

CWLP's Notice of Violations and Consent Order with the US EPA for management of our coal ash ponds shows that our utility has been alarmingly far out of compliance with environmental laws. City Council must exercise stronger oversight of CWLP to protect citizens from the environmental and financial risks of non-compliance. A good IRP is a valuable source of some of the information needed for successful oversight and accountability.

The Consent Decree lists hundreds of violations, showing mis-management of the coal ash ponds. The 74-percent water rate-hike we just incurred shows what happens when the Council and our utility forgo maintenance or compliance to keep current rates low. Details in the Decree suggest that if the coal ash ponds are closed using the cheapest solution, the Council will be imposing similarly significant public health, legal, and financial risks on residents and future generations.

Here are some examples from the Notice of Violations:

- Failure to have enough monitoring wells to be able to find groundwater contamination
- Failure to test groundwater for all the possible contaminants commonly associated with ash
- Use of a well contaminated with CCR waste (that is, coal combustion residuals), as a clean well: contaminated background wells can mask violations.
- Failure to respond according to the Federal regulations when they detected a contaminant that exceeded the standards
- Finally, CWLP found arsenic contamination in almost every sampling event from May 2018 to January 2023. It detected six heavy metal contaminants in February, 2020, at levels that require an owner/operator to prepare reports; provide notification; characterize the nature and extent of the release; prepare an assessment of corrective measures; hold a public meeting; and develop a remedy. Our utility did not take these measures.

US EPA also found that our utility's 2016 plan for closing the coal ash ponds falls short of legal standards. For instance:

- The plan failed to adequately identify how the closure will “control, minimize, or eliminate the post-closure infiltration of liquids into the waste and releases of CCR to the ground or surface water” (Consent Order at 26)

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- It failed to “provide sufficient information to determine how free liquids will be eliminated” (Consent Order at 28)
- It also failed to demonstrate that wastes remaining in the closed ash pond will be stabilized sufficiently to support the final cover system (Consent Order at 28)

The Compliance Plan required of CWLP to address these failures runs to over thirty paragraphs. The Consent Decree also has four attachments describing up to 60 more requirements necessary to fix the violations. Some of these describe the hurdles we must clear to lawfully “cap in place” our coal ash. These include:

- How CWLP will determine, after the final cover is in place, that groundwater and other liquids have been removed.
- How it will demonstrate that the final cover system will not move.
- What engineering measures it will use to control the groundwater flow into the closed ash pond, and releases of contaminated water out of the closed ash pond.

CWLP has asserted that capping in place is sufficient, and cheaper than removing the coal ash. But it hasn't confronted what could happen if we cap in place but are unable to demonstrate that the capped unit is successful by USEPA's criteria. That would make removal the only solution, and ratepayers would effectively pay to close the units twice.

We're sharing these details to make clear the alarming nature of our utility's violations and the very serious financial impact they could have on our city.

This Council bears the responsibility of overseeing CWLP – like a Board of Directors. You have a fiduciary responsibility to ensure our utility provides services in a fiscally and environmentally responsible manner.

Citizens need Council members to understand the legal and financial risks of CWLP's proposed plans, including the potential costs of compliance. A comprehensive, rigorous, and unbiased IRP can provide cost/benefit analysis of each energy option, including the long-run costs of environmental compliance. We believe you need that to oversee CWLP responsibly.