



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
GRAND RAPIDS DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

November 13, 2020

VIA EMAIL AND U.S. MAIL

Mr. Dave Walters
Grand Haven Board of Light and Power
1700 Eaton Drive
Grand Haven, MI 49417

Dear Mr. Walters:

SUBJECT: JB Sims Request for Mixing Zone Authorization

The Michigan Department of Environment Great Lakes and Energy (EGLE) is in receipt of the submitted document "Request for Mixing Zone Based Criteria Inactive J.B. Sims Generating Station 1231 N 3rd St, Grand Haven, MI 49417."

Though the submitted document is proposed as a remedy/remedial mechanism under state law for impacted groundwater from Units 1/2, the proposed actions also purport to address groundwater contamination from Units 3A/3B. EGLE, therefore, considers this as a request for both Unit 1/2 and Unit 3A/3B. This request for a mixing zone-based criteria is premature and EGLE is unable to approve or deny the request for the reasons outlined below.

Grand Haven Board of Light and Power's (GHBLP) request for a mixing zone-based criteria is based on its proposal to leave coal ash in place in Unit 1/2. Regarding state law requirements, if GHBLP opts to close Units 1/2 with coal ash in place, GHBLP is subject to the closure requirements in Part 115 for Type III landfills, including the groundwater monitoring requirements applicable to Type III landfills in the Part 115 rules including R. 299.4906. GHBLP's request for a mixing-zone based criteria is premature because it has not taken necessary steps under Part 115 and the Part 115 rules, including but not limited to, meeting the groundwater monitoring requirements, for closure in place for Unit 1/2 that would allow EGLE to review the request. Additionally, GHBLP should bear in mind that regardless of its requests under state law, Unit 1/2 is subject to the federal coal ash combustion residuals program requirements in 40 CFR 257, including its closure requirements.

Furthermore, on December 28, 2018, Public Act 640 was put into effect subjecting the JB Sims coal ash impoundments, Unit 3A/3B, to the coal ash requirements in Part 115, including the groundwater monitoring requirements. GHBLP indicated on its CCR Rule Compliance public facing website that it is utilizing a multiunit groundwater monitoring system, which is different than if each unit at the facility was monitored by separate groundwater monitoring plans. If a multiunit groundwater monitoring system under R 299.4906 detects constituents over groundwater protection standards, then all units are subject to assessment monitoring under R. 299.4441. This also means that both Units 3A/3B and 1/2 are subject to R. 299.4440 to R 299.4445. Consistent with that requirement, on May 15, 2018 GHBLP submitted a notice of assessment monitoring on their public facing website for the multiunit monitoring system, which includes both units 3A/3B and 1/2.

GHBLP's request for a mixing zone-based criteria is premature because it has failed to take statutorily required steps when a groundwater monitoring systems detects constituents over groundwater protection standards. As stated above, though GHBLP's was submitted as a request for Unit 1/2, the request for a mixing zone-based criteria also purports to address groundwater contamination from Unit 3A/3B. Under the coal ash requirements applicable to Unit 3A/3B, once the assessment monitoring requirements are triggered, Part 115 requires that an owner/operator submit a Response Action Plan. Sec. 11519b(2) states,

If the detection monitoring required in sections 11511a(3), 11512a(1), and 11519a(1)(h) confirms a statistically significant increase over background for 1 or more of the constituents listed in section 11511a(3), the owner and operator of a coal ash landfill or coal ash impoundment shall comply with R 299.4440 and 299.4441 of the Part 115 rules, including, as applicable, conducting assessment monitoring and preparation of a response action plan in compliance with R 299.4442 of the Part 115 rules.

According to analytical results and the GHBLP CCR Rule Compliance public facing website, the site has entered assessment monitoring. According to the GHBLP website, a notice of assessment monitoring was placed in the operating record on May 15, 2018, yet EGLE has not yet received a Response Action Plan as required by Sec. 11519b (2) and R 299.4442 of Part 115. This Response Action Plan is necessary for EGLE to be able to review GHBLP's request for a mixing zone-based criteria.

Additionally, for coal ash impoundments that require a Response Action Plan as detailed above, additional requirements in the Part 115 rules must be met. Specifically, section 11519b(4) requires, "If the owner or operator of a coal ash landfill or coal ash impoundment is obligated to prepare a response action plan, the owner or operator shall comply with R 299.4442 to R 299.4445 of the Part 115 rules, as applicable." EGLE staff have not received any of the documents required by R 299.4442 through R 299.4445. Rule 299.4442 requires EGLE approval or denial of a Response Action Plan. The Assessment of Corrective Measures requires a public meeting with interested and affected parties before selecting a remedy as indicated in R 299.4443. Rule 299.4444 requires a Remedial Action Plan that is protective of human health and the environment while meeting groundwater protection standards, and that includes a plan for source control. In addition, the Remedial Action Plan must be submitted to EGLE's Materials Management Division for review and approval or denial.

GHBLP's request for mixing zone-based criteria is premature because GHBLP has failed to take necessary steps that would provide EGLE with the statutorily required information needed to properly review GHBLP's request.

Finally, GHBLP's request is premature because EGLE has informed GHBLP that its current monitoring well network is insufficient to properly monitor potential groundwater impacts from Unit 3A/3B and Unit 1/2. In order for a mixing zone-based criteria request to be reviewed, GHBLP must have a sufficient monitoring well network to provide the appropriate data. The Environmental Protection Agency (EPA) has also informed GHBLP in its July 13, 2020 letter of federal requirements for its groundwater monitoring system, applicable to both Units 1/2 and 3A/B,

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The regulation on groundwater monitoring systems at 40 C.F.R. § 257.91 requires a sufficient number of wells correctly placed that yield groundwater samples from the uppermost aquifer that accurately represent background groundwater and the quality of groundwater passing through the waste boundary of the unit. Based on the information on BLP's CCR website, it is not clear that BLP's groundwater monitoring system meets these requirements.

Before any potential remedy or remedial mechanism can be reviewed by EGLE that addresses groundwater contamination for Unit 3A/3B, GHBLP must have a ground water monitoring program that meets the requirements in Sec. 11519a(1)(h) of Part 115.

If you have any questions related to the information above, please contact Kent Walters at 616-278-4350 or by email at waltersk7@michigan.gov. A hard copy of this letter will be sent via USPS mail to the addressee of this letter.

Sincerely,



Kent A. Walters, Geologist
Grand Rapids District Office
Materials Management Division

cc: Mr. Erik Booth, GHBLP
Ms. Tiffany Johnson, Golder & Associates
Ms. Margie Ring, EGLE
Mr. Fred Sellers, EGLE
Ms. Alexandra Clark, EGLE
Mr. Dave Willard, EGLE
Mr. Tim Unseld, EGLE