 \$54,833 per day for each violation that occurred after November 2, 2015.

19 **GENERAL ALLEGATIONS**

20 22. As a corporation, Defendant is a “person” within the meaning of  
21 Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and is subject to the  
22 requirements of the CWA.

23 23. Defendant owns and operates the Facility.

24 24. As a result of Defendant’s manufacturing operations at the Facility,  
25 Defendant generates wastewater that contains “pollutants” as that term is defined  
26 in Section 502(6) of the CWA, 33 U.S.C. § 1362(6). These pollutants include  
27 biochemical oxygen demand (“BOD”) and pH.  
28

1           25. Defendant's Facility is a "source" within the meaning of Section  
2 306(a)(3) of the CWA, 33 U.S.C. § 1316(a)(3), because it is a "building, structure,  
3 facility, or installation from which there is or may be the discharge of pollutants."

4           26. Defendant discharges the pollutant-containing wastewater produced  
5 at its Facility to the Oxnard Wastewater Treatment Plant ("OWWTP") in Oxnard,  
6 California.

7           27. The OWWTP is operated by the City of Oxnard and is a "POTW"  
8 within the meaning of 40 C.F.R. § 403.3(q).

9           28. Because Defendant introduces pollutants into the OWWTP from a  
10 non-domestic source regulated under section 307(b), (c), or (d) of the CWA, 33  
11 U.S.C. §§ 1317(b), (c), or (d), it is a source of "Indirect Discharge" within the  
12 meaning of 40 C.F.R. § 403.3(i) and an "Industrial User" within the meaning of  
13 40 C.F.R. § 403.3(j).

14           29. Defendant discharges an average of 25,000 gallons per day or more  
15 of process wastewater to the OWWTP and is therefore a "Significant Industrial  
16 User" within the meaning of 40 C.F.R. § 403.3(v)(ii).

17           30. The OWWTP receives and treats wastewater from domestic and  
18 industrial sources, including Defendant's Facility.

19           31. The OWWTP discharges wastewater through an outfall into the  
20 Pacific Ocean.

21           32. At all relevant times, the OWWTP "discharged pollutants" through a  
22 "point source" to "navigable waters," as those terms are defined in Sections  
23 502(12), (14), and (7) of the CWA, 33 U.S.C. §§ 1362(12), (14), and (7).

24           33. At all relevant times, the State of California has been authorized by  
25 EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b), to administer the  
26 NPDES program for regulating discharges of pollutants to navigable waters  
27 within the jurisdiction of the State.  
28

1           34. At all relevant times, the State of California has been authorized to  
2 administer the CWA's pretreatment program under Section 307 of the CWA,  
3 33 U.S.C. § 1317.

4           35. California's State and Regional Water Quality Control Boards issue  
5 NPDES permits and administer the pretreatment program within California.

6           36. The State of California, through the Los Angeles Regional Water  
7 Quality Control Board, issued NPDES Permit No. CA0054097, effective July 26,  
8 2013, to the City of Oxnard for the OWWTP.

9           37. On October 11, 2018, the Los Angeles Regional Water Quality  
10 Control Board issued a new NPDES permit, with the same permit number, to the  
11 City of Oxnard for the OWWTP. That permit became effective December 1,  
12 2018.

13           38. As required by its NPDES permit and 40 C.F.R. § 403.8(a), the City  
14 of Oxnard has established a pretreatment program.

15           39. At all relevant times, the City of Oxnard's pretreatment program has  
16 been approved by the Los Angeles Regional Water Quality Control Board.

17           40. The City of Oxnard's pretreatment program includes effluent  
18 limitations for certain pollutants, including BOD and pH. These effluent  
19 limitations constitute federally enforceable "local limits" under 40 C.F.R.  
20 § 403.5(d).

21           41. At all relevant times, the City of Oxnard's local limit for BOD was  
22 800 mg/L.

23           42. At all relevant times, the City of Oxnard's lower local limit for pH  
24 was 6.0 standard units.

25           43. At all relevant times, the City of Oxnard's upper local limit for pH  
26 was 10.0 standard units.

1           44. Pursuant to the requirements of its NPDES permit, the City of  
2 Oxnard limits the introduction of pollutants into the OWWTP by issuing  
3 industrial wastewater discharge permits to individual Industrial Users.

4           45. At all relevant times, Defendant has held an industrial wastewater  
5 discharge permit issued by the City of Oxnard with the permit number 88211  
6 (“Pretreatment Permit”). The Pretreatment Permit authorizes Defendant to  
7 discharge pollutants from the Facility to the OWWTP, subject to the conditions  
8 and effluent limitations set forth in the permit.

9           46. At all relevant times, the Pretreatment Permit has required Defendant  
10 to comply with specified effluent limitations, including the City of Oxnard’s local  
11 limits for BOD and pH.

12           47. At all relevant times, the Pretreatment Permit has required Defendant  
13 to conduct sampling of BOD and pH twice per month.

14           48. At all relevant times, Defendant has submitted self-monitoring  
15 reports to the City of Oxnard Wastewater Division reporting the results of its  
16 sampling activities.

17           49. At all relevant times, Defendant has been required to comply with the  
18 CWA and its Pretreatment Permit. *See* 33 U.S.C. § 1317(d) and 1319(b) and (d);  
19 40 C.F.R. § 403.5(d).

20           50. On February 11, 2015, EPA performed a Pretreatment Inspection at  
21 the Facility. As part of the inspection, EPA observed operations at the Facility,  
22 reviewed the self-monitoring data that Defendant had collected over a 36-month  
23 period, and observed the sampling station at the Facility. In its inspection report  
24 issued on August 24, 2015, EPA found that the Facility had violated pretreatment  
25 standards over a 36-month period.

26           51. Defendant’s monitoring data show that the discharge of wastewater  
27 from the Facility to the OWWTP exceeded the local limits for pH and BOD in  
28



1 Defendant's Pretreatment Permit on numerous occasions between January 2011  
2 and the date of filing of this Complaint.

3 52. Following its 2015 Pretreatment Inspection, EPA engaged with  
4 Defendant in an effort to bring the Facility into compliance with the CWA.

5 53. In 2017, EPA and Defendant voluntarily entered into an  
6 Administrative Order on Consent ("AOC") issued under Section 309(a) of the  
7 CWA, 33 U.S.C. § 1319(a). The AOC was signed by Defendant on February 24,  
8 2017, and by EPA on March 13, 2017.

9 54. The AOC required Defendant to submit a plan to EPA by May 1,  
10 2017 detailing the steps it had taken and those it planned to take to ensure that its  
11 wastewater discharge would consistently comply with applicable pretreatment  
12 standards, including the local limits in Defendant's Pretreatment Permit.

13 55. Under the AOC, Defendant's compliance plan was required to  
14 include a design of the proposed system that would be installed and operated to  
15 achieve compliance with applicable pretreatment standards.

16 56. The AOC also required Defendant to complete installation and  
17 startup of the proposed system, provide notice of completion to EPA, and achieve  
18 consistent compliance with applicable pretreatment standards by November 30,  
19 2017.

20 57. As of the date of filing of this Complaint, Defendant has failed to  
21 install any system to achieve consistent compliance with applicable pretreatment  
22 standards. Without such installation, Defendant's discharges of wastewater to the  
23 OWWTP will continue to exceed pretreatment standards for BOD and pH.

24 58. The AOC expressly stated that Defendant's failure to comply with its  
25 terms could result in liability for civil penalties under Section 309(d) of the Act,  
26 33 U.S.C. § 1319(d).

**FIRST CLAIM FOR RELIEF**  
**(Violations of Pretreatment Standards)**

59. The allegations of the foregoing paragraphs are incorporated by reference.

60. On numerous occasions between at least January 2011 and the date of filing of this Complaint, Defendant violated Section 307(d) of the CWA, 33 U.S.C. § 1317(d), and its Pretreatment Permit by discharging wastewater to the OWWTP with BOD in excess of 800 mg/L.

61. On numerous occasions between at least January 2011 and the date of filing of this Complaint, Defendant violated Section 307(d) of the CWA, 33 U.S.C. § 1317(d), and its Pretreatment Permit by discharging wastewater to the OWWTP with a pH less than 6.0 standard units.

62. On numerous occasions between at least January 2011 and the date of filing of this Complaint, Defendant violated Section 307(d) of the CWA, 33 U.S.C. § 1317(d), and its Pretreatment Permit by discharging wastewater to the OWWTP with a pH greater than 10.0 standard units.

63. Unless enjoined, Defendant's violations are likely to continue.

64. Under CWA Section 309(b) and (d), 33 U.S.C. §§ 1319(b) and (d), and 40 C.F.R. § 19.4, Defendant is liable for injunctive relief and civil penalties of up to \$37,500 per day for each violation occurring after January 12, 2009 through November 2, 2015, and up to \$54,833 per day for each violation occurring thereafter.

**SECOND CLAIM FOR RELIEF**  
**(Violation of Administrative Order on Consent)**

65. The allegations of the foregoing paragraphs are incorporated by reference.

66. Defendant violated the terms of the AOC issued to it under CWA Section 309(a), 33 U.S.C. § 1319(a), by failing to complete installation and

1 startup of a system to achieve consistent compliance with applicable pretreatment  
2 standards by the AOC's deadline of November 30, 2017.

3 67. Defendant also violated the AOC by failing to achieve consistent  
4 compliance with pretreatment standards for BOD and pH by the AOC's deadline  
5 of November 30, 2017.

6 68. Under CWA Section 309(d), 33 U.S.C. §§ 1319(d), and 40 C.F.R.  
7 § 19.4, Defendant is liable for civil penalties of up to \$54,833 per day for each  
8 violation of the AOC.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff respectfully requests that the Court grant the  
11 following relief:

12 A. Permanently enjoin Defendant from operating its Facility in violation  
13 of the CWA and the conditions and limitations of its Pretreatment Permit;

14 B. Order Defendant to promptly take all necessary steps to comply with  
15 the CWA and the conditions and limitations of its Pretreatment Permit;

16 C. Assess civil penalties against Defendant of up to \$37,500 per day for  
17 each violation of the CWA occurring after January 12, 2009 through November 2,  
18 2015, and up to \$54,833 per day for each violation occurring thereafter; and

19 D. Grant any other relief the Court deems just and proper.  
20

21 Respectfully submitted,

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25 /s/ Davis H. Forsythe

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