

OCT 20 2017

Chad A. Williams
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL DISTRICT
CHAMPAIGN COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
<i>ex rel.</i> LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
v.)
)
THE PEOPLES GAS LIGHT AND)
COKE COMPANY,)
an Illinois corporation,)
)
Defendant.)

No. 17 CH 218

**FIRST AGREED INTERIM ORDER FOR
IMMEDIATE AND PRELIMINARY INJUNCTION**

This cause coming before the Court on Plaintiff's Motion for Immediate and Preliminary Injunction pursuant to Section 11 of the Illinois Oil and Gas Act (the "Oil & Gas Act"), 225 ILCS 725/11 (2016), 62 Ill. Adm. Code 240.155, and Section 42 of the Illinois Environmental Protection Act ("Environmental Protection Act"), 415 ILCS 5/42 (2016); the parties being given due notice; the Court having jurisdiction over the parties and subject matter and being duly advised in the premises.

I. BACKGROUND

1. Defendant, THE PEOPLES GAS LIGHT AND COKE COMPANY, at all times relevant to this Complaint, was and is a natural gas provider company and an Illinois corporation authorized to do business in Illinois.
2. Defendant is the owner and operator of Manlove Field, an underground natural gas storage facility (the "Facility") located near the Village of Fisher, Champaign County, Illinois.

3. The Facility contains 153 injection withdrawal wells and an underground gas storage field with a working gas capacity of approximately 36.5 billion cubic feet of gas per year, located beneath 27,500 contiguous acres.

4. The natural gas is stored at the Facility at a depth of approximately 4,000 feet below surface, in the Mount Simon formation.

5. The Mahomet Aquifer is located above the Mount Simon formation, and provides fresh water to approximately 850,000 people.

6. On December 6, 2016, an employee of Defendant detected a leak (the "Gas Release") from the well known as L. McCord #2 ("MC2"), when he observed gas bubbles rising out of puddles near MC2.

7. MC2 is one of the 153 injection withdrawal wells in the Facility, and is located at 40.27749 N. latitude and 88.38961 W. longitude.

8. After investigating the Gas Release, on January 13, 2017, Defendant estimated, and reported to the U.S. Department of Transportation, that approximately 39,300,000 cubic feet of natural gas leaked from MC2.

9. On or about December 20, 2016, Defendant further determined that the leaked natural gas from MC2 had migrated into the Mahomet Aquifer.

10. After investigating private water wells located within a 5,000-foot radius of MC2, Defendant found five homes impacted by the natural gas leak. The five homes Defendant found to be impacted by the Gas Release each had a private water well, and the five private water wells each tested positive for natural gas from the Facility.

11. The homes and private water wells that Defendant found to be impacted by the Gas Release are at various locations, generally to the north, east, and south of MC2. The homes range from approximately 1,000 feet to 4,000 feet from MC2.

12. The primary component of natural gas is methane, a greenhouse gas.

13. Defendant represents that accumulations of natural gas below the combustible levels were detected in all of the impacted households. Natural gas is highly flammable and, in high enough concentrations, an asphyxiant in enclosed spaces.

14. Defendant represents that on or about February 11, 2017, Defendant began supplying bottled water to the affected households.

15. Plaintiff alleges, in its Complaint for Injunctive Relief and Civil Penalties ("Complaint") filed in this matter and incorporated by reference herein, that Defendant violated or threatened to violate the Oil & Gas Act, regulations promulgated thereunder, the Environmental Protection Act, and regulations promulgated thereunder, as a result of the Gas Release, on dates commencing on or before December 6, 2016, up to and including the date of entry of this Agreed Interim Order for Immediate and Preliminary Injunction ("Interim Order").

IT IS HEREBY ORDERED THAT the Court enters the following Interim Order against Defendant, which shall remain in full force and effect until further order by this Court:

II. GENERAL PROVISIONS

16. This Interim Order shall apply to and bind the parties hereto.

17. This Interim Order is not a final resolution on the merits of Plaintiff's Complaint filed herein, but rather addresses Plaintiff's most immediate concerns alleged in the Complaint.

18. By entering into this Interim Order and complying with its terms, Defendant does

not admit any fact, wrongful conduct, or violation of any applicable statute, law or regulations thereunder by Defendant, and this Interim Order and compliance therewith shall not be interpreted as including such admission. The parties to this Interim Order agree that this Interim Order is made and agreed upon for settlement purposes only, and, except in a proceeding to enforce this Interim Order, neither this document nor that Defendant entered into it shall be introduced into evidence. Plaintiff, however, reserves the right to introduce the facts stated herein in any future proceeding relating to this matter, and the Defendant reserves all of its defenses, including the right to challenge the truthfulness of such facts.

19. This Court shall retain jurisdiction of this matter for the purposes of interpreting and enforcing the terms and conditions of this Interim Order.

III. IMMEDIATE ACTIONS TO BE UNDERTAKEN BY DEFENDANT

20. Defendant shall immediately distribute and continue to distribute on a regular basis bottled water to any and all households whose water supply has been impacted by the Gas Release, at their request. Specifically, no later than two (2) business days after entry of this Interim Order, Defendant shall distribute bottled water weekly in the amounts requested to meet the normal household usage of each impacted household, including each of the five households currently identified by Defendant as having an impacted water supply. Defendant shall provide additional drinking water upon request by any resident of a household whose water supply has been impacted by the Gas Release. The requirements of this Paragraph shall continue until further order of the Court or until all impacted households inform Defendant that they no longer want to receive bottled water. Defendant shall maintain lists of households that have requested water distributed by the Defendant, households that have been offered water distributed by the Defendant,

households that have received water distributed by the Defendant, and households that have rejected receipt of or who have elected to stop receiving water distributed by the Defendant.

21. Defendant shall offer to impacted residents, and where requested by the impacted resident, shall install, residential monitoring and alert devices that monitor the methane concentrations of indoor air of any residence impacted by the Gas Release to continuously determine habitability and risk of combustion. Specifically, no later than five (5) days after entry of this Interim Order, Defendant shall contact each of the five households currently identified by Defendant as having an impacted water supply to offer to install a monitoring and alert device at their residence. Within seven (7) days of receiving notice that a household wants a monitoring and alert device, or if Defendant is unable to obtain access to the residence within the seven (7) day period, as soon thereafter as Defendant can obtain access, Defendant shall install the monitoring and alert device at the impacted residence. Defendant shall provide, at Defendant's sole expense, lodging for the members of any household where a detector has measured gases in concentrations between the lower explosive limit and the upper explosive limit. Defendant shall maintain lists of households that have requested methane monitoring and alert devices, households that have been offered methane monitoring and alert devices, households who rejected Defendant's offer to provide methane monitoring and alert devices, and households that have received methane monitoring and alert devices by the Defendant. Defendant may replace any monitor that it reasonably believes is providing inaccurate readings.

IV. INVESTIGATION BY DEFENDANT

22. Within thirty (30) days of entry of this Interim Order, Defendant shall submit to Plaintiff for review and approval the Root-Cause Report Defendant retained a licensed engineering firm to perform that, at a minimum, identifies the cause of the Gas Release in MC2.

Defendant's submission of the Root-Cause Report shall include a certification signed by a responsible corporate official, under penalty of perjury, attesting that the root cause analysis described in the Root-Cause Report was completed.

23. If Plaintiff disapproves of the Root-Cause Report, Defendant shall, within fourteen (14) days of receiving written notice of such disapproval, submit to the Plaintiff for review and approval a plan for and schedule to complete a revised document that corrects all deficiencies identified by Plaintiff in its disapproval letter. Defendant shall implement the plan upon receipt of Plaintiff's written approval. This process shall continue until Plaintiff approves the Root-Cause Report, or either Plaintiff or Defendant invokes the Dispute Resolution process in Section IX of this Interim Order.

24. Within thirty (30) days of entry of this Interim Order, Defendant shall provide to the Plaintiff a list of all contacts Defendant or its contractors have had with local government officials and citizens regarding the Gas Release.

25. Defendant and its agents, employees and successors or assigns shall cooperate with Plaintiff's investigation and evaluation of the Facility. Without limiting the generality of the foregoing, Defendant shall negotiate in good faith with Plaintiff in order to reach agreement on one or more additional agreed interim orders that may include but are not limited to plans for Defendant's site investigation and remediation, and a Facility well survey to examine the structural integrity and risk of further gas releases from any wells located at the Facility.

V. NOTICES

26. All submittals and correspondence relating to the requirements of this Interim Order shall be directed to the following persons:

FOR PLAINTIFF

Brian Navarrete
Brian Clappier
Assistant Attorneys General
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
(217) 782-9035

Javonna Ackerman
Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
(217) 782-1809

FOR DEFENDANT

Margaret C. Kelsey
Executive Vice President Legal
WEC Energy Group, Inc.
231 West Michigan Street
Milwaukee, WI 53203
(414) 221-4626

Susan Martin
Executive Vice President and General Counsel
WEC Energy Group, Inc.
231 West Michigan Street
Milwaukee, WI 53203
(414) 221-4626

M. Gavin McCarty
Director - Legal Services – Business
WEC Energy Group, Inc.
200 East Randolph Street, 23rd Floor
Chicago, IL 60601
(312) 240-4063

VI. RIGHT OF ENTRY AND SITE ACCESS

27. In addition to any other authority, Defendant, its respective employees and representatives, grant to the Illinois DNR, its employees, agents and representatives, and the Attorney General, and her employees, agents and representatives the right of entry onto all portions of the Facility to which Defendant has a right of access at all reasonable times for purposes of conducting inspections and evaluating compliance status. In conducting such inspections, Illinois DNR, its employees, agents and representatives, and the Attorney General, her employees, agents and representatives, may take photographs, samples and collect information as they deem necessary. Illinois DNR, its employees, agents and representatives, and the Attorney General, her employees, agents and representatives, will comply with all safety rules and requirements applicable to the site location and will be escorted by employees of Defendant when conducting inspections within the fence lines of the Facility.

28. Where any action under this Interim Order is to be performed in areas owned by or in possession of someone other than Defendant, Defendant shall use reasonable efforts to obtain the necessary permission from the third party landowner to undertake such actions. Such reasonable efforts shall include, at a minimum, attempts to contact the third party landowner by telephone and by letter (if time permits). If Defendant is unable to obtain the necessary access after reasonable efforts as just described, it shall notify the Illinois DNR of such refusal by the third party and the Illinois DNR will determine, in its discretion, whether it will take affirmative actions to assist Defendant in obtaining access to the properties in question. If Defendant is unable to gain access to third party property after following the requirements of this Paragraph, then it shall not be considered in violation of this Interim Order with respect to such action.

VII. MODIFICATION OF SCHEDULES

29. The Parties to the Interim Order may, by mutual consent, extend any compliance dates under this Interim Order without leave of Court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Interim Order by reference.

VIII. STIPULATED PENALTIES

30. Defendant shall self-report any failures to comply with any requirements of this Interim Order within seven (7) days of becoming aware of such failures to comply. If the Defendant fails to comply with any of the requirements of this Interim Order without an agreed modification pursuant to Paragraph 29, and Plaintiff issues a written notice requesting payment of stipulated penalties, the Defendant shall pay to Plaintiff the following stipulated penalties for each violation, from the date the violation occurred until such time as compliance is achieved:

<u>Period of Noncompliance</u>	<u>Stipulated Penalty</u>
1 st to 30 th Calendar Days	\$400.00/day per violation
31 st to 60 th Calendar Day	\$500.00/day per violation
After 60 th Calendar Day	\$1,000.00/day per violation

31. If written notice of any violation of this Interim Order is given, it shall be served upon Defendant via certified or overnight U.S. Mail, to the persons identified in Section V (Notices) of this Interim Order. However, the failure of Plaintiff to give Defendant notice of the violation(s) does not in any way waive Plaintiff's right to obtain stipulated penalties for the violation(s) in issue.

32. All penalties owed shall be payable within thirty (30) calendar days after Defendant becomes aware of the occurrence of the violation(s). However, payment shall not be due until thirty (30) calendar days after Plaintiff notifies Defendant as provided in Paragraphs 30

and 31. Payment shall be made by certified check payable to the Illinois DNR for deposit into the Underground Resources Conservation Enforcement Fund ("URCE Fund") and delivered to:

Department of Natural Resources
Office of Oil and Gas Resource Management
One Natural Resources Way
Springfield, Illinois 62702-1271

The case name and number shall appear on the face of the check. A copy of the certified check and any transmittal letter shall be sent to:

Brian Navarrete
Brian Clappier
Assistant Attorneys General
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

33. Stipulated penalties shall be in addition to, and not a substitute for, any other remedy or sanction available to Plaintiff.

IX. DISPUTE RESOLUTION

34. The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Interim Order, informally and in good faith. If, however, a dispute arises concerning this Interim Order that the parties are unable to resolve informally, either party may, by written motion, request that an evidentiary hearing be held before the Circuit Court for the Sixth Judicial Circuit, Champaign County, Illinois, to resolve the dispute between the parties. At the evidentiary hearing, Defendant shall bear the burden of proof by preponderance of the evidence that it did not violate this Interim Order.

X. FORCE MAJEURE

35. For the purpose of this Interim Order, *force majeure* is an event arising beyond the reasonable control of Defendant which prevents the timely performance of any of the

requirements of this Interim Order. For purposes of this Interim Order *force majeure* shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters and labor disputes beyond the reasonable control of Defendant.

36. When, in the opinion of Defendant, circumstances have occurred that cause or may cause a delay in the performance of any of the requirements of this Interim Order, Defendant shall notify the Attorney General's Office and the Illinois DNR in writing as soon as practicable, but oral notice shall be given to the Attorney General's Office and the Illinois DNR within 48 hours of the occurrence and written notice shall be given to the Attorney General's Office and the Illinois DNR no later than ten (10) calendar days after the claimed occurrence. Defendant shall provide a detailed written description of the precise cause or causes of the claimed occurrence which resulted or will result in the delay, the nature of the delay and its expected duration, the measures taken or to be taken to prevent or mitigate the delay and the timetable under which such measures will be taken. Defendant shall adopt all reasonable measures to avoid or minimize such delay. Failure to notify the Attorney General's office and the Illinois DNR of the *force majeure* event shall render this *force majeure* provision voidable by Plaintiff as to the specific event for which Defendant failed to comply with the notice requirements. If voided, this section shall be of no effect to the particular event involved.

37. If the parties agree that the delay has been or will be caused by circumstances beyond the control of the Defendant, the time for performance may be extended for a period equal to the length of the delay as determined by the parties.

38. In the event that the parties cannot agree that a *force majeure* event has occurred or the extent thereof, the dispute shall be resolved in accordance with Section X of this Interim Order. Provided however, that the invocation of the Dispute Resolution provisions of Section

IX of this Interim Order is not in and of itself a *force majeure* event. Defendant shall have the burden of proving *force majeure* by a preponderance of the evidence as a defense to compliance with this Interim Order.

39. An increase in costs associated with implementing any requirement of this Interim Order shall not, by itself, excuse Defendant under the provisions of this Section of the Interim Order from a failure to comply with such a requirement.

XI. RESERVATIONS OF RIGHTS

40. Nothing contained herein shall be deemed a finding of fact or adjudication by this Court of any of the facts or claims contained in the Complaint. Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter.

XII. STATUS CONFERENCE WITH THE COURT

41. This matter is set for status on T.B.D., 2017 at _____
without further notice. *10/20/17*


XIII. SIGNATURE

42. This Interim Order may be signed in counterparts, all of which shall be considered one agreement. The signature page follows immediately.

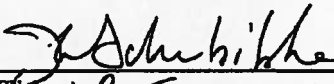
WHEREFORE the parties, by their representatives, enter into this Interim Order and submit it to the Court that it may be approved and entered.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN, Attorney
General of the State of Illinois

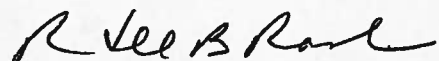
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: 
ANDREW B. ARMSTRONG, Chief
Environmental Bureau South
Assistant Attorney General

THE PEOPLES GAS LIGHT AND COKE
COMPANY

By: 
Title: VP & Treasurer

ENTERED:


JUDGE

10/20/17
DATE