IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
and	)	
THE STATE OF IDAHO,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 15-155
CITY OF JEROME, IDAHO,	)	
Defendant.	)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), and the State of Idaho, by authority of the Attorney General of Idaho and through the undersigned attorneys, acting at the request and on behalf of the Idaho Department of Environmental Quality, file this complaint and alleges as follows:

STATEMENT OF THE CASE

1. This is a civil action seeking a civil penalty and injunctive relief under Sections 309(b) and (d) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(b) and (d) against defendant City of Jerome, Idaho ("City" or "Defendant"), for violations of the terms of its NPDES permits issued under Section 402 of the Act, 33 U.S.C. § 1342.

JURISDICTION, AUTHORITY, NOTICE AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

3. The United States has authority to bring this action on behalf of the Administrator of EPA ("Administrator") under Section 506 of the Act, 33 U.S.C. § 1366, and under 28 U.S.C. §§ 516 and 519.

4. Although the State of Idaho is not asserting a claim, it joins this action in order to satisfy the requirements of Section 309(e) of the Act, 33 U.S.C. § 1319(e).

5. As a signatory to this Complaint, the State has actual notice of the commencement of this action in accordance with Section 309(b) of the Act, 33 U.S.C. § 1319(b).

6. Venue is proper in this judicial district pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), as this is a judicial district where Defendant is located and within which the claim arose.

DEFENDANT

7. The City is a political subdivision of the State of Idaho and a "municipality" and a "person" within the meaning of Sections 502(4) and (5) of the Act, 33 U.S.C. §§ 1362(4) and (5).

8. The City owns and operates a waste water treatment facility (hereinafter, the WWTF or the Treatment Plant) that serves a population of about 9,600 people and three significant industrial users. The City also owns and operates a sewer collection system which receives domestic sewage and industrial and commercial wastewater in the Jerome area, and which feeds into the WWTF (hereinafter, the Collection System). Both the WWTF and the Collection System discharge effluent to the J8 Canal, Snake River, and other waters.

STATUTORY FRAMEWORK

9. The Act is designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Act § 101, 33 U.S.C. § 1251(a).

10. To accomplish this goal, Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source to the waters of the United States except as authorized by, and in compliance with, certain enumerated Sections of the Act, including Section 402 of the Act, 33 U.S.C. § 1342.

11. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator may issue a National Pollutant Discharge Elimination System ("NPDES") permit, which authorizes the discharge of pollutants into waters of the United States. Section 402 of the Act, 33 U.S.C. § 1342, directs the Administrator of EPA to impose conditions for NPDES permits, including conditions on data and information collection, reporting, and such other requirements as the Administrator deems appropriate.

12. Section 309(b) of the Act, 33 U.S.C. § 1319(b), authorizes EPA to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which a compliance order under Section 309(a) is also possible. Section 309(a)(3) authorizes EPA to issue compliance orders whenever it finds that any person has violated Section 301 of the Act or any condition or limitation in a permit issued pursuant to Section 402 of the Act. 33 U.S.C. § 1911(a)(3).

13. Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by the Debt Collection Improvement Act of 1996, 28 U.S.C.A. § 2461 note, and 40 C.F.R. Part 19.4, provides that any person who violates Section 301 of the Act, 33 U.S.C. § 1311, or any permit

condition or limitation implementing such section in an NPDES permit, shall be subject to a civil penalty not to exceed $37,500 per day for each violation that occurred after January 12, 2009.

GENERAL ALLEGATIONS

14. At all relevant times, the City has discharged and continues to discharge "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6), from the WWTF and Collection System through various "point sources" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14). The "point sources" include, but are not limited to, Outfall 001, which discharges effluent from the Treatment Plant, and various access points to the Collection System, from which untreated sewage from the Collection System is occasionally discharged.

15. The City's Treatment Plant and Collection System are "treatment works" within the meaning of Section 212(2) of the Clean Water Act, 33 U.S.C. § 1292(2), and "publicly owned treatment works" as defined by federal regulations implementing the Clean Water Act at 40 C.F.R. § 403.3(q).

16. The WWTF and Collection System include pipes, force mains, gravity sewer lines, lift stations, pump stations, and their appurtenances. The City owns and operates thirteen pump stations. The Collection System consists of forty miles of gravity sewer lines and five miles of force main lines.

17. On August 31, 1999, EPA issued Defendant NPDES Permit No. ID-002016-8 ("the 1999 Permit") under Section 402 of the Act, 33 U.S.C. § 1342, which authorized the discharges of waste water containing pollutants from the WWTF subject to certain limitations and conditions.

18. On July 1, 2010, EPA reissued Defendant NPDES Permit No. ID-002016-8 ("the 2010 Permit") under Section 402 of the Act, 33 U.S.C. § 1342, which also authorized the discharges of waste water containing pollutants from the WWTF subject to certain limitations and conditions.

19. Both the 1999 Permit and the 2010 Permit authorized discharges from Outfall 001 into the J8 Canal, a tributary of the Snake River, subject to permit conditions. Nevertheless, the City has unlawfully discharged several hundred thousand gallons of untreated wastewater containing raw sewage through permitted and unpermitted point sources. The unauthorized discharges include sanitary sewer overflows (SSOs) from the WWTF and the Collection System.

20. During all times relevant to this Complaint, the City's Permits have required compliance with standard conditions, including, among other provisions, that:

> The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

2010 Permit, Section IV., Para. A; 1999 Permit, Section III, Para. A.

21. During all times relevant to this Complaint, the City's Permits have also required proper operation and maintenance, including the provision that, "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit." 2010 Permit, Section IV., Para. E; 1999 Permit, Section III, Para. E.

22. During all times relevant to this Complaint, the City's Permits authorized only the routine discharges of pollutants as described in the permitting process. The 1999 Permit states at Section I, Paragraph A.1., "This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part

of the normal operation of the facility as disclosed in the permit application . . ." Similarly, the 2010 Permit states at Section I, Paragraph A, "This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process."

23. Some or all of the discharges alleged herein have resulted, in whole or in part, from the City's failure to properly manage, operate, and maintain its WWTF and Collection System. Proper management, operation, and maintenance would ensure that the City can transport water, sewage, and various pollutants through its WWTF without permit violations.

FIRST CLAIM FOR RELIEF
(SSOs)

24. Paragraphs 1 through 23 are realleged and incorporated by reference as if fully set forth below.

25. On numerous occasions during the past five years and before, the City has discharged untreated wastewater containing raw sewage from various access points in the Collection System that are not identified in the NPDES permits as authorized outfalls and from the WWTF in violation of the conditions and limitations of the NPDES permits. A list of seven reported discharges for the period from April 2010 to July 2010 is attached as Appendix B.

26. Each day of each such discharge is a separate violation of the City's Permits.

27. Unless enjoined, the City will continue to discharge pollutants in violation of the City's Permits.

28. Pursuant to 33 U.S.C. §§ 1319(b) and (d), as modified by 40 C.F.R. Part 19, the City is liable for civil penalties of up to $37,500 per day for each violation occurring after January 12, 2009.

SECOND CLAIM FOR RELIEF
(Violations of NPDES Permit Conditions on Effluents)

29. Paragraphs 1 through 28 are realleged and incorporated by reference as if fully set forth below.

30. During all times relevant to this Complaint, the City's Permits have required compliance with the following limitations on discharges from Outfall 001:

a. From August 31, 1999, to July 1, 2010, biological oxygen demand (BOD) shall not exceed a weekly average concentration of 45 milligrams per liter (mg/L), a monthly average concentration of 30 mg/L, a weekly average load of 560 pounds per day, or a monthly average load of 375 pounds per day;

b. From July 1, 2010, to present, BOD shall not exceed a weekly average concentration of 45 mg/L, a monthly average concentration of 30 mg/L, a weekly average load of 1,100 pounds per day, a monthly average load of 750 pounds per day, or less than 85% removal in any month;

c. From August 31, 1999, to July 1, 2010, total suspended solids (TSS) shall not exceed a weekly average concentration of 45 mg/L, a monthly average concentration of 30 mg/L, a weekly average load of 560 pounds per day, or a monthly average load of 375 pounds per day;

d. From July 1, 2010, to present, TSS shall not exceed a weekly average concentration of 45 mg/L, a monthly average concentration of 30 mg/L, a weekly average load of 1,100 pounds per day, a monthly average load of 750 pounds per day, or less than 85% removal;

e. Total residual chlorine shall not exceed a daily maximum concentration of 1.0 mg/L and a monthly average concentration of 0.5 mg/L;

f. From August 31, 1999, to July 1, 2010, fecal coliform shall not exceed a daily maximum concentration of 800 colonies per 100 milliliters of effluent, a weekly average concentration of 200 colonies for 100 milliliters of effluent, or a monthly average concentration of 200 colonies for 100 milliliters of effluent;

g. From July 1, 2010, to present, *E. coli* bacteria shall not exceed a daily maximum concentration of 406 colonies per 100 milliliters of effluent or a monthly average concentration of 126 colonies for 100 milliliters of effluent;

e. pH shall be between 6.5 and 9.0 standard units;

f. Total phosphorus shall not exceed a weekly average concentration of 377 lb/day for all times relevant to the complaint; a monthly average concentration of 205 lb/day from August 31, 1999, to July 1, 2010; and 204.5 lb/day from July 1, 2010, to the present.

g. Dissolved oxygen shall be below 2.0 mg/l.

31. On various dates within the past five years and before, the City discharged from Outfall 001 in violation of the Permits' effluent limitations. A list of the reported discharges in violation of the effluent limitations for the period of April 2010 to June 2011 is attached as Appendix A.

32. Each violation of a Permit condition is a separate violation of the City's Permits, and each day of each discharge is a separate violation.

33. On information and belief, the City will continue to violate the aforementioned statutory and regulatory provisions, unless enjoined by the Court.

34. Pursuant to 33 U.S.C. §§ 1319(b) and (d), as modified by 40 C.F.R. Part 19, the City is liable for civil penalties of up to $37,500 per day for each violation occurring after January 12, 2009.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court:

1. Pursuant to 33 U.S.C. § 1319(d), assess civil penalties against the City, as permitted by law, up to the date of judgment herein;

2. Pursuant to 33 U.S.C. § 1319(b), enjoin the City from any and all ongoing and future violations of the Clean Water Act by ordering compliance with the Act;

3. Order the City to take all steps necessary to come into permanent and consistent compliance with the City's Permit;

4. Order the City to take all steps necessary to redress or mitigate the impact of its violations;

5. Award Plaintiffs their costs of this action; and

6. Award such other and further relief as the Court deems appropriate.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

JOHN C. CRUDEN
Assistant Attorney General
Environment & Natural Resources Division

THOMAS A. MARIANI, JR.
Deputy Section Chief
Environmental Enforcement Section

/s/ Katherine L. Matthews
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FOR THE STATE OF IDAHO:

/s/ Douglas M. Conde
Douglas M. Conde
Deputy Attorney General
Office of the Attorney General
Natural Resources Division
Environmental Quality Section

Appendix - A
EFFLUENT LIMIT VIOLATIONS
(City of Jerome, ID Wastewater Treatment Facility)

Month	Pollutant	Effluent Limitation	Value Reported in DMR	Limit Type
April 2010	Fecal coliform	800 count	817/100 mL	Daily Maximum
January 2011	BOD	30 mg/l	43 mg/l	Monthly Average
January 2011	BOD	45 mg/l	51 mg/l	Weekly Average
January 2011	e-coli	406 count	461 count	Daily Maximum
January 2011	BOD percent removal	85%	73%	Monthly Average
February 2011	BOD	45 mg/l	68 mg/l	Weekly Average
February 2011	e-coli	406 count	2420 count	Daily Maximum
February 2011	BOD percent removal	85%	71%	Monthly Average
February 2011	BOD	750 lb/day	5498 lb/day	Monthly Average
February 2011	BOD	30 mg/l	391 mg/l	Monthly Average
February 2011	TSS	30 mg/l	471 mg/l	Monthly Average
February 2011	e-coli	200 count	846,262 count	Monthly Average
February 2011	e-coli	406 count	2,420,000 count	Daily Maximum
March 2011	TSS percent removal	85%	71%	Monthly Average
March 2011	BOD	750 lb/day	5562 lb/day	Monthly Average
February 2011	BOD	30 mg/l	357 mg/l	Monthly Average
February 2011	TSS	30 mg/l	409 mg/l	Monthly Average
February 2011	e-coli	200 count	215,877 count	Monthly Average
February 2011	e-coli	406 count	2,420,000 count	Daily Maximum
April 2011	phosphorous	204.5 lb/day	237 lb/day	Monthly Average
May 2011	phosphorous	204.5 lb/day	262 lb/day	Monthly Average
June 2011	phosphorous	204.5 lb/day	225 lb/day	Monthly Average

Appendix B
SANITARY SEWER OVERFLOWS
(City of Jerome, ID Wastewater Treatment Facility)

Month	Discharge Point Source	Gallons Overflowed
April 2010	H-Street Lift Station	30,000
May 2010	East Avenue I and J Streets	Unknown
June 2010	Brockman Lift Station	50,000
July 2010	WWTP - clarifier holding tanks	unknown
October 10, 2010	100 South pump station	20,000
October 29, 2010	H-Street lift station	70,000
November 7, 2010	Overflow at 600 6th Ave. East	440

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

United States of America and State of Idaho

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Katherine L. Matthews for the United States
Douglas Conde for the State of Idaho

DEFENDANTS

City of Jerome

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Lohn Lothspeich

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ☒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ❒ 2 Removed from State Court
- ❒ 3 Remanded from Appellate Court
- ❒ 4 Reinstated or Reopened
- ❒ 5 Transferred from Another District *(specify)*
- ❒ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
33 U.S.C. § 1319

Brief description of cause:
Enforcement of clean water act permit

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ❒ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
05/07/2015

SIGNATURE OF ATTORNEY OF RECORD
Kate Matthews

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.