BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SIERRA CLUB, PRAIRIE RIVERS NETWORK, and NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,	)	
Complainants,	)	
v.	)	PCB 18-11 (Enforcement – Water)
CITY OF SPRINGFIELD, OFFICE OF PUBLIC UTILITIES d/b/a CITY WATER, LIGHT AND POWER	)	
Respondent.	)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed a true and correct copy of **COMPLAINANTS' SECOND PREHEARING MEMORANDUM** via electronic mail to the parties listed on the attached service list before 5:00 p.m.

.

Respectfully submitted,

Faith E. Bugel

Faith E. Bugel
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Attorney for Sierra Club

Dated: October 7, 2026

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STATEMENT OF THE CASE

Sierra Club, Prairie Rivers Network, and National Association for the Advancement of Colored People ("NAACP") (collectively "Complainants") file this pre-hearing memo to outline the appropriate remedies for the violations of the Illinois Environmental Protection Act found by the Illinois Pollution Control Board ("Board") in its September 7, 2023 order and to introduce the evidence that will be presented by the Complainants in the hearing on remedies.

I. Summary of the Findings of the Board.

In its order of September 7, 2023, the Board found that the City of Springfield, Office of Public Utilities d/b/a City Water, Light and Power ("CWLP") violated 415 ILCS 5/12(a) and Sections 620.115, 620.301(a) and 620.405 of the Board's groundwater rules from 2010 through 2017. PCB 2018-11, Interim Opinion and Order of the Board at 1 (Sep. 7, 2023) (hereinafter "2023 Bd. Order"). The Board found that "CWLP's . . . (2018-2022) . . . self-reported groundwater monitoring results for monitoring wells AP-1, AP-2R and AP-3," as submitted by the Complainants, "continue[d] to show exceedances of the Class I GWQS for boron, sulfate,

and [total dissolved solids ("TDS")] as well as CWLP's background values." 2023 Bd. Order at 7 (citing Exhibit B of Complainants' June 24, 2022 renewed motion for partial summary judgment).

On May 25, 2022, "the parties agreed not to put additional evidence on the issue of whether exceedances of the Class I or Class II groundwater quality standards for arsenic, chromium, iron, lead, and manganese at certain downgradient monitoring wells (AP-1, AP-1R, AP-2, AP-2R, AP-3, or AW-3) at concentrations less than their corresponding background levels were caused by the Dallman or Lakeside surface impoundments nor do they seek a finding from the Board on this issue." 2023 Bd. Order at 6. Importantly though, the agreement of the parties was specifically limited to the identified wells and only when concentrations were less than background.

The Board ultimately found that there was "no genuine issue of material fact that [certain] contaminants ha[d] been detected in 'groundwaters,' which are . . . 'waters' of the State." 2023 Bd. Order at 5 (quoting PCB 2018-11, Interim Opinion and Order of the Board at 23, 26 (Jun. 17, 2021)). The Board also found that there was "no genuine issue of material fact that CWLP allowed releases from one or both impoundments resulting in elevated contaminant levels" at the identified wells. *Id.* The Board concluded that "CWLP violated Section 12(a) of the [Illinois Environmental Protection] Act [415 ILCS 5/12(a))] and Sections 620.115, 620.301(a) and 620.405 of the Board's groundwater rules [35 Ill. Adm. Code 620.115, 620.301(a), 620.405] for the discharge of boron, sulfate, and TDS. Those discharges occurred at monitoring wells AP-1R, AP-2, AP-2R, and AP-3." 2023 Bd. Order at 9.

CWLP has since argued that Complainants are precluded from obtaining a cease-and-desist order ("injunctive relief" according to CWLP) because, as of March 28, 2025, 35 Ill. Adm. Code

Part 845 supplanted Part 620 as it applies to sites with coal combustion residual surface impoundments. The Board and the Hearing Officer both denied CWLP's motion on this point. PCB 2018-11, Order of the Board at 3 (Jan. 22, 2026) ("The Board finds the hearing officer correctly denied the motion and affirms that denial."); *see also* PCB 2018-11, Hearing Officer Order (Nov. 5, 2025). Importantly, the Board found ongoing liability for Section 12(a) violations, which are based on multiple lines of evidence including but not limited to Part 620 violations. PCB 2018-11, Order of the Board at 2 (Jan. 22, 2026). Thus, Complainants are seeking a cease-and-desist order for not only Part 620 violations but also for Section 12(a) violations.

II. Relief Sought to Prevent Further Violations and Damage to Public Health and the Environment.

To remedy the violations found by the Board, Complaints are seeking excavation of the coal combustion residuals ("CCR") in and around both Lakeside and Dallman CCR surface impoundments with beneficial reuse or removal of the excavated CCR. Any proposed remedy must meet the performance standard for CCR closures contained in Illinois CCR rules. 35 Ill. Admin. Code Section 845.750(a)(1). The Illinois Rules further require an owner or operator of a CCR surface impoundment to "ensure that, at a minimum, the CCR surface impoundment is closed in a manner that will: 1) Control, minimize or eliminate, to the maximum extent feasible, post-closure infiltration of liquids into the waste and releases of CCR, leachate, or contaminated run-off to the ground or surface waters or to the atmosphere . . . ." *Id.* Complainants' proposed remedy of excavating ash with beneficial reuse or disposal of excavated ash in a landfill capable of minimizing contact between ash and water and containing ash contaminants would meet the requirements of both Illinois CCR rules. Excavating ash with either beneficial reuse or removal would: (1) eliminate the source of groundwater and surface water contaminants, (2) eliminate the

risk of release to the environment in the event of flooding, and (3) eliminate years of site monitoring and maintenance costs.

The law applicable to remedies is spelled out in the Illinois Environmental Protection Act. 415 ILCS 5. Regarding remedies, 415 ILCS 5/33(c) provides that:

> In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:
> (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
> (ii) the social and economic value of the pollution source;
> (iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
> (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
> (v) any subsequent compliance.

However, not all of the Section 33(c) factors are applicable here because the pollution at issue is almost exclusively the legacy of previous economic activity that has already occurred. For instance, consideration of social or economic value can only apply to Dallman Unit 4 because it is the only unit still operating. Even so, none of the coal ash ponds at this site are used for active ash management. Therefore, any remaining social or economic value from the still-operating Dallman Unit 4 is not relevant to the question of cleaning up legacy coal ash because Complainants are not seeking retirement the Dallman 4 coal-fired boiler as part of the remedy in this case. While the coal combustion waste remains at the sites and continues to inflict injury on public health and the environment, whatever positive value there was in past operation of the coal-fired boilers that might be considered by the Board is simply no longer present and need not be considered in shaping a remedy.

Also, as to Section 33(c)(iv), CWLP’s financial condition is likewise not a primary consideration in the determination of economic reasonableness of a remedy, because Section

33(c)(iv) does not consider the financial capacity of the Respondent. 415 ILCS 5/33; *Allied Metal Co. v. Illinois Pollution Control Bd.*, 22 Ill. App. 3d 823 (1974); *Allaert Rendering, Inc. v. Illinois Pollution Control Bd.*, 91 Ill. App. 3d 153 (1980); *Freeport v. Pollution Control Bd.*, 187 Ill. App. 3d 745 (1989). To be clear, financial hardship alone is not determinative under Section 33(c) of whether Complainants' requested remedy is economically reasonable.

Electronic Filing: Received, Clerk's Office 10/07/2026

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FINAL WITNESS LIST AND ORDER OF WITNESSES

Complainants propose calling these witnesses in the order in which they appear below.

1. Caroline Weinberg
2. Eric Staley
3. P.J. Becker
4. Brad J. Hunsberger

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FINAL EXHIBIT LIST

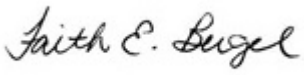
Complainants reserve the right to identify further evidence and exhibits for cross-examination, impeachment, or rebuttal. Complainants reserve the right to use exhibits admitted through an earlier witness with a subsequent witness without referencing or repeating them on Complainants' exhibit list. Complainants reserve the right to use exhibits introduced by Respondent.

	Exhibit Title	**Bates Number**	**Date**	**Witnesss**	**Obj.**
1.	30.02: Draft Letter to IEPA re sample list	CWLP 27126 - 27127	January 9, 2018	Staley	N
2.	Q1 2026 Notification of Exceedances	2 pp, no Bates	July 15, 2026	Staley	N
3.	4.03: Letter to Darin LeCrone	CWLP- 00986-00987	January 11, 2018	Becker	N
4.	4.07: Letter to Andrea Rhodes, Michael Crumly re Violation Notice	CWLP-01116-01119	April 2, 2014	Becker	N
5.	4.08: Letter re Meeting Scheduled re Violation Notice	CWLP - 01120	April 11, 2014	Becker	N
6.	4.09: Letter Confirming Meeting Held re Violation Notice	CWLP - 01121	April 23, 2014	Becker	N
7.	4.10: Letter to IEPA Proposing CCA	CWLP - 01122 - 01125	May 12, 2014	Becker	N

8.	2022 State Annual Groundwater Monitoring Report	44 pp, no Bates	Jan. 2023	Becker	N
9.	2023 State Annual Groundwater Monitoring Report	394 pp, no Bates	Jan. 2024	Becker	N
10.	2024 State Annual Groundwater Monitoring Report	491 pp, no Bates	Jan. 2025	Becker	N
11.	2025 State Annual Groundwater Monitoring Report	552 pp, no Bates	Jan. 2026	Becker	N
12.	2025 Federal Annual Groundwater Monitoring Report	515 pp, no Bates	Jan. 2026	Becker	N
13.	5.23: Part 1 & 2: USEPA Notice of Violations - Dallman and Lakeside Ash Ponds	CWLP - 30494-30621	Nov. 28, 2022	Becker	N
14.	5.25: Notice of Violation for Landfill	CWLP - 30633-30678	July 6, 2023	Becker	Yes, Relevance
15.	5.26: Signed Letter: USEPA Notice of Violations - Dallman and Lakeside Ash Ponds and 5.27: Attachment A: Notice of Violation for Closure	CWLP 30679-30704	Oct. 4, 2023	Becker	N
16.	5.29: RCRA Consent Agreement and Final Order	CWLP - 30706 - 30807	January 13, 2025	Becker	N
17.	40 CFR 257	155 pp, no bates	None	Hunsberger	N
18.	4.06: IEPA Violation Notice	CWLP-01110-01115	Feb. 20, 2014	Hunsberger	N
19.	4.12: Letter to Alan Keller, IEPA Permit Section	CWLP 01127 - 01168	May 30, 2012	Hunsberger	N
20.	30.1: Letter to Sue Corcoran re Groundwater Evaluation/Investigation at the Facility Ash Impoundments	CWLP 27096 - 27125	Mar. 17, 2014	Hunsberger	N

21.	35 Ill. Admin. Code Part 845	142 pp, no Bates	None	Hunsberger	N
22.	35 Ill. Admin Code Part 620	82 pp, no Bates	None	Hunsberger	N

Respectfully submitted,



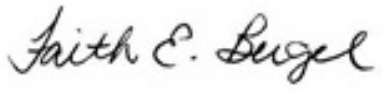
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CERTIFICATE OF SERVICE

The undersigned, Faith E. Bugel, an attorney, certifies that I have served electronically upon the Clerk and by email upon the individuals named on the attached Service List a true and correct copy of **COMPLAINANTS SECOND PREHEARING MEMORANDUM** before 5 p.m. Central Time on October 7, 2026 to the email addresses of the parties on the attached Service List. The entire filing package, including exhibits, is 12 pages.

Respectfully submitted,



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PCB 2018-11

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