



September 15, 2021

Mr. Randall L. Rothe
District Supervisor
Gaylord District Office
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes and Energy
2100 West M-32
Gaylord, MI 49735-9282

RE: Violation Notice: Regarding the Alleged Releases at Pellston
Regional Airport

Dear Randy:

Emmet County respectfully submits the following response to the Michigan Department of Environment, Great Lakes and Energy (EGLE) Violation Notice letter dated September 8, 2021 regarding alleged releases at Pellston Regional Airport. We dispute that Emmet County is in violation of Part 201 and, as we said in our letter to you of August 20, 2021, we are continuing the investigation into the nature and extent of PFAS impacts and working with our technical consultants to scope additional phases of investigation and to research remedial alternatives that may be appropriate and cost-effective.

Your letter lists several alleged failures in our response that do “not demonstrate compliance with Section 20114 of Part 201.” We object to each of these allegations for the reasons stated below:

- *“fails to provide an anticipated delivery date on the MDOT/EGLE PFAS Investigation Grant report”*
Providing this Grant report is not a Part 201 requirement. Regardless, the County transmitted maps and a spreadsheet of these results, as well as lab reports, to you via e-mail on June 27 and reviewed them with you in a virtual meeting on June 29. The written report was delivered to you via e-mail on September 14. To the best of our knowledge, we are the first airport to complete its investigation and reporting activities under the 2020 MDOT/EGLE PFAS grants.
- *“fails to describe additional planned investigation to delineate extent of contamination, limits delineation activities to onsite contamination”*
Our letter states that we are continuing our investigation, which shows compliance with Part 201. In fact, this week we have initiated additional investigative activities.

- *“fails to identify any immediate measures it will take to contain or remove the contamination source”*

This is not applicable because Section 20114 requires “immediately stop or prevent an ongoing release at the source,” and we are not aware at this time of any ongoing releases and are still identifying potential source areas. The limited investigation conducted so far demonstrates certain areas with past AFFF use that show PFAS impacts, but no ongoing releases have been identified. When a recent release of AFFF occurred in late January of this year, due to an equipment failure, Emmet County immediately notified you of it. With your involvement, we worked swiftly to take remedial action. This incident demonstrates the County’s commitment to promptly addressing releases and sources as they are discovered.

- *“does not include what steps will be taken to clean up the contamination.”*

Our response indicates that we are conducting further investigation and reviewing alternatives, which are the steps the County is taking. Any more refinement to those steps, requires more information, which we are actively gathering. We also remind EGLE that immediate actions are only needed if they are also “technically practical” and “are cost effective,” both of which are challenging when dealing with PFAS impacts. As Mr. Christiaan Bon of your office stated in the recent Pellston Town Hall meeting, “final remedies for these types of projects take years and years and in some cases the technologies are still being developed.”¹

None of the alleged failures in your letter provides any basis for saying the County is in violation of Part 201. As demonstrated by our actions and through our regular communications with EGLE, the County is diligently pursuing response activities, as required under Section 20114. Emmet County’s activities under the EGLE/MDOT Grant is one example of the County’s diligence. With the submission of the written report with results of the Phase 2 MDOT Grant sampling on September 14, 2021, that grant effort is now completed. We believe that Emmet County is the first grant recipient to complete its full scope of work under the grant program, which it did in 12 months, a six months sooner than the 18 months allowed. This further demonstrates Emmet County’s diligence in its investigation activities and compliance with Part 201.

Your Violation Letter of September 8 also makes requests for specific RAPs to be provided within in one week, an unconscionable timeframe as EGLE is well aware that no credible RAP, let alone three RAPs, could be prepared in a few short days. Further, these RAPs are unnecessary, as we outline in our responses to the requests:

- *“Provide to EGLE a Response Activity Plan to mitigate the short-term risks and exposures to off-site residential drinking water users. The Response Activity Plan must include an implementation schedule that commences within 30 days after EGLE approval of the workplan.”*

¹ EGLE, Pellston Airport PFAS Online Community Update Meeting - August 11, 2021, recording available: <https://www.youtube.com/watch?v=V99gf085pkQ> (last accessed Sept. 14, 2021).

It is Emmet County's understanding that these risks are mitigated and there is no further action needed at this time. We understand that the Department of Health and Human Services has offered point-of-use filters to all properties where PFAS was detected, regardless of whether the detections were over MCLs. After DHHS stopped providing bottled water to the Village of Pellston, Emmet County took the initiative to continue to provide on-going, supplemental shipments of bottled water to the Village of Pellston for distribution at the County's expense. Even if further work was needed, EGLE knows that its requested timelines are not realistic.

- *Provide to EGLE a Response Activity Plan that evaluates and identifies a long-term remedy to permanently mitigate the risks for off-site residential drinking water wells.*
As contemplated under Part 201, a Response Activity Plan identifying a long-term remedy comes after work has been done to investigate nature and extent and after evaluation of potential remedial options. By this request, is EGLE asking Emmet County to shirk regular Part 201 process? We assume not but are unclear on this request. Mr. Bon has expressed EGLE's recognition about the long-term and still developing nature of technologies that could provide a remedy. Additionally, we cannot fully evaluate long-term remedies until we have more information. We are currently gathering more technical information about the nature and extent of PFAS impacts along the southern property boundary of the Airport and researching and estimating costs for potential mitigation of impacts to drinking water wells. This situation has very unique challenges and development of a viable long-term remedy is certainly not something that can be accomplished unilaterally by the County on the limited information available to-date. We will continue to remain engaged with EGLE on these issues and ask that EGLE continue to share any information it learns about potential long-term remedies that could be viable for the Airport.
- *Provide to EGLE a Response Activity Plan to continue on-going investigations to define the nature and extent of per- and poly-fluoroalkyl substances (PFAS) contamination onsite and off-site attributable to aqueous film forming foam (AFFF) releases at the Property.*
As stated above, we are currently conducting additional investigation activities to work towards delineating vertical and horizontal PFAS impacts along the southern property boundary of the Airport property. This round of investigation work, which started on September 13 and is expected to be completed the week of September 27, involves advancing six new borings to 100 feet below ground surface, with vertical aquifer sampling in each boring. All of the EGLE/MDOT grant money has been exhausted, so the County is proceeding with this work at the County's expense. The data produced from the current sampling will not only be important in helping meet the County's Part 201 obligations to delineate the extent of impacts, but it will also be essential in designing monitoring and remediation measures for PFAS impacts in groundwater. Assuming work proceeds as planned, we expect to be able to share the results with EGLE by mid-November.

In addition to there being no factual basis for alleging non-compliance with Part 201 as we outline above, we understood from the state that we are meeting our regulatory obligations. We

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recall the comments from MPART Director Hendershott during the August 11 Pellston Town Hall when she stated:

Final remedies are a very long-term prospect. They really involve one understanding the 3-D conceptual site model of where the contamination is but then as Christiaan and Mike have said, we're not quite there with a really good technology for really doing that size and magnitude for treatment yet. There's a lot of treatment technologies that are being put out into the field right now, trying to understand if they are going to work but there's a lot of technology in development. And so I think in the next few years we will definitely see better and better technologies come online for PFAS, but it does take some time and they can be quite expensive. And what we want to know long-term is, you know, if you do a treatment technology, is it going to be effective? Is it cost effective? Can it control it and is that truly the final remedy or we don't want to have to cause inadvertent byproducts that may be worse than what we originally had. So there's lots of things to consider, final remedies, that final end piece that comes after a very long iterative approach and so I think, you know, **Emmet County is doing what they need to do right now to have taken the immediate actions of protecting public health, but we need to give them time to complete the investigation so that they can do a good choice of a long-term remedy for this site.** So, you know, it's hard to be patient in these types of situations, but I think that's really where we are at is making sure that they have the support that they can get the investigation work done at this point.²

Therefore, we are quite confused by this Violation Notice claiming the County is "failing" to meet many Part 201 obligations when Director Hendershott says the County "is doing what they need to do right now." We are further confused by the one-week deadline in the letter, which you confirmed in our telephone call on September 13 was the correct date you intended to include, because the Director said "we need to give them time to complete the investigation so that they can do a good choice of a long-term remedy." The deadline is especially confounding when your letter asks for multiple Response Activity Plans (RAPs) within one week, but you know that the County cannot possibly comply with that timeline.

In sum, your "Violation Notice" contradicts representations from the MPART Director about the County's compliance status and makes requests in timeframes that you know are impossible. This behavior from EGLE is quite disappointing and counterproductive. We all understand the situation is challenging and requires us all to work together expeditiously and prudently. Heavy-handed, unjustified enforcement tactics by the Department divert our attention from the important site investigation and remedial alternatives research the County needs to do. Your actions force us instead to have to use our limited resources to defend against unjustified

² EGLE, Pellston Airport PFAS Online Community Update Meeting - August 11, 2021, recording available: <https://www.youtube.com/watch?v=V99gf085pkQ>, emphasis added, (last accessed Sept. 14, 2021).

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threats of enforcement and claims for reimbursement of costs. We would rather focus public resources on working together to find good solutions to this problem, rather than defending and litigating unjustified violations. It would be more useful for all, especially our citizens, if EGLE used its resources to provide further technical and funding assistance than add the extra layer of burden that comes with having to defend against needless enforcement, especially when EGLE knows the County is diligently working on these issues.

Based on EGLE's lack of basis for asserting Emmet County is in violation of Part 201, we request that EGLE rescind its Violation Notice. We will continue to work with EGLE as we further investigate this issue, but by this cooperation, the Airport does not admit any liability or wrongdoing. We dispute that the Airport is liable for EGLE's claimed costs contained in the Violation Notice, especially when any alleged releases of PFAS at the Airport would have been legally required, and dispute that the claimed costs are reasonable or necessary. We encourage EGLE to put its resources towards technical assistance and not enforcement.

The County continues to diligently pursue response activities under Part 201. Further compliance and enforcement communications from EGLE are unnecessary and counterproductive as we continue to work together on these issues. If you wish to discuss, I can be reached at (231) 348-1701.

Very truly yours,



Michael W. Reaves
Emmet County Administrator

cc: Christiaan Bon, EGLE
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