OFFICE OF PUBLIC UTILITIES
CITY OF SPRINGFIELD, ILLINOIS

J. MICHAEL HOUSTON, MAYOR

VIA CERTIFIED MAIL

Ex. 35

May 12, 2014

Ms. Andrea Rhodes
Mr. Michael Crumly
Illinois Environmental Protection Agency
Division of Public Water Supplies, CAS #19
P.O. Box 19276
Springfield, IL 62794-9276

Re: Violation Notice No.: W-2014-00002
Facility No.: IL 1671200
(Springfield—City Water, Light & Power)

Dear Ms. Rhodes and Mr. Crumly,

This is written on behalf of the City of Springfield, Office of Public Utilities, City Water, Light & Power (CWLP) regarding the above-referenced Violation Notice (VN) received by Mayor Houston on February 25, 2014.

CWLP submitted a response to the VN on April 2, 2014 that included a proposed Compliance Commitment Agreement (CAA) and requested a meeting with the Agency to discuss. As you know, the meeting with the Agency was held on April 22, 2014 and CWLP received additional correspondence on the VN on April 23, 2014. This letter is the proposed terms for the CCA and meeting response as requested by the Agency per the April 23, 2014 letter.

The VN alleges that operations at CWLP's ash impoundments have resulted in exceedances of Groundwater Quality Standards in four (4) groundwater monitoring wells; more particularly that the Groundwater Quality Standard for boron has been exceeded in four (4) of these wells, and that one (1) well (AP-1R) also has exceeded the Groundwater Quality Standards for Sulfate and for TDS for sampling conducted by CWLP in 2012 and 2013. Boron is alleged to have exceeded the standard of 2.0 mg/L in well AP-2 with a sample value of 2.63 mg/L once (1x) in 2010. Well AP-2R is alleged to have eight (8) exceedances for boron in 2012 and 2013, with well AP-3 alleged to have eight (8) exceedances for boron in 2012 and 2013, and one in 2010.

As you know, these monitoring wells were voluntarily installed and sampled, and the results submitted to the Agency by CWLP pursuant to a groundwater monitoring plan voluntarily filed with the IEPA for approval (and approved) pursuant to the Agency's request to CWLP as part of its Ash Impoundment Strategy. CWLP engaged Stabilize, Inc., which designed a plan to characterize the local hydrogeologic conditions specific to the impoundments, evaluate the potential for migration from the impoundments and identify potable water supply wells with

2,500 feet of the impoundments. Results were submitted to the Agency in August 2010 (with no potable water supply wells found within 2,500 feet). Subsequently, the Illinois EPA required the submittal of a Groundwater Monitoring Program, which included the proposed locations for the installation of an additional background well and replacement of two downgradient wells. The subject Groundwater Monitoring Program was designed by Andrews Engineering, Inc. and submitted to the Illinois EPA on November 18, 2011. The Groundwater Monitoring Program was approved December 29, 2011.

CWLP appreciates the Agency's efforts both before the VN and in the future to work with CWLP toward an acceptable and as cost-effective solution as possible to the issue of groundwater exceedences. The solution will be consistent with the steps of a scientific process to ensure that the groundwater and hydrogeologic conditions are properly investigated and assessed, and to determine appropriate mitigation activities. As explained above, CWLP had been voluntarily engaged with the Agency in that process when the VN was issued.

Toward that end and consistent with Section 31(a)(2) of the Environmental Protection Act (Act), CWLP proposed to enter into a Compliance Commitment Agreement (CCA) with the Agency (as suggested in more detail below) and requested a meeting with the Agency to discuss the VN and CWLP's CCA proposal. As you know, CWLP has been participating in the rulemaking proceeding underway before the Illinois Pollution Control Board (IPCB) that would formalize a process for ash impoundment assessments for the protection of groundwater. CWLP's CCA proposal takes into consideration our Groundwater Monitoring Program already approved by the Agency and the steps that have been underway, proposing additional investigation in a manner that would not require CWLP to engage in unnecessary costly duplicative consulting services once the regulations in R14-10 become final. CWLP notes that the VN did not set forth suggested mitigation activities or a suggested timeline toward compliance, and therefore suggests the next steps as follows:

Proposed CCA: Complete additional activities to investigate and assess the extent of concentrations exceeding the applicable standards and/or the background concentrations to the groundwater, based on available and ongoing groundwater monitoring results, potentially addressing the conditions in 35 Ill. Adm. Code 620.250. Within 45 days of the Agency's acceptance of CWLP's CCA, CWLP will submit an approvable assessment monitoring plan to the Agency for review which defines the subject activities. It is assumed the Illinois EPA will provide a response to the assessment plan within 30 days.

Phase 1

- The approvable assessment monitoring plan will identify what parameters must be tested, by identifying the constituents of concern (COC);
- CWLP expects that the assessment monitoring plan would require approximately 8-10 Geoprobe borings located along the periphery of the specific affected monitoring wells, which may include areas across the creek (north and/or west);
- Discreet groundwater samples will be collected and analyzed from each borehole for each COC;
- One-inch piezometers may also be placed in borings where such data are deemed necessary or relevant for possible subsequent work;
- If the extent of concentrations exceeding the applicable limits is not defined during the first phase of drilling, additional phases shall be conducted until the extent is defined;

- CWLP will provide a written report to the Bureau of Water detailing the results of the assessment activities.

Phase 2

- Subsequent to identifying the extent of COC exceedences attributable to the impoundment(s), a Groundwater Management Zone (GMZ) shall be established within one (1) year of the Agency's acceptance of CWLP's CCA.
- As part of the establishment of the GMZ, potential corrective actions will be evaluated for implementation to control and/or mitigate the COC exceedences. Potential compliance options that may be considered after the extent of elevated concentrations has been determined are set forth below. The timetable for the potential compliance options listed below is difficult to set forth at this time; however, CWLP has estimated the time needed to perform each activity upon initiating.
    - Establishing a CWLP site-specific rule or an adjusted standard (Illinois Pollution Control Board) for alternative groundwater standards for COC(s) (timetable – one (1) year from initiating). An adjusted standard pursuant to 415 ILCS 5/28.1 may not require corrective action, dependent upon the content of the Adjusted Standard Petition;
    - Groundwater extraction and discharge via outfall 004 and/or to the Springfield Metro Sanitary District (timetable – two (2) years from initiating);
    - Installing a dry fly-ash handling system on Dallman Unit 33 (timetable – four (4) years from initiating);
    - Dredge portion of the Dallman ash impoundment and retrofit with compliant liner. Close and cap unused portion of Dallman ash impoundment (timetable – six (6) years from initiating).

Pursuant to statements by Illinois EPA personnel during the April 22, 2014 meeting, Phase I activities as originally proposed (and re-proposed here) are acceptable toward the CCA, but required follow-up activities to address the exceedances. At that meeting Illinois EPA personnel also stated that active remediation (pump and treat or the installation of a barrier wall) will not be required unless elevated concentrations are migrating off site or impacting a water supply. Neither appears to be occurring at the subject facility. The Phase 1 assessment monitoring will provide additional data on these issues.

CWLP will assess the effectiveness of the above referenced potential corrective actions for the ability of the action to improve the groundwater quality with respect to the identified COCs. CWLP shall provide the Bureau of Water written notification of the selected corrective action with accompanying justification for such selection. The Bureau of Water will provide approval of the selection prior to corrective action implementation by CWLP. A construction report shall be submitted upon completion of the corrective action.

Summary

Following is a summary of the anticipated tasks and related timelines leading up to implementation of corrective action. Dates that are dependent upon fieldwork may vary.

1. May 13, 2014 – submittal of the CCA to the Illinois EPA.
2. June 12, 2014 – Illinois EPA approval of the CCA.
3. July 27, 2014 or 45 days from Illinois EPA approval of CCA – CWLP submits the assessment plan to the Illinois EPA for approval.

4. August 26, 2014 – Illinois EPA approves the assessment plan.

5. November 15, 2014 or 80 days from Illinois EPA approval of the assessment plan – CWLP provides results of the assessment to the Illinois EPA.

6. April 15, 2015 or 150 days from the above referenced task – CWLP provides notification of selection of corrective action and accompanying information to the Illinois EPA.

7. Timetable for implementation and completion of corrective action dependent upon the results of the foregoing assessment monitoring and other activities.

CWLP may request meetings with the Bureau of Water during the process to discuss preliminary findings and possible conclusions. CWLP believes that it has provided an aggressive timetable here for addressing the groundwater exceedances discovered through its voluntary participation in the Illinois EPA's Ash Impoundment Strategy. As explained at the meeting, CWLP is disappointed and believes it unrealistic and outside the terms and intent of Section 31 of the Act to require corrective action for groundwater exceedances to be complete within one (1) year, in order to avoid referral to the Attorney General, as the Illinois EPA appeared to say is the only timetable in which a CCA will be accepted. CWLP respectfully requests reconsideration of such limitation.

CWLP reserves its right under Section 31 to amend or add to this response. Please contact me if you have any questions or need additional information. I can be reached at: (217)789-2116 (ext. 2628) or at: Christine.zeman@cwlp.com. Thank you.

Sincerely,

Christine Zeman
Regulatory Affairs Director

Cy: PJ Becker
Sue Corcoran