

Wastewater Enforcement/Clean Water Act: Cook County Circuit Judge Addresses Illinois Attorney General Complaint Alleging Violations by Trump Tower (Chicago)



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A Circuit Court of Cook County, Illinois (“Court”) Judge addressed in a September 9th Order issues arising out of a Second Amended Complaint (“Complaint”) filed by the Illinois Attorney General (“AG”) filed against 401 Wabash Venture, LLC, d/b/a Trump International Hotel & Tower (“Trump Tower”) for alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) Permit. See No. 2018 CH 10229.

The AG had filed an original complaint in 2018 against Trump Tower alleging violations of both the Illinois Environmental Protection Act (“Act”) and the Illinois Pollution Control Board regulations (“Board Regulations”).

The Sierra Club and Friends of the Chicago River subsequently successfully petitioned to intervene in the litigation.

The Trump Tower is stated to operate a Cooling Water Intake System (“CWIS”) of pulling more than 2 million gallons of water from the Chicago River per day to cool the building HVAC system.

The AG contended that Trump Tower had violated the following provisions of the Act, Board, and NPDES Permit Conditions:

1. Discharge without an NPDES Permit.
2. Failure to comply with NPDES regulations applicable to cooling water intake structures for new facilities.
3. Violation of NPDES Permit Special Condition 8.
4. Misreporting discharge flow in monthly Discharge Monitoring Reports.
5. Discharge of heated water into the environment.

The intervenors alleged facts intended to demonstrate that Trump Tower had created and continued to create a public nuisance in violations of Illinois law by operating its CWIS in violation of Permit Conditions and regulations designed to protect aquatic life and by failing to minimize its impact on aquatic life as required by law.

Each of the three parties filed Motions for Summary Judgment.

The Court holds that the AG's alleged facts are well-founded, not materially challenged, and that there is no dispute in the previously referenced Counts I-V of its Complaint. Trump Tower was found to have violated certain cited sections of the Act, Board Regulations, and Special and Standard Conditions of the NPDES Permit. Therefore, it grants Summary Judgment to the AG.

In addressing the intervenors' Motion for Summary Judgment, the Court finds that the alleged facts are well-founded, not materially challenged, and there is no dispute that Trump Tower:

...has created and continues to create a public nuisance in violation of Illinois law by operating its CWIS in a manner that substantially and unreasonably interferes with the public right to fish and otherwise recreate in the Chicago River.

The Court rejects Trump Tower's Affirmative Defenses. As a result, it grants Summary Judgment for the intervenors.

A trial date will be set on the issues of appropriate civil penalty and injunctive relief.

A copy of the Order can be downloaded [here](#).