



GRETCHEN WHITMER
GOVERNOR

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



LIESL EICHLER CLARK
DIRECTOR

VIA EMAIL

ENFORCEMENT NOTICE

In the matter of:

Grand Haven Board of Light and Power
doing business at J.B. Sims Generating Station
1231 North 3rd Street
Grand Haven, Michigan 49417

Waste Data System Number: 445580
Site Identification Number: MIK 893 442 624

ATTENTION: Dave Walters, General Manager

This Enforcement Notice is to advise you of the commencement of an enforcement proceeding against the Grand Haven Board of Light and Power (GHBLP), doing business at 1231 North 3rd Street, Grand Haven, Michigan, by the Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD). The basis for this enforcement action is alleged violations of Part 115, Solid Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws (MCL) 324.11501 *et seq.*, and the administrative rules promulgated pursuant to Part 115 that resulted from GHBLP's failure to properly close or license coal ash impoundments 3A and 3B (the Impoundments), including the violations described in the Denial Letter issued to GHBLP on January 27, 2021, by MMD.

Specifically, EGLE staff alleges that GHBLP is in violation as follows:

1. Failure to cease acceptance of coal ash at the impoundments and begin closure within one-hundred and eighty (180) days after the confirmation of the presence of groundwater contamination above the maximum contaminant levels or groundwater protection standards in accordance with MCL 324.11519c(1). The one-hundred and eighty (180) day deadline was July 29, 2019.
2. Failure to properly certify closure or apply for and receive a license for the Impoundments by December 28, 2020, in accordance with MCL 324.11503(9).
3. Operation of an "open dump" as defined by MCL 324.11502(17) and R 299.4104(j) and the management, maintenance, or operation of a

ENFORCEMENT NOTICE

Grand Haven Board of Light and Power

Page 2

disposal area as defined by MCL 324.11503(5) without an operating license, MCL 324.11512(2).

4. Failure to conduct timely and appropriate detection monitoring and response action plan preparation in accordance with MCL 324.11519b(2), 324.11519c(1)(d), and R 299.4440 – R 299.4443.

In light of the nature of the alleged violations, EGLE has concluded that the violations are significant and require a formal resolution. Pursuant to MCL 324.11519, EGLE proposes entry of an Administrative Consent Order (Consent Order) as an appropriate means of resolving this matter. A proposed Consent Order that includes a compliance program to return GHBLP to compliance and resolve this matter is enclosed.

You must respond to the EGLE contact person identified below by no later than ten business days after receipt of this Enforcement Notice to advise EGLE of your intentions to enter into good faith negotiations toward reaching an agreement on a Consent Order that addresses the alleged violations. You are requested to promptly take all necessary actions to correct the alleged violations.

Be advised that failure to respond to this Enforcement Notice, or to timely and adequately resolve or address the violations cited, may result in withdrawal of this settlement offer and may subject GHBLP to further enforcement proceedings including, but not limited to, the assessment of additional civil fines, the cost of surveillance and enforcement, and referral of the matter to the Michigan Department of Attorney General (MDAG) for commencement of civil litigation. Be further advised that this Enforcement Notice does not preclude or limit EGLE's ability to initiate any other enforcement action under state or federal law as appropriate.

The EGLE contact person for this matter is Mr. Dave Willard, Enforcement Analyst. Mr. Willard may be reached at 517-230-4393; WillardD@Michigan.gov; or Enforcement Section, MMD, EGLE, P.O. Box 30241, Lansing, Michigan 48909-7741.

Please be aware that this settlement offer is subject to final EGLE and the MDAG management approval.

ENFORCEMENT NOTICE
Grand Haven Board of Light and Power
Page 3

We are committed to a fair and rapid settlement of this matter, and we anticipate and appreciate your cooperation.

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

By: Alexandra Clark
Alexandra Clark, Manager
Enforcement Section
Materials Management Division

Date: March 22, 2022

Enclosure

cc: Mr. Pat McGinnis, City of Grand Haven
Mr. Ron Bultje, Dickinson Wright PLLC
Ms. Megen Miller, MDAG
Ms. Elizabeth M. Browne, EGLE
Ms. Tracy Kecskemeti, EGLE
Mr. Lonnie Lee, EGLE
Ms. Rhonda S. Oyer, EGLE
Mr. Fred Sellers, EGLE
Mr. Tim Unseld, EGLE
Mr. Kent Walters, EGLE
Mr. Dave Willard, EGLE