

Federal District Rules Clean Water Act Claim Not Viable Against Village

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(Originally published at: <http://illinoisenvironmentallaw.blogspot.com/2010/11/federal-district-rules-clean-water-act.html>)

The U.S. District Court for the Northern District of Illinois recently granted a motion to dismiss in *Lobrow v. Village of Port Barrington, Case No. 10 C 3004*, a case in which the plaintiff alleged that a subdivision was developed without required wetlands permits under Clean Water Act section 404.

Citing the Seventh Circuit's decision in *Froebel v. Meyer*, 27 F.3d 928 (7th Cir. 2000), the district court ruled that the village defendant could not be held liable under Section 404, just because the village may have owned the property at the time of development. Moreover, the court held that the village could not be held liable because it "conspired" with the developer to accomplish the Clean Water Act violation.

The court concluded that the plaintiff did not allege a viable claim under the Clean Water Act: "Because plaintiff has not alleged that the Village of Port Barrington discharged dredged or fill material into the Deer Grove wetlands, she has not stated a viable CWA claim against it." The Court dismissed the claim without prejudice and granted plaintiff leave to file an amended complaint.

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