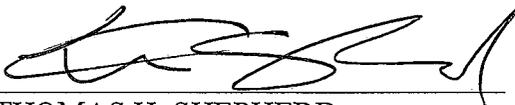


Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY: 

THOMAS H. SHEPHERD
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Fl.
Chicago, IL 60602
(312) 814-5361

DATE: April 18, 2014

THIS FILING IS SUBMITTED ON RECYCLED PAPER

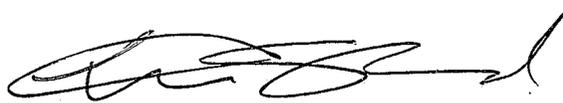
CERTIFICATE OF SERVICE

I, THOMAS H. SHEPHERD, an Assistant Attorney General, do certify that I caused to be served on this 18th day of April 2014, the foregoing Notice of Filing, Complaint, and a Certificate of Service, by U.S. Certified Mail (return receipt requested), upon the following persons:

David Sugar
Registered Agent for 400 Condominium Association
120 S Riverside Plaza #1200
Chicago, Illinois 60606

Charles Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276

by depositing true and correct copies of same in an envelope, certified mail postage prepaid, with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601, at or before the hour of 5:00 p.m.



THOMAS H. SHEPHERD

4. At all times relevant to this Complaint, Respondent operated and controlled the property located at 400 East Randolph Street, Chicago, Cook County, Illinois 60601 ("Site").

5. The Site includes a heating, ventilation and air conditioning ("HVAC") system that contains a cooling water system.

6. On December 23, 2011, the Illinois EPA issued to Respondent a National Pollutant Discharge Elimination System ("NPDES") permit numbered IL0005215 ("Permit") authorizing the discharge of the non-contact cooling water from the HVAC cooling water system at the Site into a storm sewer tributary to the Chicago River ("Storm Sewer Tributary").

7. Special Condition 3 of the Permit provides, in pertinent part, as follows:

The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) Forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR Form shall be submitted with no discharge indicated.

* * *

8. Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), provides as follows:

No person shall:

* * *

(f) Cause, threaten, or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, any waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides the following definition:

“Person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

10. Respondent, a corporation, is a “person” as that term is defined in Section 3.315 of the Act.

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

12. The non-contact cooling water discharged from the HVAC cooling water system piping at the Site is a “contaminant,” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

13. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

14. The non-contact cooling water discharged from the HVAC cooling water system piping at the Site discharged directly into the Storm Sewer Tributary.

15. The storm sewer tributary to the Chicago River constitutes “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).

16. Section 401.11(d) of Title 40 of the Code of Federal Regulations (“C.F.R.”), 40 C.F.R. 401.11(d), provides as follows:

The term point source means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling

stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

17. The HVAC cooling water system piping is a "point source," within the meaning of 40 C.F.R. 401.11(d).

18. Section 305.102(b) of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), provides as follows:

Reporting Requirements

* * *

b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

19. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

NPDES Permit Required

a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

20. From at least January 1, 2012, through June 31, 2013, on dates better known to Respondent, Respondent discharged non-contact cooling water from the HVAC cooling water system at the Site into the Storm Sewer Tributary.

21. From at least January 2012 through June 2013, Respondent failed to submit monthly DMRs to the Illinois EPA for the discharge of Respondent's non-contact cooling water from the HVAC cooling water system at the Site into the Storm Sewer Tributary.

22. By failing to submit DMRs to the Illinois EPA for the discharge of Respondent's non-contact cooling water from the HVAC cooling water system, Respondent violated Special Condition 3 in the Permit.

23. By failing to submit DMRs to the Illinois EPA for the discharge of Respondent's non-contact cooling water from the HVAC cooling water system in violation of Special Condition 3 in the Permit, Respondent violated Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b).

24. By failing to submit DMRs to the Illinois EPA for the discharge of Respondent's non-contact cooling water from the HVAC cooling water system in violation of Special Condition 3 in the Permit, Respondent violated Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

25. By causing, threatening, or allowing discharge of a contaminant into the waters of the State from a point source in violation of Special Condition 3 and Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order against Respondent 400 CONDOMINIUM ASSOCIATION on this Count I:

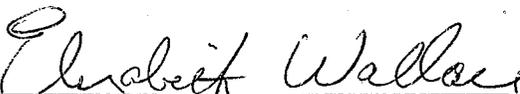
1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a);
3. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a);
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against Respondent for each day of violation of the Act and regulations;
5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division


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Assistant Attorney General

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