



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

GRAND RAPIDS DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

February 3, 2021

VIA EMAIL & U.S. MAIL

Mr. Erik Booth
Grand Haven Board of Light and Power
1700 Eaton Drive
Grand Haven, MI 49417

Dear Mr. Booth:

The Department of Environment, Great Lakes, and Energy (EGLE) is in receipt of Grand Haven Board of Light and Power's (GHBLP) December 16, 2020 letter entitled, "JB Sims Power Plant Site Closure" and GHBLP December 30, 2020 letter, "Response to EGLE comments: JB sims request for mixing zone authorization". In these letters, GHBLP defends its request for a mixing zone authorization for Unit 1/2.

GHBLP's request for a mixing zone authorization is still premature. The mixing zone authorization request for Unit 1/2 relies upon GHBLP's Alternate Source Demonstration submitted on December 28, 2020 for Unit 3A/3B, which was denied on January 28, 2021. Furthermore, GHBLP informed EGLE in its December 30, 2020 letter that GHBLP no longer intended to use a multi-unit network monitoring system. However, the adequacy of these separate monitoring networks has not been demonstrated for either Unit 1/2 or Unit 3A/3B. An adequate monitoring network and following the steps outlined in R. 299.4309 for Unit 1/2 and Sec. 11519b(2) and Sec. 11519b(4) for Unit 3A/3B are necessary for review of a mixing zone authorization. If GHBLP wishes to seek a mixing zone authorization request in the future, the request, if approvable, should be made as part of a remedial action plan.

Additionally, GHBLP's December 16, 2020 and December 30, 2020 letters suggest that Unit 1/2 is not regulated under Part 115 law. EGLE will refer GHBLP to the Michigan Department of Attorney General's response to this claim as provided on December 23, 2020 and attached with this response.

This letter details the state law requirements under Part 115 with which GHBLP must comply for Unit 1/2 and 3A/3B. Compliance with state law does not obviate the obligation that GHBLP comply with federal law, including the United States Environmental Protection Agency's coal combustion residuals program and its closure requirements.

Mr. Erik Booth
Page 2
February 3, 2021

If GHBLP would like to discuss any of the above information, please contact Kent Walters by email at waltersk7@michigan.gov or by telephone at 616-278-4350

Sincerely,



Kent A. Walters, Geologist
Materials Management Division
Grand Rapids District Office
Department of Environment, Great Lakes
and Energy

Enclosure

cc: Ms. Tiffany Johnson, Golder
Ms. Margie Ring, EGLE
Ms. Alexandra Clark, EGLE
Mr. Fred Sellers, EGLE
Mr. Timothy Unseld, EGLE
Mr. David Willard, EGLE

Erik Booth

From: Miller, Megen (AG) <MillerM59@michigan.gov>
Sent: Wednesday, December 23, 2020 1:21 PM
To: Arthur Siegal
Cc: Walters, Kent (EGLE); Unseld, Timothy (EGLE); Ring, Margie (EGLE); Willard, Dave (EGLE)
Subject: Grand Haven Board of Light & Power - JB Sims

Arthur,

I am in receipt of Grand Haven Board of Light & Power's December 16, 2020 Letter re J.B. Sims Power Plant Site Closure, which included as an attachment your December 1, 2020 letter to Erik Booth regarding regulation of Impoundment 1/2.

I am following up to clarify some questions raised in those letters. Those letters indicate that Impoundment 1/2 is not subject to the state coal ash licensure deadlines and that Impoundment 1/2 is not subject to regulation under Part 115 *at all*. While EGLE agrees that Impoundment 1/2 is not subject to the December 28, 2020 licensure deadline for coal ash impoundments under state law, EGLE does not agree that Impoundment 1/2 is not regulated under Part 115. EGLE has told GHBLP numerous times that Impoundment 1/2 is and will be regulated under Part 115. For example, in EGLE's November 13, 2020 letter EGLE told GHBLP, "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 . . .*" (emphasis added). Coal ash is regulated under Part 115 as a low-hazard industrial waste, MCL 324.11504(10)(a), and industrial waste surface impoundments that are closed as a landfill are subject to the closure requirements for Type III landfills pursuant to R 299.4309.

We hope that this helps clarify the State's position on this matter. Additionally, we believe it is important to note that Impoundment 3a/3b remains subject to the December 28, 2020 licensure deadline under Part 115. If closure consistent with Section 11519b is not achieved or the unit is not licensed, the unit is considered an open dump. Staff have conveyed that there are many unresolved issues related to the submitted closure documentation and that those discussions are ongoing.

Megen

Megen E. Miller
Assistant Attorney General
Michigan Department of Attorney General
Environment, Natural Resources,
and Agriculture Division
P.O. Box 30755
Lansing, MI 48909
517-335-7664
517-335-7636 (fax)
MillerM59@michigan.gov