

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

OPINION AND
ORDER

00-C-0409-C

v.

MURPHY OIL USA, INC.,

Defendant.

This is a civil action for injunctive and monetary relief brought by plaintiff United States of America against defendant Murphy Oil USA, Inc. Plaintiff alleges that defendant's oil refinery in Superior, Wisconsin, has violated numerous state and federal environmental laws.

Presently before the court is a motion to intervene by the State of Wisconsin, Department of Natural Resources. The state brought a separate action (Wisconsin v. Murphy Oil USA, Inc., 00-C-0408-C) against defendant based on the same conduct alleged in this case. As a backup, it is moving to intervene in this case as a matter of right under Fed. R. Civ. P. 24(a). The state argues that this court has supplemental jurisdiction over its claims under 28 U.S.C. § 1367. Because the state has not cited a statute that confers on it the unconditional

right to intervene under Fed. R. Civ. P. 24(a)(1) and has not demonstrated that it meets the requirements of Fed. R. Civ. P. 24(a)(2), its motion to intervene will be denied.

A. Fed. R. Civ. P. 24(a)(1)

Fed. R. Civ. P. 24(a)(1) acknowledges a right to intervene when a United States statute confers such a right. To this end, the state has cited portions of the citizen suit statutes in the Resource Conservation and Recovery Act and the Clean Air Act (42 U.S.C. § 6972(b)(2)(E) and 42 U.S.C. § 7604(b)(1)(B) respectively). However, it is irrelevant whether these provisions can be construed to give the state the right to intervene in a case such as this is because the Wisconsin legislature has not granted the attorney general the power to bring suits under these provisions, as explained in the accompanying opinion dismissing the case brought by the state, Murphy Oil USA, Inc., 00-C-0408-C.

B. Fed. R. Civ. P. 24(a)(2)

In its motion, the state asserts its right to intervene under Fed. R. Civ. P. 24(a)(2) by parroting the language of the rule. The state makes no argument to support application of the rule in this case, stating only that “the movant therefore claims an interest relating to the property or transaction which is the subject of the action and . . . is so situated that the

disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest." First, it is not apparent how disposition of plaintiff's case without the state would impair the interests of the state in any way because there is nothing preventing the state from pursuing its claims separately in state court. Second, "arguments that are not developed in any meaningful way are waived." Central States, Southeast and Southwest Areas Pension Fund v. Midwest Motor Express, Inc., 181 F.3d 799, 808 (7th Cir. 1999); see also Finance Investment Co. (Bermuda) Ltd. v. Geberit AG, 165 F.3d 526, 528 (7th Cir. 1998); Freeman United Coal Mining Co. v. Office of Workers' Compensation Programs, Benefits Review Board, 957 F.2d 302, 305 (7th Cir. 1992) (court has "no obligation to consider an issue that is merely raised, but not developed, in a party's brief"). I conclude, therefore, that the state has not demonstrated that it meets either the requirements of Fed. R. Civ. P. 24(a)(1) or Fed. R. Civ. P. 24(a)(2).

ORDER

IT IS ORDERED that the State of Wisconsin's motion to intervene is DENIED.

Entered this 25th day of October, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge