

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
CITY WATER, LIGHT AND POWER,)
a municipal utility owned and operated)
by the City of Springfield,)
)
Defendant.)

No. 2023CH000039

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Defendant, CITY WATER, LIGHT AND POWER, a municipal utility owned and operated by the City of Springfield, as follows:

COUNT I
FAILURE TO OPERATE CONTROL DEVICES
IN ACCORDANCE WITH GOOD AIR POLLUTION CONTROL PRACTICES

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (the “Illinois EPA”), pursuant to Section 42(d) and (e) of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/42(d), (e) (2022).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2022), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Defendant, CITY WATER, LIGHT AND POWER (“CWLP” or “Defendant”) is a municipal utility owned and operated by the City of Springfield.

5. CWLP operates a filtration plant and power generation station (the “Facility”) that provides drinking water and electric power and is located at 3100 Adlai Stevenson Drive, Springfield, Illinois 62703.

6. As of the date of filing of this Complaint, the Facility is located in an environmental justice (“EJ”) area as identified by EJ Start, a mapping tool utilized by the Illinois EPA.

7. Emission units at the Facility include: a coal-fired boiler to generate power (“Dallman 4” or “Boiler 4”); equipment for coal handling and processing; equipment for limestone and gypsum handling; bulk material receiving, processing, transfer, and storage operations associated with Dallman 4; a cooling tower associated with Dallman 4; emergency diesel engine-generators; an emergency fire pump engine; a small gasoline storage tank; and fugitive dust sources such as roadways and other open areas.

8. On November 19, 2009, the Illinois EPA issued Clean Air Act Permit Program (“CAAPP”) Permit 95090091 (“Permit 95090091”) to CWLP, pursuant to Section 39.5 of the Act, 415 ILCS 5/39.5 (2022).

9. Coal and bulk materials involved with the operation of Dallman 4 have the potential

to emit particulate matter (“PM”) in the form of fly ash, a coal combustion waste by-product.

10. Fly ash is stored in a dry fly ash silo until it is conveyed through pipes to be loaded onto trucks for offsite disposal.

11. Control technology equipment for fly ash emissions include enclosure and covers, application of water and dust suppressants, and dust collection devices such as a baghouse and scrubber.

12. The dry fly ash silo is fitted at the top with a vent-like filtration unit and baghouse. While the silo is being loaded, displaced air moves through this filter and is ducted out from the top of the silo.

13. During previous maintenance on the filtration unit, a fabric filter separator bag was dropped into the silo from the top of the fly ash storage silo during baghouse maintenance. The bag eventually worked its way down to the bottom of the silo and became caught in the valve immediately upstream of the fly ash conveyance pipe at the lowest level of the silo. The bag’s position plugged the pipe and the flow of fly ash.

14. On August 31, 2021, CWLP employees rolled back the valve to remove the bag and place the valve back into position. At approximately 3:40 p.m., once the bag was removed and the pipe cleared, fly ash began flowing and filling the room that encloses the valve. The release of fly ash obstructed visibility and forced the CWLP employees to leave the room without placing the valve back into position.

15. Fly ash flowed onto the ground and into the atmosphere outside of the valve enclosure.

16. The fly ash plume spread across the property line of the Facility in a northwesterly direction.

17. On August 31, 2021, Illinois EPA personnel responded to the incident. At approximately 4:30 p.m. while driving to CWLP, Illinois EPA personnel observed the fly ash plume from Clearlake Avenue and Dirksen Parkway. While driving on Dirksen Parkway and approaching Stevenson Drive, Illinois EPA personnel drove through the plume, which was at ground level. The fly ash plume had exited the CWLP property in a northerly direction impacting adjacent public roads.

18. At 5:30 p.m. the flow of fly ash slowed, and CWLP employees were able to reattach the valve, stopping the flow of fly ash. However, the fly ash plume continued to drift beyond the Facility's property line after 5:45 p.m.

19. At 7:30 p.m. CWLP employees began cleaning up the fly ash.

20. On February 10, 2022, CWLP reported that 778 tons of fly ash were released onto the ground, and about 149 pounds of fly ash were released into the atmosphere. CWLP made these calculations using the emissions factor for fly ash flowing into a truck or loadout, not flowing freely onto the ground.

21. On February 10, 2022, CWLP reported to Illinois EPA that the silo was roughly 70% full at the start of the incident and 30% full after the flow of fly ash was stopped. Illinois EPA requested the amount of fly ash that was hauled offsite after cleanup and CWLP reported that it was unable to respond to this request.

22. On December 8, 2021, CWLP provided to Illinois EPA monthly inspection records for the Dallman 4 fly ash handling system and control equipment from August 28, 2020 through November 10, 2021. At least two months did not include names listed for inspection personnel and most inspection reports lacked signatures from supervisory or management personnel to confirm that the records were complete and accurate.

23. On December 8, 2021, CWLP reported to Illinois EPA that opacity was measured at 100% during the release from 4:50 p.m. to 5:25 p.m., and that opacity dropped to zero when the valve was reinstalled. CWLP reported that it does not keep Method 9 data sheets in ordinary practice.

24. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), provides as follows:

- (a) It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements.

25. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“Person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

26. CWLP is a “person” as that term is defined in the Act.

27. Condition 7.7.3-1(c)(ii) of Permit 95090091 provides as follows:

Best Available Control Technology (BACT) Requirements

- (c) For an affected unit handling a dry material, other than an existing receiving facility for dry material or a storage pile for dry material and handling operations associated with the storage pile, PM emissions shall be controlled by – [T1] [BACT]:
 - (ii) Aspiration to a control device designed to emit no more than 0.01 grains/dry standard cubic foot (gr/dscf), which device shall be operated in accordance with good air pollution control practice to minimize emissions. For this purpose, the control device shall be a baghouse or other filtration type device unless the Permittee demonstrates and the Illinois EPA concurs that another type of control device is preferable due to considerations of operational safety.

28. Condition 7.7.2 of Permit 95090091 provides as follows:

List of Emission Units and Air Pollution Control Measures

For purposes of these unit-specific conditions, the “affected units” are the emission units identified below, as generally described in Conditions 7.7.1.

Emission Units	Emission Control Measures
Receiving, Processing, Transfer and Storage Operations for Bulk Material (coal, limestone, flyash, and gypsum) Associated with Boiler 4	Enclosure, Covers, Dust Suppressant Application System and Control Devices

29. The dry fly ash silo with truck loadout station for Dallman 4 is an “affected unit” handling dry material as identified in Condition 7.7.2 of Permit 95090091.

30. The PM emissions from the dry fly ash silo are required to be controlled by a baghouse or other filtration type device.

31. On August 31, 2021, CWLP failed to duct the fly ash silo with truck loadout station for Dallman 4 to a control device designed to emit no more than 0.01 gr/dscf and failed to operate the control device in accordance with good air pollution control practice to minimize emissions.

32. By failing to duct the fly ash silo with truck loadout station for Dallman 4 to a control device designed to emit no more than 0.01 gr/dscf and failing to operate the control device in accordance with good air pollution control practice to minimize emissions, CWLP violated Condition 7.7.3-1(c)(ii) of Permit 95090091.

33. By violating Condition 7.7.3-1(c)(ii) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

34. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count I:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.3-1(c)(ii) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.3-1(c)(ii) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.3-1(c)(ii) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT II
EXCEEDANCE OF OPACITY LIMIT

1-29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count II.

30. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), provides as follows:

No person shall:

- (a) Cause, threaten, or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

31. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

32. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

33. PM is a “contaminant” as that term is defined in the Act.

34. Because the equipment described in Paragraph 7 above, and in particular Dallman 4 and associated equipment, emits, emitted, and/or is capable of emitting PM into the atmosphere, the aforementioned equipment is capable of causing or contributing to air pollution.

35. Section 212.123(a) of the Illinois Pollution Control Board Regulations (“Board Regulations”), 35 Ill. Adm. Code 212.123(a), provides as follows:

- (a) No person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to Section 212.122 of this Subpart.

36. Condition 7.7.3-3(a) of Permit 95090091 provides as follows:

- (a) Pursuant to 35 IAC 212.109 and 212.123(a), the emission of smoke or other PM from affected units shall not have an opacity greater than 30 percent, except as allowed by 35 IAC 212.124. Compliance

with this limit shall be determined by 6-minute averages of opacity measurements in accordance with Reference 9 Method.

37. On August 31, 2021, CWLP caused or allowed the emission of PM in the form of fly ash from the Facility with an opacity greater than 30 percent in violation of Section 212.123(a) of the Board Regulations, 35 Ill. Adm. Code 212.123(a), and Condition 7.7.3-3(a) of Permit 95090091.

38. By violating Condition 7.7.3-3(a) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

39. By causing or allowing the emission of PM with an opacity greater than 30 percent, in violation of Board regulations, CWLP violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

40. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count II:

A. Finding that the Defendant has violated Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.123(a) of the Board Regulations, 35 Ill. Adm. Code 212.123(a), and Condition 7.7.3-3(a) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.123(a) of the Board Regulations, 35 Ill. Adm. Code 212.123(a), and Condition 7.7.3-3(a) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the

Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.123(a) of the Board Regulations, 35 Ill. Adm. Code 212.123(a), and Condition 7.7.3-3(a) of Permit 95090091;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), assessing against the Defendant a civil penalty of \$50,000 for each violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Board Regulations, and an additional civil penalty of \$10,000 for each day the violations continued; and, pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT III
VISIBILITY OF FUGITIVE PM EMISSIONS

1-34. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I, and paragraphs 30 through 34 of Count II, as paragraphs 1 through 34 of this Count III.

35. Section 212.301 of the Board Regulations, 35 Ill. Adm. Code 212.301, provides as follows:

No person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.

36. Section 211.2490 of the Board Regulations, 35 Ill. Adm. Code 211.2490, provides the following definition:

“Fugitive particulate matter” means any particulate matter emitted into the atmosphere other than through a stack, provided that nothing in this definition or in 35 Ill. Adm. Code 212, Subpart K shall exempt any emission unit from compliance with other provisions of 35 Ill. Adm. Code 212 otherwise applicable merely because of the absence of a stack.

37. Condition 7.7.3-3(b) of Permit 95090091 provides as follows:

(b) With respect to emissions of fugitive PM, affected units shall comply with 35 IAC 212.301, which provides that emissions of fugitive PM shall not be visible from any process, including any material handling or storage activity, when looking generally toward the zenith at a point beyond the property line of the source, except when the wind speed exceeds 25 miles per hour, as provided by 35 IAC 212.214.

38. The wind speeds in Springfield, Illinois on August 31, 2021, during the release of fly ash did not exceed 25 miles per hour.

39. On August 31, 2021, CWLP caused or allowed emissions of fugitive PM that were visible when looking generally toward the zenith at a point beyond the property line of the source, in violation of Section 212.301 of the Board Regulations, 35 Ill. Adm. Code 212.301, and Condition 7.7.3-3(b) of Permit 95090091.

40. By violating Condition 7.7.3-3(b) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

41. By causing or allowing emissions of fugitive PM that were visible when looking generally toward the zenith at a point beyond the property line of the source, in violation of Board Regulations, CWLP violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

42. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count III:

A. Finding that the Defendant has violated Section 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.301 of the Board Regulations, 35 Ill. Adm. Code 212.301, and Condition 7.7.3-3(b) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.301 of the Board Regulations, 35 Ill. Adm. Code 212.301 (2022), and Condition 7.7.3-3(b) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.301 of the Board Regulations, 35 Ill. Adm. Code 212.301, and Condition 7.7.3-3(b) of Permit 95090091;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), assessing against the Defendant a civil penalty of \$50,000 for each violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Board Regulations, and an additional civil penalty of \$10,000 for each day the violations continued; and, pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section

39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT IV
EXCEEDANCE OF HOURLY EMISSION LIMITS

1-34. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I, and paragraphs 30 through 34 of Count II, as paragraphs 1 through 34 of this Count IV.

35. Section 212.321 of the Board Regulations, 35 Ill. Adm. Code 212.321, provides as follows:

- (a) Except as further provided in this Part, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in subsection (c) of this Section.

* * *

- (c) Limits for Process Emission Units For Which Construction or Modification Commenced On or After April 14, 1972

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55

36. Condition 7.7.3-3(c) of Permit 95090091 provides as follows:

- (c) The emission of PM from affected units other than units excluded by 35 IAC 212.323 (refer to Condition 7.7.4(b)) shall comply with the applicable limit pursuant to 35 IAC 212.321, which rule limits emissions based on the

process weight rate of emission units and allows a minimum emission rate of 0.55 lb/hour for any individual unit.

37. On August 31, 2021, CWLP caused or allowed PM emissions from Dallman 4 and associated equipment to exceed 0.55 lb/hr, in violations of Section 212.321 of the Board Regulations, 35 Ill. Adm. Code 212.321, and Condition 7.7.3-3(c) of Permit 95090091.

38. By violating Condition 7.7.3-3(c) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

39. By causing or allowing PM emissions from Dallman 4 and associated equipment to exceed 0.55 lb/hour, in violation of Board regulations, CWLP violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

40. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count IV:

A. Finding that the Defendant has violated Section 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.321 of the Board Regulations, 35 Ill. Adm. Code 212.321 (2022), and Condition 7.7.3-3(c) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.321 of the Board Regulations, 35 Ill. Adm. Code 212.321, and Condition 7.7.3-3(c) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the

Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(a) (2022), Section 212.321 of the Board Regulations, 35 Ill. Adm. Code 212.321, and Condition 7.7.3-3(c) of Permit 95090091;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), assessing against the Defendant a civil penalty of \$50,000 for each violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Board Regulations, and an additional civil penalty of \$10,000 for each day the violations continued; and, pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT V
FAILURE TO IMPLEMENT AND MAINTAIN EMISSION CONTROL MEASURES

1-29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count V.

30. Condition 7.7.5(a)(i) of Permit 95090091 provides as follows:

Work Practice Requirements

- (a) (i) The Permittee shall implement and maintain control measures for the affected units (such as enclosure, natural surface moisture, application of dust suppressant, and use of dust collection devices), to minimize visible emissions of particulate matter and provide assurance of compliance with the applicable emission standards and requirements in

Conditions 7.7.3-1, 7.7.3-2, and 7.7.3-3, pursuant to Section 39.5(7)(a) of the Act.

31. Section 39.5(7)(a) of the Act, 415 ILCS 5/39.5(7)(a) (2022), provides as follows:

- (a) All CAAPP permits shall contain emission limitations and standards and other enforceable terms and conditions, including but not limited to operations requirements, and schedules for achieving compliance at the earliest reasonable date, which are or will be required to accomplish the purposes and provisions of this Act and to assure compliance with all applicable requirements.

32. On August 31, 2021, CWLP failed to implement and maintain control measures for Dallman 4 and associated equipment to minimize visible emissions of PM and provide assurance of compliance with applicable emission standards, in violation of Condition 7.7.5(a)(i) of Permit 95090091.

33. By violating Condition 7.7.5(a)(i) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

34. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count V:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(i) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(i) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(i) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT VI
EXCEEDANCE OF ANNUAL PM EMISSION LIMITS
FOR ASH HANDLING UNITS

1-29. Plaintiff re-alleges and incorporates by reference 1 through 29 of Count I as paragraphs 1 through 29 of this Count VI.

30. Condition 7.7.6(a) of Permit 95090091 provides as follows (emphasis added):

Emission Limitations

- (a) Annual PM emissions from the affected units shall not exceed the limits in the table below. Compliance with these emission limits shall be determined from a rolling total of 12 months of emission data, calculated from the material handled for Boiler 4, operating information for affected units, and appropriate emission factors for the affected units, i.e., emission factors based on representative emission testing conducted for the units or other similar units at the facility or, otherwise, emissions factors developed and published by USEPA or other nationally recognized organization

Operation	Emission Limitations
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	(Tons/Year)
Coal Handling	4.42
Limestone Handling	0.16
Gypsum Handling	0.40
Ash Handling	2.45
Storage Piles*	4.22
Total	11.80

*The limitation for storage piles addresses pile maintenance and wind erosion from the various storage piles.

31. For each twelve-month rolling period including August 31, 2021, PM emissions from the ash handling affected units at the Facility exceeded 2.45 tons/year, in violation of Condition 7.7.6(a) of Permit 95090091.

32. By violating Condition 7.7.6(a) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count VI:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(a) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(a) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the

Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(a) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT VII
FAILURE TO IMPLEMENT AND MAINTAIN EMISSION CONTROL MEASURES

1-31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I, and paragraphs 30 and 31 of Count VI, as paragraphs 1 through 31 of this Count VII.

32. Condition 7.7.5(a)(ii) of Permit 95090091 provides as follows:

Work Practice Requirements

- (a) (ii) The Permittee shall implement and maintain the control measures for the affected units provide assurance of compliance with the applicable emission limits in Conditions 7.7.6(a), pursuant to Section 39.5(7)(a) of the Act), which record is incorporated by reference into this permit by Condition 5.2.7(a).

33. On August 31, 2021, CWLP failed to implement and maintain control measures for Dallman 4 to provide assurance of compliance with the applicable emission limits in Condition 7.7.6(a) of Permit 95090091, in violation of Condition 7.7.5(a)(ii) of Permit 95090091.

34. By violating Condition 7.7.5(a)(ii) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

35. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count VII:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(ii) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(ii) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.5(a)(ii) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT VIII
EXCEEDANCE OF HOURLY PM EMISSION LIMITS
FOR ASH HANDLING UNITS

1-29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count VIII.

30. Condition 7.7.6(b) of Permit 95090091 provides as follows:

(b) The hourly PM emissions from affected units that handle ash shall not exceed 0.559 pounds/hour.

31. On August 31, 2021, CWLP caused or allowed PM emissions from Dallman 4 and associated equipment to exceed 0.559 pounds per hour, in violation of Condition 7.7.6(b) of Permit 95090091.

32. By violating Condition 7.7.6(b) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count VIII:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(b) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(b) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.6(b) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT IX
FAILURE TO KEEP RECORDS OF BULK MATERIAL

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2022).

2-29. Plaintiff re-alleges and incorporates by reference paragraphs 2 through 29 of Count I as paragraphs 2 through 29 of this Count IX.

30. Condition 7.7.10(d) of Permit 95090091 provides as follows:

(d) The permittee shall keep records for the amount of bulk materials associated with the operation of the Boiler 4 received by or loaded out from the source by category or type of material (tons/month).

31. On August 31, 2021, and on dates better known to CWLP, CWLP failed to keep records for the amount of bulk materials, including fly ash, associated with the operation of

Dallman 4 received by or loaded out from the source by category or type of material (tons/month), in violation of Condition 7.7.10(d) of Permit 95090091.

32. By violating Condition 7.7.10(d) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count IX:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(d) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(d) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(d) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and

attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT X
FAILURE TO KEEP INSPECTION AND MAINTENANCE LOGS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2022).

2-29. Plaintiff re-alleges and incorporates by reference paragraphs 2 through 29 of Count I as paragraphs 2 through 29 of this of this Count X.

30. Condition 7.7.10(e) of Permit 95090091 provides as follows:

- (e) (i) The Permittee shall keep inspection and maintenance log(s) or other records for the control measures associated with the affected units, including buildings and enclosures, dust suppression systems and control devices.
- (ii) These records shall include the following information for the inspections required by Condition 7.7.9. These records shall be signed off by supervisory or management personnel, which shall mean that the person signing off has reviewed the records, believes that the records appear to be complete, and is not aware of any facts that contradict the information in the records:
 - A. Date and time the inspection was performed and name(s) of inspection personnel.
 - B. The observed condition of the control measures and/or control device for the affected unit, including the presence of any visible emissions.
 - C. A description of any maintenance or repair associated with the established control measures that are recommended as a result of the inspection and a

review of outstanding recommendations for maintenance or repair from previous inspection(s), i.e., whether recommended action has been taken, is yet to be performed or no longer appears to be required.

- D. A summary of the observed implementation or status of actual control measures, as compared to the established control measures.

31. Beginning on August 28, 2020, and continuing through at least November 10, 2021, and on dates better known to CWLP, CWLP failed to keep inspection and maintenance logs or other records that contained all required information, including names of inspection personnel and signatures from supervisory or management personnel, for the control measures associated with the affected units at the Facility, in violation of Condition 7.7.10(e) of Permit 95090091.

32. By violating Condition 7.7.10(e) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count X:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(e) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(e) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(e) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XI
FAILURE TO RECORD METHOD 9 OPACITY OBSERVATIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2022).

2-29. Plaintiff re-alleges and incorporates by reference paragraphs 2 through 29 of Count I as paragraphs 2 through 29 of this Count XI.

30. Condition 7.7.10(h) of Permit 95090091 provides as follows:

- (h) The Permittee shall keep records for all opacity measurements made in accordance with Reference Method 9 for affected units that it conducts or that are conducted at its behest by individuals who are qualified to make such observations. For each occasion on which such measurements are made, these records shall include the formal report for the measurements if conducted pursuant to Conditions 7.7.7(a) or 7.7.7(b), or otherwise the identity of the observer, a

description of the measurements that were made, the operating condition of the affected unit, the observed opacity, and copies of the raw data sheets for the measurements.

31. Beginning prior to August 31, 2021, and on dates better known to CWLP, CWLP failed to keep records for all Method 9 opacity measurements and further failed to record the identity of the observer, a description of the measurements made, the operating condition of the affected unit, the observed opacity, and copies of the raw data sheets for the measurements, in violation of Condition 7.7.10(h) of Permit 95090091.

32. By violating Condition 7.7.10(h) of Permit 95090091, CWLP violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, CITY WATER, LIGHT AND POWER, on Count XI:

A. Finding that the Defendant has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(h) of Permit 95090091;

B. Enjoining the Defendant from further violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 7.7.10(h) of Permit 95090091;

C. Pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2022), ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022),

and Condition 7.7.10(h) of Permit 95090091;

D. Pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2022), assessing against the Defendant a civil penalty of \$10,000 for each day violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and CAAPP permit continued;

E. Ordering the Defendant to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: /s/ Andrew Armstrong
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