

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

FILED

OCT 12 2023

Joseph B. Polesak 13
Clerk of the
Circuit Court

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
CITY WATER, LIGHT AND POWER,)
a municipal utility owned and operated)
by the City of Springfield,)
)
Defendant.)

2023CH000039

No.

AGREED INTERIM ORDER

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and the Defendant, CITY WATER, LIGHT AND POWER, a municipal utility owned and operated by the City of Springfield, (“Parties”), stipulate and agree to the entry of an Agreed Interim Order (“Order”) by this Court as follows:

I. BACKGROUND

1. Defendant operates a filtration plant and power generation station that provides drinking water and electric power and is located at 3100 Adlai Stevenson Drive, Springfield, Sangamon County, Illinois (“Facility”).

2. Concurrently with this Order, Plaintiff filed a Complaint for Injunctive Relief and Civil Penalties (“Complaint”), pursuant to Section 42(d) and (e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(d) and (e) (2022) (“Act”), against the Defendant, alleging that the

Defendant caused or allowed violations of the Act, Illinois Pollution Control Board Regulations, and Defendant's Clean Air Act Permit Program ("CAAPP") Permit 95090091.

3. On August 31, 2021 ("August 31 Incident"), CWLP employees rolled back a valve on a dry fly ash silo in order to remove a bag that had fallen into the silo. Fly ash began flowing out of the silo, filled the room preventing the CWLP employee from placing the valve into position, and caused a release of fly ash into the atmosphere.

4. Plaintiff contends that the Defendant has violated the following provisions of the Act, Board Regulations, and conditions of the CAAPP Permit 95090091:

- Count I: Failure to Operate Control Devices in Accordance with Good Air Pollution Control Practices – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.3-1(c)(ii) of CAAPP Permit 95090091
- Count II: Exceedance of Opacity Limit – Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 39.5(6)(a) (2022), and Condition 7.7.3-3(a) of CAAPP Permit 95090091
- Count III: Visibility of Fugitive PM Emissions – Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 39.5(6)(a) (2022), Section 212.301 of the Board's Regulations, 35 Ill. Adm. Code 212.301, and Condition 7.7.3-3(b) of CAAPP Permit 95090091
- Count IV: Exceedance of Hourly Emission Limits – Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 39.5(6)(a) (2022), Section 212.321 of the Board's Regulations, 35 Ill. Adm. Code 212.321, and Condition 7.7.3-3(c) of CAAPP Permit 95090091
- Count V: Failure to Implement and Maintain Emission Control Measures – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(i) of CAAPP Permit 95090091
- Count VI: Exceedance of Annual PM Emission Limits for Ash Handling Units – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(a) of CAAPP Permit 95090091
- Count VII: Failure to Implement and Maintain Emission Control Measures – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(ii) of CAAPP Permit 95090091

- Count VIII: Exceedance of Hourly PM Emission Limits for Ash Handling Units – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(b) of CAAPP Permit 95090091
- Count IX: Failure to Keep Records of Bulk Material – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(d) of CAAPP Permit 95090091
- Count X: Failure to Keep Inspection and Maintenance Logs – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(e) of CAAPP Permit 95090091
- Count XI: Failure to Record Method 9 Opacity Observations – Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(h) of CAAPP Permit 95090091

II. GENERAL PROVISIONS

5. This Order is not a final resolution on the merits of the Complaint filed herein, but rather addresses the Plaintiff's most immediate concerns alleged in the Complaint.

6. This Order shall apply to and be binding upon the Plaintiff and the Defendant, and any officer, director, agent, partner, or employee of the Defendant, as well as any successors, heirs, purchasers, or assigns of the Defendant. The Defendant waives as a defense to any enforcement action taken pursuant to this Order the failure of any of its officers, directors, agents, partners, employees, successors, or assigns to take such action as shall be required to comply with the provisions of this Order.

7. No change in ownership, corporate status, or operator of the Facility shall in any way alter the responsibilities of the Defendant under this Order. In the event of any conveyance of title, easement, or other interest in the Facility, the Defendant shall continue to be bound by and remain liable for performance of all obligations under this Order. In appropriate circumstances, however, the Defendant and a proposed purchaser or operator of the Facility may jointly request, and the Plaintiff, in its discretion, may consider, modification of this Order to obligate the proposed

purchaser or operator to carry out future requirements of this Order in place of, or in addition to, the Defendant.

III. ACTIONS TO BE UNDERTAKEN BY DEFENDANT

8. Within thirty (30) days of entry of this Order, Defendant shall submit documentation detailing the amount of fly ash hauled offsite for disposal, and where the fly ash was deposited.

9. Within thirty (30) days of entry of this Order, Defendant shall calculate and submit estimated emissions of fly ash into the atmosphere, and provide a written explanation of how the emission factor used in the calculation is the best available methodology to reflect the type of emissions that occurred, including but not limited to emissions generated by the event itself, by material drifting from the fly ash once it was on the ground, and by loading fly ash into trucks for offsite disposal.

10. Within thirty (30) days of entry of this Order, Defendant shall submit a detailed written explanation of the current fly ash silo setup, accounting for all butterfly and knife gate valves identified on the Piping and Instrument Design, as well as the baghouse/filtration unit located on top of the silo.

11. Within thirty (30) days of entry of this Order, Defendant shall submit a detailed written explanation of all loadout activities conducted on August 31, 2021, including activities that occurred before the fly ash release.

12. Within thirty (30) days of entry of this Order, Defendant shall submit a detailed written explanation of all actions, repairs, and maintenance attempted on August 31, 2021, to resolve the clogged pipe before valve removal.

13. Within thirty (30) days of entry of this Order, Defendant shall submit a detailed written explanation of all alternative repair and maintenance options that existed on August 31, 2021, to resolve the clogged pipe without releasing fly ash in a manner like the August 31 Incident.

14. Within thirty (30) days of entry of this Order, Defendant shall submit all documentation to support Method 9 observations from August 31, 2021.

15. Within thirty (30) days of entry of this Order, Defendant shall submit photos of the silo interior and baghouse/filtration unit interior, with an explanation of how a bag could be dropped into the silo from the top.

16. Within thirty (30) days of entry of this Order, Defendant shall immediately begin documenting Method 9 observations as required by CAAPP Permit 95090091.

17. Within thirty (30) days of entry of this Order, Defendant shall immediately begin documenting Dallman 4 inspections as required by CAAPP Permit 95090091, including obtaining all necessary reviews and signatures, and conducting and recording Method 9 and Method 22 observations.

18. Within thirty (30) days of entry of this Order, Defendant shall immediately begin documenting the amount of fly ash in the silo and the amount of fly ash hauled offsite for disposal, as required by CAAPP Permit 95090091.

IV. NOTICES AND SUBMITTALS

18. The submittal of any documents required under this Order shall be delivered to the following designated representatives:

As to the Plaintiff

Christina Nannini
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office

500 South Second Street
Springfield, Illinois 62701

Anupama Paruchuri
Assistant Counsel, Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Defendant

Deborah J. Williams
Regulatory Affairs Director
City of Springfield, Office of Public Utilities
800 E. Monroe, 4th Floor
Springfield, Illinois 62701

PJ Becker
Environmental Health and Safety Manager
City of Springfield Office of Public Utilities
3100 Stevenson Drive
Springfield, Illinois 62712

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

19. This Order in no way affects the responsibilities of Defendant to comply with any other federal, state, or local laws or regulations, including but not limited to the Act and Board regulations.

VI. MODIFICATION

20. This Order is a binding and enforceable order of this Court. This Court shall retain jurisdiction of this matter and shall consider any motion by any party for the purposes of interpreting and enforcing the terms and conditions of this Order. The Defendant agrees that notice of any subsequent proceeding to enforce this Order may be made by mail and waives any requirement of service of process.

21. The Parties to the Order may, by mutual written consent, extend any compliance dates or modify the terms of this Order without leave of this Court. A request for any modification shall be made in writing and submitted to the designated representatives. Any such request shall be made by separate document and shall not be submitted within any other report or submittal required by this Order. Any such agreed modification shall be in writing and signed by authorized representatives of each party, for filing and incorporation by reference into this Order.

VII. DISPUTE RESOLUTION

22. The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Order, informally and in good faith. If, however, a dispute arises concerning this Order that the parties are unable to resolve informally, either party may, by written motion, request that an evidentiary hearing be held before the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois, to resolve the dispute between the parties.

VIII. RESERVATION OF RIGHTS

23. Plaintiff reserves the right to seek additional compliance activities, civil penalties, and cost recovery in this matter.

WHEREFORE, the Parties, by their representatives, enter into this Agreed Interim Order and submit it to the Court that it may be approved and entered.

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AGREED:

FOR THE PLAINTIFF:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the
State of Illinois

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

BY: Andrew Armstrong
ANDREW ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

DATE: 10/11/2023

FOR THE DEFENDANT:

BY: MJ Baud GEM

DATE: Oct. 5, 2023

ENTERED:

MJ
JUDGE

DATE: 10/12/23