IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: SANJAY SOFAT & ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ) OEIG Case #18-01364

PUBLICATION OF REDACTED VERSION OF OEIG FINAL REPORT

Below is the redacted final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. To balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General ("OEIG") and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, to Sanjay Sofat’s last address, and to the Illinois Environmental Protection Agency.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.
I. ALLEGATIONS

The Office of Executive Inspector General (OEIG) self-initiated this investigation on June 28, 2018 after several news outlets reported that a building located at 401 N. Wabash Avenue (401 North) in Chicago failed to follow fish protection rules when drawing cooling water from the Chicago River. According to the news outlets, the Illinois Environmental Protection Agency (IEPA) was responsible for overseeing those rules, and for issuing the relevant permits authorizing use of water in this manner. The OEIG opened this investigation to determine whether IEPA adequately enforced fish protection rules, and whether it otherwise adequately oversaw buildings drawing cooling water from the Chicago River.1

II. BACKGROUND

A. The National Pollutant Discharge Elimination System

Section 402 of the Federal Clean Water Act of 1972 (Clean Water Act) established the National Pollutant Discharge Elimination System (Discharge Elimination) Program,2 and the United States Environmental Protection Agency (USEPA) promulgated implementing regulations the same year.3 The stated purpose of the Clean Water Act was to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”4 Under the Clean Water Act, anyone seeking to discharge pollutants – including heat – into public waters must apply for and obtain a Discharge Elimination permit.5

Federal regulations establish the minimum requirements that a facility must meet when applying for a Discharge Elimination permit related to cooling water intake structures. These regulations are meant to protect the aquatic ecosystem, which can be affected by two problems related to intake structures: impingement, i.e. when larger organisms such as adult fish become trapped against intake screens/filters; and entrainment, i.e. when smaller organisms (including eggs and larvae) pass through the intake screens filters and are circulated through the cooling system itself.6

The USEPA is required to produce online reports detailing instances of noncompliance by Discharge Elimination permit holders with the terms of their permits.7 These violations are categorized as either reportable or significant noncompliance, where significant noncompliance

1 For the purposes of this report, OEIG defines “Chicago River” as all branches of the Chicago River in the areas bounded by Lake Michigan to the east, Roosevelt Road to the south, and Ohio Street to the north.
4 See 33 U.S.C. § 1251.
5 See 40 CFR 122.21(a), 40 CFR § 122.2 (including “heat” in the definition of “pollutant”). Additionally, the Discharge Elimination program only covers facilities that are “point sources.” See 40 C.F.R. 122.1(b).
7 40 CFR § 123.45.
violations are those that are most egregious and warrant priority agency review and response.\(^8\) Federal regulations and USEPA policy guidance distinguish between “major” and “minor” Discharge Elimination facilities based on a number of criteria, including flow volume, toxic pollutant potential, and water quality impacts.\(^9\) The USEPA has traditionally focused on enforcing significant noncompliance occurring at the major discharger facilities as reflected in Performance Partnership Agreements between the IEPA and USEPA.\(^10\)

**B. The Illinois Environmental Protection Agency**

IEPA’s Bureau of Water is responsible for implementing the Discharge Elimination Program for the State of Illinois.\(^11\) The Bureau of Water includes a number of subsections, including the Division of Water Pollution Permit Section (Permits), which manages the State’s discharge elimination permitting program;\(^12\) the Division of Water Pollution Control Field Operations Section (Field Operations), which identifies violations through inspections;\(^13\) and the Division of Water Pollution Control Compliance Assurance Section (Compliance Assurance), which issues violation notices and warning letter when violations are detected.\(^14\)

Under Federal regulations, IEPA is required to have inspection, surveillance, and compliance evaluation programs to ensure that permittees are complying with Discharge Elimination program requirements, including permit conditions.\(^15\)

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\(^11\) In 1973, the General Assembly amended the Illinois Environmental Protection Act, 415 ILCS 5, to enable Illinois to administer an independent Discharge Elimination Program. Illinois has entered into a Memorandum of Agreement (MOA) with the USEPA Region V Administrator, which authorized Illinois to administer an independent Discharge Elimination Program. MOA at 3, available at https://www.epa.gov/sites/production/files/2013-09/documents/il-moa-ndes.pdf (last visited Sept. 8, 2020). The MOA, as amended, remains in effect today.

\(^12\) https://www2.illinois.gov/epa/topics/forms/water-permits/Pages/default.aspx.

\(^13\) “IEPA Bureau of Water Enforcement Response Guide.” This document shows Compliance Assurance as being a separate Section that provides services to both the Division of Water Pollution Control and the Division of Public Water Supplies. However, during an August 18, 2020 interview, Bureau of Water Chief Sanjay Sofat explained that there are separate Compliance Assurance Sections for the Division of Water Pollution Control and the Division of Public Water Supplies.

\(^14\) Id.

\(^15\) See 40 C.F.R. § 123.26.
1. Permitting of Discharge Elimination Facilities

Discharge Elimination permits generally establish limits on the quantity, rate, and concentration at which a facility may discharge pollutants, as well as requirements related to monitoring, reporting, and compliance schedules. Illinois facilities with cooling water intake structures must apply to IEPA for a Discharge Elimination permit at least 180 days before its first proposed discharge. This allows time for public notice and a comment period. After the draft permit is published and a period for notice and comment elapses, IEPA either issues or denies the permit. The Clean Water Act limits the length of permits to five years. Facilities with existing Discharge Elimination permits must apply for a renewal at least 180 days before the permit expires. A facility may continue to discharge under the conditions of an expired permit if it submits a timely renewal application to IEPA, or if it seeks a waiver at least 60 days before the permit expired.

2. Inspection of Discharge Elimination Facilities

Under the Illinois Environmental Protection Act, IEPA is charged with ascertaining “the quantity and nature of discharges from any contaminant source and data on those sources, and to operate and arrange for the operation of devices for the monitoring of environmental quality.” In order to effectuate this duty, IEPA is authorized to conduct periodic inspections of actual or potential contaminant sources and to investigate possible violations of the Act or permit requirements. Further, the Clean Water Act and USEPA’s Discharge Elimination regulations require permitted facilities to monitor the quality of their wastewater discharge and report this wastewater monitoring data to their permitting authority on a Discharge Monitoring Report.

3. Enforcement and Penalties for Violations of Discharge Elimination Permit

A facility that discharges pollutants into Illinois waters without a valid Discharge Elimination permit, or in violation of the conditions of such a permit, violates both Illinois and Federal law. Within 180 days of IEPA becoming aware of a violation, Illinois statute provides that IEPA shall issue a violation notice informing the permitholder of the facts related to the alleged violations. The permitholder may also submit a written corrective action and compliance commitment agreement.
which sets forth timelines for returning to compliance and correcting any environmental harm. IEPA may reject a compliance commitment agreement if the environmental harm is significant or if the agreement is inadequate and proceed to formal enforcement by issuing a Notice of Intent to Pursue Legal Action letter to the permitholder.\textsuperscript{27} If the permitholder is unable to resolve the matter with IEPA, IEPA may refer the matter to the USEPA or to the Illinois Office of the Attorney General for litigation, penalties, and a court order.

III. INVESTIGATION

OEIG investigators obtained and reviewed various documents, including emails relating to the allegations in the complaint and public records regarding cooling water intake structures operating in the vicinity of the Chicago River from USEPA databases. OEIG investigators also interviewed personnel from IEPA to learn about enforcement of fish protection laws.

A. Review Of IEPA Records Pertaining To 401 North

Review of IEPA records regarding 401 North reflected that around July 12, 2011, IEPA Field Inspector [Field Inspector] observed an “Illegal Discharge” at 401 North during an inspection of another building along the Chicago River.\textsuperscript{28} On July 26, 2011, [Field Inspector] emailed 401 North’s Director of Engineering, advising that IEPA did not have a record of 401 North having a valid Discharge Elimination permit, and recommending it apply for one. The following ensued:

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept. 13, 2011</td>
<td>IEPA’s Compliance Assurance manager, Roger Callaway, issued a violation notice to 401 North for discharging into State waters without a Discharge Elimination permit.</td>
</tr>
<tr>
<td>Nov. 17, 2011</td>
<td>IEPA sent a letter to 401 North with the subject line, Notice of Intent to Pursue Legal Action, citing the violations raised in the September 2011 violation notice.</td>
</tr>
<tr>
<td>Jan. 10, 2012</td>
<td>401 North submitted a Discharge Elimination permit application.</td>
</tr>
<tr>
<td>Sept. 7, 2012</td>
<td>After a public comment period, IEPA issued a Discharge Elimination permit. The permit was subsequently modified and included an additional requirement that within six months of the September 7 permit date, 401 North comply with “Special Condition 8,” which required submission of information to IEPA outlining intake structure conditions, as well as impingement and entrainment information.\textsuperscript{29}</td>
</tr>
</tbody>
</table>

\textsuperscript{27} https://www2.illinois.gov/epa/topics/compliance-enforcement/wastewater/Pages/npdes-permits.aspx (last visited Sept. 8, 2020).

\textsuperscript{28} IEPA had previously approved a construction permit for a water intake structure at 401 North on February 4, 2004, but terminated the permit on September 15, 2010, after 401 North’s management advised that construction had ceased.

\textsuperscript{29} The permit originally allowed for an average flow of 13,644 gallons per day, which was what was reflected in 401 North’s application. However, on October 15, 2012, 401 North’s engineering firm sent a letter to IEPA stating that the flows provided in the permit application were incorrect and should have reflected a discharge of 13.6 million gallons a day so IEPA issued a modified permit, increasing the average flow to 19.7 million gallons per day.
Dec. 18, 2012  The Illinois Office of Attorney General (OAG) filed a two-count complaint against 401 North for water pollution and discharge of contaminants without a valid permit. The complaint was filed with the Pollution Control Board and was based on the September 2011 violation notice.

Feb. 21, 2013  The Pollution Control Board entered an opinion and order approving a settlement between the parties, which required 401 North to pay $46,000 to IEPA’s Fiscal Services Division.

401 North’s Discharge Elimination permit was set to expire August 31, 2017. Per the terms of the permit, 401 North was required to submit a renewal application no later than 180 days prior to this expiration date, or March 4, 2017, in order to continue to discharge beyond the expiration date. IEPA records reflect that although IEPA sent at least two letters to 401 North regarding the renewal, on November 3, 2016 and February 6, 2017, 401 North did not submit its renewal application until April 1, 2017.

IEPA records also reflect that 401 North did not submit the required information pursuant to Special Condition 8 within six months as prescribed by the permit. However, IEPA did not take action with respect to this condition until October 20, 2017, when IEPA’s Permits Section wrote a letter to 401 North advising that the required documentation was never submitted to IEPA. On that same day, former IEPA Environmental Engineer Leslie Lowry, from Permits, also sent an email to Mr. Callaway, asking Compliance Assurance to “take some kind of action.” On November 30, 2017, 401 North, through its consultant, sent a letter to IEPA regarding Special Condition 8 and attached its most current information and data. However, the letter asked for an extension of time to “determine the best options for complying with impingement and entrainment requirements.” 401 North’s failure to comply with Special Condition 8 was raised by opponents of 401 North’s Discharge Elimination permit during the public comment period for the renewal.30

IEPA did not issue a violation notice to 401 North for its failure to timely submit a permit renewal application and failure to satisfy the requirements of Special Condition 8 until June 28, 2018. On August 13, 2018, the State of Illinois, through the OAG, filed a complaint for injunctive relief and civil penalties (the State Complaint) against 401 North in the Circuit Court of Cook County, Illinois.31 The Sierra Club filed a complaint to intervene in the matter, citing to 401 North’s failure to “compl[y] with laws, regulations, or permit conditions that govern the intake of massive volumes of Chicago River water and relate to the impingement and entrainment of fish and other aquatic life.” Sierra Club’s complaint also alleged that 401 North was interfering with the rights of the public to recreate in the Chicago River by operating a facility without a permit and has failed to minimize its impact on fish and aquatic life.

30 On February 9, 2018, the Sierra Club wrote a letter to IEPA’s Permits Section objecting to the draft Discharge Elimination permit for 401 North and requesting that IEPA refer 401 North to the OAG for an enforcement action. On June 14, 2018, the University of Chicago Environmental Law Clinic, on behalf of the Sierra Club, sent a letter to 401 North giving notice of its intent to sue regarding continuing violations, including failure to comply with Special Condition 8.

B. Interview Of IEPA Staff Regarding Enforcement Of Fish Protection Laws

The OEIG interviewed several IEPA employees, including [Field Inspector] and Jitendra Patel from Field Operations, Amy Dragovich from the Permits Section, Roger Callaway from Compliance Assurance, and Bureau of Water Chief Sanjay Sofat to determine how the agency enforced fish protection rules, including any conditions of Discharge Elimination permits issued by IEPA.32

1. Interview of IEPA Permits Manager Amy Dragovich Regarding IEPA Permitting

During her interview, Ms. Dragovich, IEPA Permits Manager, confirmed that her Section is responsible for issuing Discharge Elimination permits. Ms. Dragovich said the review of cooling water intake structures during the permitting process includes a check of the system data, such as volume of water versus pump capacity, and intake volume versus cooling needs. Ms. Dragovich said for permit renewal, Compliance Assurance should keep track of items submitted pursuant to conditions in a Discharge Elimination permit. When OEIG investigators asked her if there are any record checks during the permit renewal process to ensure a facility has complied with the conditions of its permit, Ms. Dragovich said, “They could, but Compliance is usually separate from the permitting process.”

Ms. Dragovich said she believes that data submitted by facilities as part of the special conditions to their Discharge Elimination permits is entered into the USEPA’s Integrated Compliance Information System (ICIS)—a database that provides information regarding when a permit was issued and expires, how much the facility is permitted to discharge, and the monitoring data showing actual discharge by the facility.33 Ms. Dragovich said it is the responsibility of either the appropriate Field Operations office or of Compliance Assurance to inform a facility that special conditions have not been met, and enforcement is usually done by sending a letter to the facility.

2. IEPA Inspections of Cooling Water Intake Structures Facilities

OEIG investigators interviewed [Field Inspector] and Mr. Patel regarding inspections of cooling water intake facilities. [Field Inspector] worked for IEPA as a Field Inspector in Cook County from 1989 until his retirement in May 2017. [Field Inspector] said his primary assignment was to inspect facilities’ Discharge Elimination permits for proper and lawful operation, as well as responding to emergencies and materials spills. [Field Inspector] was the individual who initially witnessed the illegal discharge at 401 North on July 12, 2011. At that time, he reported to Mr. Patel, IEPA Bureau of Water Field Operations Manager for the Des Plaines Region.

[Field Inspector] said that facilities under Field Operations’ purview included the nuclear electrical generating station in Byron, IL, municipal and private wastewater treatment plants, stormwater management systems, industrial and commercial sites, and buildings with cooling water intake systems. [Field Inspector] said he could be assigned to inspect any facility in IEPA 32 OEIG investigators interviewed Ms. Dragovich on October 25, 2018, Mr. Patel on February 22, 2019, [Field Inspector] on May 8, 2019, and Mr. Sofat on August 18, 2020.
33 See https://www.epa.gov/enviro/pcs-icis-overview (last visited Sept. 8, 2020).
Region 2, which encompasses most of northern Illinois and includes “thousands” of Discharge Elimination permittees. He said that the workload in Cook County was divided between himself and another Field Inspector.

[Field Inspector] said that cooling water intake facilities had the lowest priority for inspection and that when inspections were performed, they mainly involved comparing the permit limits and special conditions to the Discharge Monitoring Reports kept at the facility and making sure that discharge volumes and temperatures were within acceptable limits. [Field Inspector] said Field Operations and Compliance Assurance were responsible for ensuring any required Discharge Monitoring Reports were timely submitted and for reviewing the reports submitted to ensure they met the permit requirements. [Field Inspector] said that permitholders often “lagged” in submitting their required Discharge Monitoring Reports due to “a lack of visitation” by IEPA inspectors, as well as staff turnover at each facility.

Mr. Patel similarly stated during his OEIG interview that cooling water intake facilities “are last” on the list of facilities to be inspected. He explained that major facilities, like nuclear powerplants, were always the priority for inspections because they can contribute more thermal pollution, whereas minor facilities do not have frequent inspections because the potential for pollution from them is “very, very low.” He stated overall, cooling water intake facilities are not inspected unless there is a specific reason, such as a complaint or request from the IEPA Permits Section or the USEPA. Mr. Patel said the Permits Section was responsible for designating a facility as major or minor and that there were no “hard and fast” rules for how frequently major and minor facilities were inspected. Mr. Patel said there was a “burst” of inspections at cooling water intake facilities several years ago after the USEPA asked if IEPA was conducting them; however, he stated that Field Operations has not done any inspections of those facilities since then. He also said there was no database or electronic system that notified field inspectors when a facility was due for an inspection, and that instead, inspection plans were established on an annual basis and adjusted as needed. He added that due to decreased staff and increased responsibilities, he was “desperate” to get new staff to perform all the tasks that needed to be completed.

3. IEPA Enforcement and Compliance

During his OEIG interview, Mr. Callaway—who at the time of his interview worked as Compliance Assurance Section Manager 34—confirmed that in 2011, Compliance Assurance issued a violation notice to 401 North as a result of an inspection at 401 North by [Field Inspector] since operation without a Discharge Elimination permit was deemed “a significant non-compliance.” Mr. Callaway stated that violation notices were usually triggered by reviews of records maintained in ICIS, failure to submit information as required by Discharge Monitoring Reports, or a permitholder exceeding Discharge Monitoring Report criteria. Mr. Callaway said Compliance Assurance did not have an independent ability to conduct inspections of Discharge Elimination permitholders; rather, he contacted Field Operations and requested an inspection in the event of such a trigger.

34 During his OEIG interview, Mr. Sofat said that in March 2020, Mr. Callaway retired and was replaced by [Compliance Assurance Employee 1], who had previously worked as [an Employee] in the Compliance Assurance Section.
Mr. Callaway acknowledged that, despite 401 North’s failure to timely submit an application for renewal of its Discharge Elimination permit in 2017, IEPA did not issue a violation notice to 401 North until it was prompted to do so by the impending lawsuit by the OAG and the Sierra Club. Although he stated that Compliance Assurance would have eventually caught the violations enumerated in the violation notice, he did not know when that would have happened. He explained that Compliance Assurance periodically conducted ICIS searches related to permit expiration dates, but not on a regular basis, and only when staffs’ workload allowed for it. He added that those searches for permit expiration dates are done separately from other non-compliance issues, such as permitholders that were non-compliant with Discharge Monitoring Reports, which are also not done on a regular basis.

Mr. Callaway said that he only became aware of 401 North’s failure to submit information mandated under Special Condition 8 when he received Ms. Lowry’s October 20, 2017 email alerting him of this fact. Mr. Callaway said that when special reporting conditions are imposed on Discharge Elimination facilities, the due date and the date of receipt at IEPA of the information required under the permit would be entered into ICIS. Mr. Callaway said Compliance Assurance staff members also use ICIS to check whether Discharge Elimination facilities complied with any special conditions included in their permits.

Mr. Callaway said that Compliance Assurance monitored whether major facilities complied with special reporting conditions, but did not do the same with minor facilities. He added that he was not aware of any cooling water intake system facility that was deemed a major facility. Mr. Callaway said that when notified that a Discharge Elimination facility had failed to comply with any special reporting conditions, Compliance Assurance could attempt to obtain compliance by the facility through a phone call to the facility, a non-compliance advisory letter, or a violation notice. Mr. Callaway also surmised that if the Permits Section learned that a facility was not in compliance during the permit renewal process, they would contact the facility directly to request the needed information.

According to Mr. Callaway, the ICIS database does not automatically notify Compliance Assurance of any non-compliance issues. However, he stated that if Discharge Elimination permitholders were required to submit Discharge Monitoring Reports as a condition of their permits, ICIS would send an automated reminder email to the permitholder to send the required reports and IEPA was also copied on those communications. Mr. Callaway also noted that Compliance Assurance had recently begun to send out “a forecast report” to permitholders to tell them what information was scheduled to be submitted to IEPA.

Mr. Callaway said Compliance Monitors are generally responsible for completing enforcement actions with respect to their assigned list of Illinois counties and that for the last two or three years, there has been only one Compliance Monitor assigned to Cook County and Chicago.
C. Other Chicago River Cooling Water Intake Structures Permittees

Based on what was learned about IEPA’s Discharge Elimination inspection, permitting, and enforcement process with respect to 401 North, OEIG investigated the bigger picture of IEPA practices in permitting, inspection, and enforcement, focusing on facilities with intake structures technology on the Chicago River. To this end, the OEIG requested various documents from IEPA and conducted searches through the USEPA Enforcement and Compliance History Online (ECHO), an online database that provides compliance and enforcement information for USEPA-regulated facilities, regarding permit applications submitted and violation notices issued between January 1, 2018 and August 30, 2019.

OEIG investigators found that in one case, a cooling water intake facility on the Chicago River experienced a significant delay in obtaining a permit renewal from IEPA after timely submitting renewal application documents.\(^{35}\) In two other cases—as with 401 North—although the facilities submitted late renewal documents, it appears that IEPA did not issue enforcement actions until several months after the violation occurred, if at all.\(^{36}\) Below is a summary:

- **333 N. Michigan Ave.**: the permit renewal application was submitted August 28, 2018 – over two years after the July 31, 2016 expiration date – after IEPA issued a violation notice on July 3, 2018.
- **222 S Riverside Plaza**: the permit renewal application was submitted April 25, 2018 – nearly a month after the March 31, 2018 permit expiration. No violation notice was issued.

In these cases, as with 401 North, the application was still pending with the IEPA as of February 15, 2020, and the facility continued to operate under an expired permit.

The OEIG also investigated whether other permitted cooling water intake structures on the Chicago River had been inspected at least once during their permit cycle, excluding 401 North. To that end, OEIG investigators again consulted the ECHO database to determine the last permit and inspection dates for each of these facilities. OEIG investigators found that out of 28 facilities with permits for intake structures on the Chicago River, four of them had not been inspected at all during their permit cycle as of February 15, 2020.

<table>
<thead>
<tr>
<th>Facility Address</th>
<th>Current Permit Dates</th>
<th>Previous Permit Dates</th>
<th>Date of Last Inspection</th>
</tr>
</thead>
<tbody>
<tr>
<td>111 E. Wacker Dr.</td>
<td>10/16/2017 to 10/31/2022</td>
<td>8/10/2012 to 10/31/2017</td>
<td>5/31/2011</td>
</tr>
<tr>
<td>400 E. Randolph St.</td>
<td>7/28/2017 to 7/31/2022</td>
<td>1/1/2012 to 7/31/2017</td>
<td>6/8/2011</td>
</tr>
</tbody>
</table>

\(^{35}\) The permit for 130 E. Randolph St. was set to expire June 30, 2018, and the facility timely submitted a permit renewal application on September 19, 2017. The application was still pending before the IEPA as of February 2020.

\(^{36}\) In one instance, for 401 E. Illinois St., the permit expired April 30, 2018 and a violation notice was issued the following day, May 1, 2018. The facility had not submitted a renewal application as of February 2020.
1 E. Wacker Dr.  8/19/2019 to 8/31/2024  9/3/2013 to 8/31/2018  4/9/2013

Through a records request to IEPA, OEIG also found that other cooling water intake facilities on the Chicago River had been required, via special conditions in their Discharge Elimination permits, to assess the effect of their cooling water intake systems on aquatic life in the Chicago River. The special conditions were identical to 401 North’s Special Condition 8, requiring submission of information to IEPA outlining intake structure conditions, as well as impingement and entrainment information within six months of the permit’s effective date. Investigators found that many of these facilities, like 401 North, did not timely submit the reports that were mandated under their special conditions. IEPA eventually issued violation notices against these permitholders, 37 but as with 401 North, the violation notices did not come until years after the reports were originally required:

<table>
<thead>
<tr>
<th>Facility Address</th>
<th>Permit Date</th>
<th>Date Special Condition Reports Due</th>
<th>Violation Notice</th>
<th>Days Between Violation Date and Violation Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 East Wacker Dr.</td>
<td>9/3/2013</td>
<td>3/3/2014</td>
<td>7/9/2018</td>
<td>1589</td>
</tr>
<tr>
<td>130 E. Randolph St.</td>
<td>6/17/2013</td>
<td>12/27/2013</td>
<td>7/9/2018</td>
<td>1655</td>
</tr>
<tr>
<td>325 N. LaSalle St.</td>
<td>6/20/2013</td>
<td>12/20/2013</td>
<td>7/3/2018</td>
<td>1656</td>
</tr>
<tr>
<td>2301 S. Lakeshore Dr.</td>
<td>3/12/2013</td>
<td>9/12/2013</td>
<td>7/5/2018</td>
<td>1757</td>
</tr>
</tbody>
</table>

OEIG investigators also used records searches on ECHO to calculate the total amount of water used by the facilities with Discharge Elimination permits on the Chicago River. The total volume across all 29 facilities is between 36.3371 and 97.86138 million gallons per day. By way of comparison, the Byron nuclear power generator—considered a “major” facility under Discharge Elimination—uses between 17.8 and 26.4 million gallons per day.

**D. Interview With Bureau of Water Chief Sanjay Sofat**

To further understand the delineation of responsibilities between the different sections of the Bureau of Water’s Division of Water Pollution Control, OEIG investigators interviewed Bureau of Water Chief Sanjay Sofat. Mr. Sofat said that he had served as Bureau Chief since August 2016; prior to that time, Mr. Sofat had served as Staff Attorney for the Bureau of Water beginning in 1999.

37 The violation notices issued to four of these six facilities also cited them for other violations relating to permitting.

38 Some of the buildings listed in ECHO have their water volume stated in ranges.
Mr. Sofat said that in his role of Bureau Chief, he supervises two divisions: the Division of Water Pollution Control and the Division of Public Water Supplies. Mr. Sofat said that there is a vacant Deputy Director position that would oversee the Division of Water Pollution Control, and that as a result, he directly supervises that Division while also overseeing a Deputy Director in charge of the Public Water Supplies Division. Mr. Sofat said that in the Division of Water Pollution Control, Ms. Dragovich manages the Permits Section, Jim Miles manages the Field Operations Section, and Mr. Callaway managed the Compliance Assurance Section until March 2020. Mr. Sofat said that he is familiar with the Discharge Elimination program, and that regulation of cooling water intake systems is designed to minimize the environmental impact of cooling systems that endanger fish and other aquatic life through impingement and entrainment.

Mr. Sofat said that inspections are an important tool to identify permit violations. Mr. Sofat said that to his knowledge, Field Operations’ Region 2 is currently fully staffed with eight to ten inspectors. Mr. Sofat said that in the past, Region 2 had been understaffed with inspectors, but recent hires had made up for any shortfall. Mr. Sofat also said that the Compliance Assurance Section had a staff of five individuals, and that he thought that staffing “should be enough” given that Section’s workload.

Mr. Sofat said that it would concern him if a cooling water intake system were not inspected over the course of its 5-year permit cycle. Mr. Sofat said that the Bureau of Water’s goal is to ensure inspections take place once per permit cycle for minor facilities, but there are times when this does not happen due to retiring staff or other issues. Mr. Sofat said he did not recall the USEPA contacting IEPA to either request additional inspections of cooling water intake systems, or to ask whether such inspections were being performed.

Mr. Sofat reviewed the October 20, 2017 emails from Leslie Lowry to 401 North’s management and Mr. Callaway relating to 401 North’s failure to comply with Special Condition 8, which had been outstanding for over four years at the time of the email. When asked whether it was the responsibility of Compliance Assurance or Permits to ensure that a permittee timely complied with special conditions in a permit, Mr. Sofat said it was up to both sections to ensure compliance with permit conditions. Mr. Sofat said it was “possible” that additional inspections would have revealed that 401 North had failed to comply with Special Condition 8.

Mr. Sofat said that he interpreted Ms. Lowry’s October 20, 2017 email to Mr. Callaway asking him (Mr. Callaway) to “take some kind of action” as a request for Mr. Callaway to issue a Violation Notice to 401 North. Mr. Sofat then reviewed the Violation Notice eventually issued to 401 North on June 28, 2018—over eight months after Ms. Lowry emailed Mr. Callaway—and said that he would expect the Violation Notice to have gone out earlier. Mr. Callaway also reviewed the portion of the Violation Notice citing 401 North for its failure to timely renew its NPDES permit and unpermitted discharge, which came 9 months after the effective date listed on the Violation Notice. Mr. Sofat said that as a general matter, he would have expected a Violation Notice to be issued within 45 to 60 days after Ms. Lowry alerted Mr. Callaway to issues with 401 North’s compliance with its permit conditions.
Mr. Sofat said that he reviews and signs all violation notices, and after reviewing the June 2018 violation notice issued to 401 North, he asked his staff to determine how many other buildings had similar issues. Mr. Sofat said that as a result of his review, Compliance Assurance issued the six additional Violation Notices to other permittees on the Chicago River between July 3 and 9, 2018. Mr. Sofat said those violation notices were sent after Compliance Assurance and the Permits Section worked together to identify “what else was out there.” Mr. Sofat added “we dropped the ball” on keeping up with the NPDES permit requirements.

Mr. Sofat said that it concerned him that multiple Discharge Elimination permitholders along the Chicago River had been noncompliant with their special conditions and had failed to timely submit permit renewal documents. Mr. Sofat said that both Compliance Assurance and Permits “dropped the ball” in terms of enforcing permit conditions along the Chicago River, and that he “personally [took] them as embarrassing situations.” Mr. Sofat said that after reviewing the June 2018 violation notice that was issued to 401 North, he verbally addressed this issue with the staffs of both Compliance Assurance and Permits and informed them both sections were responsible for ensuring that Discharge Elimination permitholders complied with permit conditions and timely submitted renewal documents. Mr. Sofat said that as part of this discussion, he verbally directed Compliance Assurance and Permits to regularly run reports on ICIS to ensure that permittees were complying with their permit conditions, but did not draft any sort of corrective action plan directed toward preventing delays in enforcement actions. Mr. Sofat also said that he did not implement any sort of written direction as to how responsibilities between Permits and Compliance Assurance should be allocated.

Mr. Sofat said that he did not know whether IEPA could receive automated alerts from ECHO or ICIS regarding permit violations, but IEPA was in the process of obtaining an Enforcement Management System that could provide automated notifications of permit violations. Mr. Sofat said that this system was expected to be online in 2023.

IV. ANALYSIS

Under Federal regulations, IEPA is required to have inspection, surveillance, and compliance evaluation programs to ensure that permittees are complying with Discharge Elimination program requirements, including permit conditions.\(^{39}\) The OEIG’s investigation, however, revealed flaws in IEPA’s permitting, inspection, and enforcement of Discharge Elimination permits held by buildings with cooling water intake systems on the Chicago River.

First, although IEPA imposed special conditions on the Discharge Elimination facilities on the Chicago River requiring them to report on issues involving impingement and entrainment, many of these facilities failed to comply with these permit conditions. This lack of compliance lasted for periods of four to five years before Compliance Assurance finally issued violation notices against these non-compliant facilities. As recognized by the USEPA, the primary environmental issue posed by cooling water intake systems is the potential disruption of water life, as they can kill millions or even billions of aquatic life forms in a relatively short period of time through impingement and entrainment. Despite this danger, for years IEPA, specifically Compliance Assurance, in effect allowed a number of Discharge Elimination facilities on the

\(^{39}\) See 40 C.F.R. 123.26 and MOA at 10.
Chicago River to simply disregard permit conditions meant to help IEPA protect the ecology of the Chicago River.

Second, a number of Discharge Elimination facilities have operated with expired permits or tardy renewal documents for years without corrective action by IEPA. As an example, 401 North’s permit was due to expire on August 31, 2017, and thus its renewal application was due March 4, 2017. After 401 North tardily submitted its renewal application in April 2017, it took IEPA until June 2018—fifteen months after 401 North’s renewal application was due—to issue a violation notice. During his interview, Mr. Callaway said that this violation notice was prompted by an impending lawsuit by the Sierra Club, and he was uncertain when Compliance Assurance would have discovered 401 North’s untimely renewal application absent this action. Further, the Permits Section—which according to both Ms. Dragovich and Mr. Callaway, had access to permit expiration information through the ICIS system—also apparently failed to notice that 401 North’s renewal application was untimely. More concerning, IEPA’s actions relating to 401 North were not isolated incidents, as two other facilities on the Chicago River similarly continued to operate despite failing to timely submit permit renewal applications: 222 S Riverside Plaza submitted a permit renewal application a month after its permit expired and never received a violation notice; and 333 N. Michigan Ave. operated under an expired permit for almost two years before IEPA issued a violation notice. IEPA’s apparent lack of knowledge or inaction regarding expired permits and untimely renewal applications is also troubling because this information exists within USEPA’s automated system, which IEPA has access to. For example, during his OEIG interview, Mr. Callaway noted that ICIS sends automated reminders to both IEPA and permitholders when Discharge Monitoring Reports are due. Because this information is within an automated system, IEPA should readily have the capability of monitoring or auditing this system to determine whether there has been compliance.

IEPA’s problems in enforcing permit renewal and compliance are compounded by a third issue with IEPA’s regulation of cooling water intake structures on the Chicago River: IEPA did not inspect many of the facilities on the Chicago River over the course of several permit cycles. Although Mr. Sofat said that he expected inspections of “minor” facilities to take place once per permit cycle, Messrs. [Field Inspector] and Patel said that cooling water intake systems are not a priority for inspection because they do not emit a great deal of thermal pollution. As noted above, the USEPA has identified the serious impact posed by intake structures on aquatic water life through entrainment and impingement. As confirmed by [Field Inspector] and Mr. Sofat, inspection of the intake structures on the Chicago River may have brought to light the failure of Discharge Elimination permittees to comply with these special conditions designed to identify and ameliorate the effects of intake structures on the ecosystem of the Chicago River. As it was, it appears to have taken years for IEPA to discover violations and issue notices, in part due to the lack of inspections.

During OEIG’s investigation, IEPA personnel, including Messrs. Callaway and Patel, emphasized the fact that USEPA’s focus is on major facilities, particularly when they involve significant noncompliance; these statements are confirmed by the USEPA and IEPA’s joint “Performance Partnership Agreement.” However, the fact still remains that IEPA issued permits

40 See https://www2.illinois.gov/epa/topics/compliance-enforcement/wastewater/Pages/npdes-permits.aspx (last visited Sept. 9, 2020).
to the minor facilities that imposed reporting conditions meant to help IEPA regulate the detrimental impact posed by cooling water intake systems on the aquatic ecosystem of the Chicago River. Despite imposing these conditions, for years IEPA failed to monitor those permittees for compliance, and at times allowed these facilities to operate on expired permits with no official action. These lapses are all the more troubling given that the OEIG limited its investigation to a small subset of the thousands of Discharge Elimination permits in the State of Illinois. Given statements by Messrs. Callaway and Patel regarding IEPA’s priorities with respect to inspection and enforcement, it seems likely that other minor facilities are operating on expired permits and are failing to comply with conditions imposed by their permits.

Given these deficiencies in permitting, compliance, and inspections, the allegation that IEPA failed to properly supervise Discharge Elimination permittees located on the Chicago River to ensure that aquatic life was not unduly disrupted by the operation of intake structures is FOUNDED. 41

As the IEPA Bureau of Water Chief for the past four years, Mr. Sofat is ultimately responsible for the operation of the Bureau which includes ensuring permittees are complying with program requirements. In this case, under Mr. Sofat’s direction, the Division of Water Pollution Control failed to effectively inspect permitted facilities or monitor permit compliance. Mr. Sofat acknowledged that his units “dropped the ball” on enforcing permit requirements and conditions. Although Mr. Sofat initiated an investigation into additional permit violations after discovering issues with 401 North, there has been little to no action taken to ensure that his compliance evaluation units are properly enforcing permit requirements and conditions. Accordingly, the OEIG is making a mismanagement finding against Mr. Sofat.

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG finds that THERE IS REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:

- **FOUNDED** – IEPA failed to properly monitor Discharge Elimination permittees located on the Chicago River to ensure that aquatic life was not unduly disrupted by the operation of cooling water intake structures.

- **FOUNDED** – Sanjay Sofat engaged in mismanagement by failing to ensure that the Bureau of Water, Division of Water Pollution Control conducted adequate compliance and inspection work.

The OEIG recommends taking whatever action it deems necessary with regard to Mr. Sofat. The OEIG notes that it seems likely that the aforementioned gaps in permitting, inspections, and compliance were caused, at least in part, by IEPA having a lack of sufficient resources at the time. Although Mr. Sofat said that both Compliance Assurance and Field Operations are now sufficiently staffed, the OEIG recommends that IEPA review these sections’ staffing to ensure

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41 The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.
there is a proper distribution of workload and that IEPA assess whether filling the Deputy Director position for the Division of Water Pollution Control would better ensure there is proper oversight.

The OEIG also recommends that the Division of Water Pollution Control utilize existing databases, including ICIS, to review renewal deadlines and ensure compliance with permit conditions. In addition, the OEIG recommends that IEPA develop procedures to more effectively monitor minor facilities, including ensuring that every minor facility is inspected at least once per permit cycle. Further, it appears that there was confusion between the Division of Water Pollution Control’s Permits and Compliance Assurance Sections as to who should be monitoring compliance with Discharge Elimination Permits. Accordingly, the OEIG recommends that IEPA develop a formal policy that allocates specific responsibilities to individual sections regarding detecting and investigating potential permit violations, setting forth tasks that must be completed, and providing guidelines as to how frequently these tasks are to be performed.

No further investigative action is needed, and this case is considered closed.

Date: September 24, 2020

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington Street, Ste. 3400
Chicago, IL  60602

By: Jeffrey Freeman
Assistant Inspector General #159

Steven Hochstetler
Investigator #164
Case Number: 18-01364

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☒ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

See attached letter.

☐ We will implement some or all of the OEIG recommendations but will require additional time to do so.
  We will report to OEIG within _____ days from the original return date.

☐ We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

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Signature

Deputy General Counsel, Ethics Officer

Print Name

Date

FORM 700.7

Revised March 2013
October 15, 2020

Office of the Executive Inspector General
Attn: Susan M. Haling, Executive Inspector General
69 West Washington Street
Suite 3400
Chicago, IL 60602

Re: Office of Executive Inspector General (OEIG) Complaint #18-01364-
RESPONSE TO RECOMMENDATIONS IN FINAL SUMMARY REPORT

Dear Ms. Haling,

This letter is a supplement to the Agency or Ultimate Jurisdictional Authority Response form that was provided in the above-referenced matter, and provides information concerning the actions taken to address the recommendations related to the investigation and final summary report in OEIG Complaint #18-01364 (the “Report”).

I. OEIG Report, Findings and Recommendations

The Report contains two “founded” findings, which include the OEIG’s determination that the Illinois Environmental Protection Agency (the “Illinois EPA” or “Agency”) failed to properly monitor National Pollutant Discharge Elimination System (“NPDES”) permits located on the Chicago River to ensure that aquatic life was not unduly disrupted by the operation of cooling water intake structures. The Report also found that the Bureau Chief of the Illinois EPA’s Bureau of Water, Sanjay Sofat, engaged in “mismanagement” by failing to ensure that the Bureau of Water, Division of Water Pollution Control (“DWPC”) conducted adequate compliance and inspection work. Based on these findings, the Report provides six recommendations, which are listed below:

1. The OEIG recommended that the Illinois EPA take whatever action it deems necessary with regard to Mr. Sofat.
2. The OEIG recommended that the Illinois EPA review staffing in its Bureau of Water’s Compliance Assurance Section (CAS) and Field Operations Section (FOS) to ensure there is a proper distribution of work, so that the Illinois EPA is not impaired or limited in its ability to carry out its mission due to a lack of personnel resources.
3. The OEIG recommended that the Illinois EPA assess whether filling the “Deputy Director” position for the DWPC would better ensure there is proper oversight in DWPC.
4. The OEIG recommended that the DWPC utilize existing databases, including ICIS, to review renewal deadlines and ensure compliance with permit conditions.
5. The OEIG recommended that the DWPC “develop procedures to more effectively monitor minor facilities, including ensuring that every minor facility is inspected at least once per permit cycle.”
6. The OEIG recommended that the DWPC “develop a formal policy that allocates specific responsibilities to individual sections regarding detecting and investigating potential permit violations, setting forth tasks that must be completed, and providing guidelines as to how frequently these tasks are to be performed.”

II. Illinois EPA Response to Report, Findings and Recommendations

The Illinois EPA intends to implement each of the recommendations provided in the Report, which are listed above. With regard to recommendation #1, that the Illinois EPA take whatever action it deems necessary with regard to Mr. Sofat, the Illinois EPA recognizes the acknowledgment in the Report that “it seems likely that the aforementioned gaps in permitting, inspections and compliance were caused, at least in part, by IEPA having a lack of sufficient resources at the time.” As the Report noted, there are a large number of permitted facilities in the State under the regulation of the Illinois EPA’s Bureau of Water, and both the Illinois EPA and U.S. EPA have stated that there is a need to prioritize work efforts. The Illinois EPA takes its responsibility for protecting the State’s water resources very seriously and recognizes that inspection and compliance activities that should have been addressed were not done in a timely manner. The Illinois EPA has shared the Report’s findings and recommendations with Mr. Sofat and discussed them with him, and Mr. Sofat has actively worked to implement the recommendations identified in the Report, both before and after receipt of the Report. The Illinois EPA will hold Mr. Sofat responsible for the implementation of the recommendations provided in this response and will consider if any further actions are necessary with regard to Mr. Sofat.

With regard to recommendation #2 identified above, the Illinois EPA’s senior management has been considering work responsibilities and available resources as part of developing its hiring plan over the past 1½ to 2 years, including the recommendation that the Illinois EPA review staffing in the DWPC CAS and FOS to ensure there is a proper distribution of work. The Agency will continue its efforts to ensure that these Sections have sufficient staff, so they are not impaired or limited in their ability to perform their work due to a lack of personnel resources. Likewise, in response to recommendation #3, the Illinois EPA intends to pursue hiring a Deputy Bureau Chief to assist in the oversight of the operations of the DWPC.

To address recommendation #4, the DWPC will continue to utilize existing databases, including working to enhance the capabilities and utility of such databases to review permit renewal deadlines and ensure compliance with permit conditions. To assist in implementing this recommendation, the Illinois EPA memorialized the current tools the DWPC uses for identifying significant non-compliance, including U.S. EPA’s Enforcement and Compliance History Online (ECHO) database, which the Illinois EPA uses to download reports periodically (e.g., weekly) to identify significant non-compliance in both major and minor NDPES permitted facilities. The Illinois EPA also uses the Integrated Compliance Information System (ICIS) database to target expired and untimely renewed permits, and to provide periodic reports to assist the DWPC in ensuring compliance by regulated entities, including but not limited to
providing details regarding NPDES permit status. The DWPC also identified tools that can be used to enhance the evaluation and identification of significant non-compliance, including the NPDES Early Warning Significant Non-Compliance Dashboard.

Recommendation #5 was already addressed by the Illinois EPA prior to issuance of the Report. For federal fiscal year 2020, the DWPC submitted an Alternate Inspection Plan, dated September 30, 2019, to the U.S. Environmental Protection Agency to "address effluent excursions and Significant Non-Compliance (SNC) at major and minor facilities, improve effluent quality at struggling minor municipal facilities... and improve compliance at Industrial Storm Water facilities." This Alternate Inspection Plan provides among other things the Illinois EPA's plan to inspect each "minor" facility at least once each 5-year inspection cycle, and a similar plan has been developed for federal fiscal year 2021.

For recommendation #6, practices currently exist for the DWPC Permits Section to notify CAS concerning permit violations to allow CAS to ensure appropriate enforcement measures are taken. These existing practices for detecting, evaluating and resolving permit violations have been memorialized and future enhancements for improving these practices have been identified as well. A policy was developed for both the CAS and the Permit Section to ensure appropriate implementation of these practices and improvements. For example, the DWPC Permit Section has an existing informal practice of providing CAS with a list of municipal NPDES permit applications that are not submitted in a timely manner. Going forward, the DWPC Permit Section intends to implement a policy through which both unit managers within the Permit Section will notify CAS monthly when NPDES permits are not submitted timely. This list will include both major and minor NPDES permits and any NPDES permits expiring within the next 210 days.

If you have any questions or if any additional information is needed, please let me know.

Sincerely,

[Signature]

John J. Kim
Director
IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE:    SANJAY SOFAT  )  # 18-01364

RESPONDENT’S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

☑️ Below is my public response. Please make this response public if the summary report is also made public; or

☐ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

[Signature]
Respondent’s Signature

12/16/2020
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

EFC.CMS@illinois.gov
Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

See Attached.
December 16, 2020

EEC.CMS@illinois.gov
Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm Stratton Building
Springfield, IL 62706

RE: Sanjay Sofat #18-01364

To Whom it May Concern:

Please consider this my response to the summary report for OEIG case #18-01364, which I understand that the Executive Ethics Commission intends to publish.

In the summary report, it was deemed that I engaged in mismanagement by failing to ensure that my staff conducted adequate compliance and inspection work. To that, I respond as follows:

By way of background, the United States Environmental Protection Agency (USEPA) has traditionally required states to focus on enforcing significant non-compliance occurring at the major dischargers only. In 2018, USEPA’s National Compliance Initiative (NCI) shifted its focus to reducing the significant non-compliance at all individually permitted National Pollutant Discharge Elimination System (NPDES) facilities, irrespective of their size.

The Illinois Environmental Protection Agency’s Division of Water Pollution Control (DWPC) oversees over 10,000 state and NPDES permits. Of the approximately 10,000 permits, there are 1,453 individual NPDES permits. Over the past five years, the DWPC has effectively developed and utilized a Significant Non-Compliance Reduction Action Plan. This Action Plan consists of four components—notification, compliance assistance, training, and enforcement. Each component employs proactive and reactive strategies. This Action Plan has enabled the DWPC to achieve a significant reduction in SNC rate of nearly 20%. Specifically, in FFY2015-Q3, 461 (30.8%) individual NPDES permits were determined to be in SNC. Currently, in FFY2020-Q4, there are only 169 (11.5%) individual NPDES permits that are significantly non-compliant. Therefore, Illinois is well below USEPA Region 5’s annual target of 15.2% for 2020, and is trending downwards. The national average for individual NPDES permits stands at 15.9%.

To put the violation notice at 401 North into context, it is important to understand that DWPC learns of violations through a variety of ways—inspections, citizen complaints, self-disclosure, internal document reviews, the permitting process, and even occasionally, media reports. In this particular case, DWPC learned about the violation at 401 North during the permit renewal process. While my preference certainly would have been for this violation, and the other similarly situated violations, to have been addressed during the ordinary course of internal business, it was not. In this instance, public comments received by the permits section allowed for an additional opportunity to review and appropriate action was taken.

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1 USEPA Enforcement and Compliance History Online, last accessed 12/16/2020.
Despite the delay in issuing the violation notice as reference in the OEIG report, a violation notice was ultimately issued, and an enforcement action initiated. In addition, following this discovery, and a subsequent expedited file review, I directed my staff to identify any similarly situated locations as the 401 North location, and issue violation notices to those locations. No special treatment was extended to the 401 North site or any other locations.

I consider myself very fortunate to work for the people of Illinois, and I take very seriously my responsibility to do the best for them and for the environment. I have already implemented a number of the suggestions offered in the summary report, before having been privy to its recommendations. I am committed to working even harder to ensure the DWPC takes all necessary steps to avoid these issues in the future.

Thank you for the opportunity to provide my response.

Respectfully,

Sanjay K. Sofat