

Rod Roberson  
Mayor

Laura Kolo  
Utility Services Manager

Michael C. Machlan  
City Engineer



*Public Works &  
Utilities Department  
Administration, Engineering  
& Laboratory*  
574 293-2572  
*Utility Billing*  
574 264-4273  
1201 S Nappanee St.  
Elkhart, IN 46516

March 24, 2020

Via Electronic Mail

Chief, Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611

United States Attorney  
Northern District of Indiana  
5400 Federal Plaza, Suite 1500  
Hammond, Indiana 46320

Chief, Water Enforcement and Compliance  
Assurance Branch  
Water Division  
United States Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Chief, Compliance Branch  
Office of Water Quality  
Indiana Department of Environmental  
Management  
100 North Senate Avenue  
Post Office Box 6015  
Indianapolis, Indiana 46206

Chief, Enforcement Section  
Office of Legal Counsel  
Indiana Department of Environmental  
Management  
100 North Senate Avenue  
Post Office Box 6015  
Indianapolis, Indiana 46206

Via: Electronic Mail

**Re: DOJ No. 90-5-1-1-08182; USAO File No. 2003V00804  
General Force Majeure Notification Due to COVID-19 Pandemic**

Dear Mr. Ault:

Pursuant to Section XI of the Consent Decree, the City of Elkhart hereby provides written notice of the possibility that compliance with ongoing requirements of the decree may be delayed or prevented due to COVID-19 related impacts.

On March 13, President Trump declared the pandemic a National Emergency. Indiana Governor Eric Holcomb has issued a stay-at-home order for all state residents as officials work to combat the coronavirus pandemic. While EPA, DOJ, and IDEM are well aware of the pandemic and its far-reaching implications, we are nevertheless providing this notice as required under the decree.

At this time, this is a general assertion of force majeure. As we become aware of specific activities or projects that may be delayed we will provide supplemental notices.

Our ability to comply in a timely fashion has been undermined for several reasons that are beyond our control:

- **First**, like the State and Federal governments, much of our team who can work remotely are doing so. This makes project administration and oversight, contract approval, and project delivery extremely challenging.
- **Second**, only essential staff are permitted to work onsite and must focus on maintaining critical operations (both at our facilities and in our collection/distribution systems) during this pandemic.
- **Third**, much of our consent decree implementation is consultant and contractor supported. Many consultants have company-imposed travel bans and many of our contractors are subject to the same essential travel/shelter-in-place restrictions as everyone else. In addition, their people are as susceptible to contracting and communicating the virus as the rest of our resident population.
- **Fourth**, many of our ongoing activities are dependent on equipment, materials, and other supplies which either are or will face delivery suspensions or delays.
- **Fifth**, we are no longer shutting off customers' water for failure to pay water/sewer service fees during the pandemic. That will result in a loss of revenue that may affect our ability to issue contracts.
- **Sixth**, the ensuing economic conditions will result in loss of revenue and hardship on our customers and hinder our ability to raise rates on our financially distressed and unemployed workforce, which may adversely affect our ability to issue contracts.

Thank you for your understanding during these unprecedented circumstances. If you have any questions, please contact at (574) 293-2572.

Sincerely,



Michael Machlan  
Engineering Services Manager  
Department of Public Works

C: Mr. Tory Irwin  
Ms. Laura Kolo  
Mr. Paul Calamita