

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - NEW YORK**

### **Borough of Upper Saddle River, N.J. v. Rockland County Sewer Dist. No. 1**

**United States District Court, S.D. New York - March 31, 2014 - Slip Copy - 2014 WL 1311770**

Citizens' brought suit under the Clean Water Act and state common law, alleging that, in the course of operating a sewage treatment facility, Rockland County Sewer District # 1 has polluted-and will likely continue to pollute-the Saddle River. Plaintiffs brought four causes of action: continuing violations under section 301 of the Clean Water Act; private nuisance, public nuisance and trespass claims under state common law.

Both parties moved for summary judgment. The issue was to what extent Defendant could be held liable for its sewage spills through a citizen suit brought under the Clean Water Act and state common law.

The District Court:

- Denied Defendant's motion for summary judgment with respect to Article III standing;
- Denied Defendant's motion for summary judgment to the extent that it was based on an argument that Plaintiffs failed to demonstrate "ongoing violations";
- Denied Defendant's motion to the extent that it is based on the argument that this action was duplicative of a 2006 Consent Order;
- Found that Plaintiffs had produced sufficient evidence that, notwithstanding the 2006 Consent Order, there remained a "realistic probability" that Defendant would continue to violate the Act;
- Denied Plaintiffs' request for injunctive relief, without prejudice, awaiting submission of further evidence on the issue;
- Granted Defendants' motion for summary judgment on Plaintiffs' private nuisance claims.