Citizen Suit Enforcement/Clean Water Act: Trump Tower (Chicago) Enters into Consent Order with Environmental Organizations Illinois Attorney General



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The Illinois Attorney General along with the Sierra Club and Friends of the Chicago River entered into a Consent Order ("CO") with 401 North Wabash Venture, LLC d/b/a Trump International Hotel & Tower ("Trump Tower") addressing alleged violations of the Clean Water Act.

The CO was filed with the Circuit Court of Cook County, Illinois, County Department, Chancery Division. See No. 18 CH 10229.

The Illinois Attorney General 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 ("Regulations").

A second amended complaint was subsequently filed and the Sierra Club and Friends of the Chicago River successfully petitioned to intervene in the litigation.

Trump Tower is stated to operate a cooling water intake system ("CWIS") that withdraws water from the Chicago River to cool the building HVAC system.

The Illinois Attorney General contended that Trump Tower violated the following provisions of the Act, Regulations, and Clean Water Act National Pollutant Discharge Elimination System Permit Conditions:

- Discharge without an NPDES Permit.
- Failure to Comply with NPDES Regulations Applicable to Cooling Water Intake Structures for New Facilities.
- Violations of Special Condition 8 and Standard Condition 27 of its NPDES Permit.
- Misreporting Discharge Flow in Monthly Discharge Monitoring Reports.
- Discharge of heated water into the environment.

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

The CO provides that Trump Tower represents that it has entered into the document for purposes of settling and compromising disputed claims without having to incur the expense of contested litigation. Further, it states that it does not affirmatively admit the allegations of violation within the second

amended complaint and amended complaint intervention and that the CO should not be interpreted as including such admission.

In addition, Trump Tower agrees to undertake certain activities to come into compliance with the relevant statutes and Regulations. Further, Trump Tower has agreed to pay $1.5 million in penalties to the State of Illinois, $300,000.00 in attorneys fees, and $3 million toward a Supplemental Environmental Project. This project has been described as providing Friends of the Chicago River funds to create a new fish habitat in the Chicago River and mitigate prior harm to aquatic life.

A copy of the CO can be downloaded here.