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MAR 05 2007
STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 28, 2007

PLBD-83

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Edelstein Waterworks Co-Op.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

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CLERK'S OFFICE

MAR 05 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 EDELSTEIN WATERWORKS CO-OP.,)
 an Illinois not-for-profit corporation,)
)
 Respondent.)

PCB No. 07-83
(Enforcement)

NOTICE OF FILING

To: Edelstein Waterworks Co-Op.
c/o Richard Keyster, President
2714 W. Streitmatter Road
Edelstein, IL 61526-9516

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

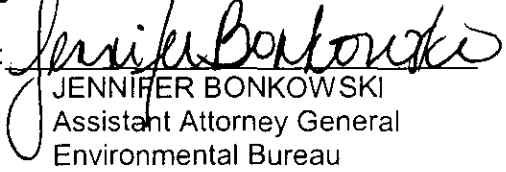
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 28, 2007

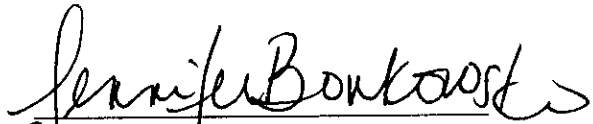
CERTIFICATE OF SERVICE

I hereby certify that I did on February 28, 2007, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Edelstein Waterworks Co-Op.
c/o Richard Keyster, President
2714 W. Streitmatter Road
Edelstein, IL 61526-9516

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601


Jennifer Bonkowski
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
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 Complainant,)
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 EDELSTEIN WATERWORKS CO-OP.,)
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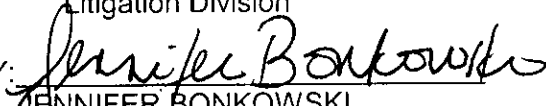
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JENNIFER BONKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

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

BY: 
JENNIFER BONKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 28, 2007

MAR 05 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 EDELSTEIN WATERWORKS CO-OP.,)
 an Illinois not-for-profit corporation,)
)
 Respondent.)

PCB No. 07-83
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, EDELSTEIN WATERWORKS CO-OP., as follows:

COUNT I
MONITORING VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois Environmental Protection Agency ("Illinois EPA") is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. Respondent, Edelstein Waterworks Co-Op., an Illinois not-for-profit corporation, is a "public water supply" as that term is defined under Section 3.365 of the Act, 415 ILCS 5/3.364 (2004), as follows:

"Public water supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used for

intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply."

Edelstein Waterworks Co-Op.'s public water supply is a "community water supply" or "CWS" as that term is defined under Section 3.145 of the Act, 415 ILCS 5/3.145 (2004).

4. Edelstein Waterworks Co-Op.'s water supply is located in Edelstein, Peoria County, Illinois, and serves approximately 125 residents through 47 direct service connections. The water is pumped from one well into a 12,000 gallon storage tank and then pumped by two high service pumps, chlorinated and discharged to a 2,000 gallon hydropneumatic tank and the distribution system.

5. Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), provides, in pertinent part:

(a) No person shall:

- (1) Knowingly cause, threaten or allow the distribution of water from any public water supply of such quality or quantity as to be injurious to human health; or
- (2) Violate regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the Board under this Act; or
- (3) Construct, install or operate any public water supply without a permit granted by the Agency, or in violation of any condition imposed by such a permit.

6. Section 19 of the Act, 415 ILCS 5/19 (2004), provides:

Owners or official custodians of public water supplies shall submit such samples of water for analysis and such reports of operation pertaining to the sanitary quality, mineral quality, or adequacy of such supplies as may be requested by the Agency. Such samples and reports shall be submitted within 15 days after demand by the Agency.

7. Section 601.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 601.101, provides that:

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act (Act), the Pollution Control Board (Board) Regulations, the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) Continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

8. Section 611.382(c) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.382(c), requires that a CWS supplier that uses chlorine "must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in Section 611.521."

9. Section 611.521(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.521(a), provides that:

- a. Suppliers shall collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sample siting plan, which must be approved by a [Special Exception Permit] issued pursuant to Section 611.110.

10. Section 611.522(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.522(a), provides that:

- a. If a routine sample is total-coliform positive, the supplier must collect a set of repeat samples within 24 hours of being notified of the positive result. . . .

11. Section 611.731 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.731 provides that:

Monitoring requirements for gross alpha particle activity, radium-226 and radium-228 are as follows:

- a) Compliance must be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals.
 - 1) A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis, provided that the measured gross alpha particle activity does not exceed 5 pCi/L at a confidence level of 95

percent (1.65 sigma where sigma is the standard deviation of the net counting rate of the sample). In localities where radium-228 may be present in drinking water, the Agency may, by special exception permit, require radium-226 or radium-228 analyses if it determines that the gross alpha particle activity exceeds 2 pCi/L.

- 2) When the gross alpha particle activity exceeds 5 pCi/L, the same or an equivalent sample must be analyzed for radium-226. If the concentration of radium-226 exceeds 3 pCi/L the same or an equivalent sample must be analyzed for radium-228.

* * *

- d) If the average annual MCL for gross alpha particle activity or total radium as set forth in Section 611.330 is exceeded, the CWS supplier shall give notice to the Agency and notify the public as required by Subpart T. Monitoring at quarterly intervals must be continued until the annual average concentration no longer exceeds the MCL or until a monitoring schedule as a condition to a variance, adjusted standard or enforcement action becomes effective.

12. Edelstein Waterworks Co-Op. failed to submit the required number of repeat coliform monitoring results for July 2004 and November 2005 after positive results were obtained on July 14, 2004, and November 29, 2005, and thereby violated Section 611.522(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.522(a), and Section 19 of the Act, 415 ILCS 5/19 (2004).

13. Edelstein Waterworks Co-Op. failed to submit the required number of routine coliform monitoring results for the months of October 2004 through February 2005, and April 2005, and thereby violated Section 611.521(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.521(a), and Section 19 of the Act, 415 ILCS 5/19 (2004).

14. Edelstein Waterworks Co-Op. failed to submit radiological monitoring sample results for the monitoring periods dated July 1, 2003, to September 30, 2003, and October 1, 2003, to December 31, 2003, and thereby violated Section 611.731 of the Board's Public Water

Supplies Regulations, 35 Ill. Adm. Code 611.731, and Section 19 of the Act, 415 ILCS 5/19 (2004).

15. Edelstein Waterworks Co-Op. failed to submit the disinfectant residual samples for the months of August and October through December 2004, and January through February and April 2005, thereby violating Section 611.382(c) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.832(c), and Section 19 of the Act, 415 ILCS 5/19 (2004).

16. By failing to comply with Sections 611.382(c), 611.521(a), 611.522(a), and 611.731 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.382(c), 611.521(a), 611.522(a), and 611.731, the Respondent thereby violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2004).

PRAYER FOR RELIEF

WHEREFORE Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

COUNT II

REPORTING VIOLATIONS

1-7. Complainant realleges and incorporates by reference herein paragraphs 1

through 7 of Count I as paragraphs 1 through 7 of this Count II.

8. Section 611.831 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.831, provides that:

Within 30 days following the last day of the month, each CWS supplier shall submit a monthly operating report to the Agency on forms provided or approved by the Agency.

9. Edelstein Waterworks Co-Op. failed to submit the required monthly operating reports for the months of September 2004 through the present, except for the month of April 2005, thereby violating Section 611.831 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.831.

10. By failing to comply with Section 611.831 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.831, the Respondent thereby violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondents a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the board deems appropriate.

COUNT III

CERTIFIED OPERATOR VIOLATIONS

1-7. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count III.

8. Section 1 of the Public Water Supply Operations Act, 415 ILCS 45/1 (2004), provides in pertinent part:

- (1) In order to safeguard the health and well being of the populace, every community water supply in Illinois shall have on its operational staff at least one natural person certified as competent as a water supply operator under the provisions of this Act.

9. Section 603.102 of the Public Water Supply Regulations, 35 Ill. Adm. Code 603.102, provides as follows:

Responsible Personnel

Each public water supply shall have designated an individual in responsible charge of the operation of that supply properly qualified and registered pursuant to Public Water Supply Operations Act [415 ILCS 45], with all provisions of the Public Water Supply Operations Act complied with.

10. Section 603.103 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 603.103, provides as follows:

Certified Operator

- a) Each public water supply, unless exempted under section 603.104, shall have a certified operator, qualified and registered in accordance with the Public Water Supplies Operations Act, designated in responsible charge of the supply's operation.
- b) The owner or official custodian and the certified operator designated in responsible charge shall file a signed statement identifying the certified operator in responsible charge on forms provided by the Agency.

11. Section 603.105 of the Board's Public Water Supply Regulations, 35 Ill. Adm.

Code 603.105, provides as follows:

Notification of Change of Ownership or Responsible Personnel

* * *

The Agency shall be notified within fifteen days, on forms supplied by the Agency, of changes in responsible personnel and who may be contacted in the event such contact is required.

12. Respondent failed to designate and notify the Illinois EPA of an individual in responsible charge of the operation of its PWS, from the death of its previous certified operator on or about October 15, 2004, until May 18, 2005.

13. By failing to timely designate an individual and notify the Illinois EPA of an individual in responsible charge of the operation of its PWS, Respondent violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2004), Section 1 of the Water Supply Operations Act, 415 ILCS 45/1 (2004), and Sections 603.102, 603.103, 603.105(b) of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 603.102, 603.103 and 603.105(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT IV

RADIUM AND GROSS ALPHA PARTICLE LIMIT EXCEEDANCES

1-7. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count IV.

8. Section 601.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 601.101, provides that:

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act (Act), the Pollution Control Board (Board) Regulations, the Safe Drinking Water Act (42 U.S.C. 300f et seq.) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

9. "Maximum contaminant level" or "MCL" is defined at Section 611.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101, as "the maximum permissible level of a contaminant in water that is delivered to any user of a public water supply."

10. Section 611.121(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.121(a), provides that:

Maximum Contaminant Levels: No person may cause or allow water that is delivered to any user to exceed the MCL for any contaminant.

11. Section 611.330 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.330, provides, in pertinent part:

Maximum Contaminant Levels for Radionuclides

* * *

b) MCL for combined radium-226 and -228. The maximum contaminant level for combined radium-226 and radium-228 is 5 pCi/l. The combined radium-226 and radium-228 value is determined by the addition of the results of the analysis for radium-226 and the analysis for radium-228.

- c) MCL for gross alpha particle activity (excluding radon and uranium). The maximum contaminant level for gross alpha particle activity (including radium-226 but excluding radon and uranium) is 15 pCi/l.

12. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the second quarter in 2005 was 11 pCi/L and 18 pCi/L, respectively.

13. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the third quarter in 2005 was 11 pCi/L and 17 pCi/L, respectively.

14. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the fourth quarter in 2005 was 12 pCi/L and 19 pCi/L, respectively.

15. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the first quarter in 2006 was 9 pCi/L and 18 pCi/L, respectively.

16. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the second quarter in 2006 was 10 pCi/L and 20 pCi/L, respectively.

17. Edelstein's running annual average for combined radium and gross alpha particle activity as of the end of the third quarter in 2006 was 7 pCi/L and 21 pCi/L, respectively.

18. The Illinois EPA calculated the annual average results for combined radium and

gross alpha particle activity by averaging the results of the most recent four consecutive quarterly analyses and then rounding to the nearest whole number.

19. Edelstein's exceedances of the MCL for combined radium-226 and -228 and gross alpha particle activity are violations of 35 Ill. Adm. Code 601.101, 611.121(a) and 611.330, thereby violating Section 18 of the Act, 415 ILCS 5/18 (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

COUNT V

OPERATING AND MAINTENANCE VIOLATIONS

1-7. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count V.

8. Section 607.104 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 607.104, provides:

- a) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency, except as provided for in

subsection (d) of this Section.

- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.
- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. If a privately owned water supply source meets the applicable criteria, it may be connected to a water supply upon approval by the owner or official custodian and by the Agency. Where such connections are permitted, it is the responsibility of the public water supply officials to assure submission from such privately owned water supply source or sources samples and operating reports as required by 35 Ill. Adm. Code 611 as applicable to the cross-connected source.
- d) The Agency may adopt specific conditions for control of unsafe cross-connections, which shall be complied with by the supplies of this State, as applicable. These conditions shall be adopted and/or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.
- e) Each community water supply exempted pursuant to 35 Ill. Adm. Code 603.104 or Section 17(b) of the Act shall provide an active program approved by the Agency to continually educate and inform water supply consumers regarding prevention of the entry of contaminants into the distribution system. Conditions under which the Agency will approve this active program shall be adopted or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.

9. Section 653.110 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 653.110, provides:

Combination Pressure Tanks and Ground Storage

A combination of ground storage, hydropneumatic storage and pumps may be considered in water systems for maintaining pressure on the distribution system. Design of such a system shall include:

- a) a minimum ground storage volume equivalent to 1.5 times the average daily usage;
- b) a minimum of two pumps, each capable of meeting the peak system demand. If more than two pumps are proposed, the peak system demand shall be met when any pump is out of service;
- c) an electric generator with automatic start capable of providing power to pump(s) which can produce the peak system demand, plus sufficient

- power to operate all chemical feeders, appurtenances and equipment essential to plant operation. Consideration should be given to sizing the generator to provide power for at least one well; and
- d) an hydropneumatic tank sized to provide service for a minimum of ten minutes under peak system demand.

10. On April 28, 2005, the Illinois EPA inspected the facility and noted that Edelstein had failed to provide a back-up high service pump able to meet peak system demand, to provide ground storage volume equivalent to 1.5 times the average daily usage, and to provide an emergency electric generator with automatic start capable of providing power sufficient to meet the peak system demand (and with all necessary associated appurtenances and equipment), thereby violating Section 653.110 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 653.110, and Section 18(a) of the Act, 415 ILCS 5/18(a) (2004).

11. On April 28, 2005, the Illinois EPA also noted that Edelstein had failed to carry out a cross-connection control program and to eliminate a cross-connection between the finished water transmission main and the deteriorated hydropneumatic tank, thereby violating Section 607.104 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 607.104, and Section 18(a) of the Act, 415 ILCS 5/18(a) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT VI

PERMIT VIOLATIONS

1-5. Complainant realleges and incorporates by reference herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count VI.

6. Section 15(a) of the Illinois Environmental Protection Act, 415 ILCS 5/15(a) (2004), provides:

- a. Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes, or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the Agency to permit a complete review thereof.

7. Section 602.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code Section 602.101, provides:

- a) No person shall cause or allow the construction of any new public water supply installation or cause or allow the change of or addition to any existing public water supply, without a construction permit issued by the Environmental Protection Agency (Agency). Public water supply installation, change, or addition shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances.

8. Section 652.101 of the Board's Public Water Supplies Regulations,

35 Ill. Adm. Code Section 652.101, provides:

a) Construction permits shall be obtained by the official custodian of a community water supply prior to beginning construction of any proposed community water supply and prior to all alterations, changes or additions to an existing community water supply which may affect the sanitary quality, mineral quality or adequacy of the supply including changes pursuant to 35 Ill. Adm. Code 653.115.

9. Section 602.102 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code Section 602.102, provides:

No owner or operator of a public water supply shall cause or allow the use or operation of any new public water supply, or any new addition to an existing supply, for which a Construction Permit is required under this Part, without an Operating Permit issued by the Agency.

10. Section 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code Section 652.201, provides:

The operating permit application shall be filed with the Division of Public Water Supplies Permit Section when construction is complete. An operating permit is required for all projects which require a construction permit. The operating permit shall be obtained before the project is placed in service.

11. Edelstein failed to obtain construction and operating permits prior to the installation of a ground storage tank, hydropneumatic tank, high service pump, and associated piping in December 2004 and January 2005, thereby violating Sections 602.101, 652.101, 602.102, and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.101, 652.101, 602.102, and 652.201, and Sections 15 and 18 of the Act, 415 ILCS 5/15 and 18 (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

COUNT VII

CONSUMER REPORTING VIOLATIONS

1-6. Complainant realleges and incorporates by reference herein paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count VII.

7. Section 611.883 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.883, provides:

- a) Each CWS shall provide to its customers an annual report that contains the information specified in this Section and Section 611.884.
- * * *
- d) Information on detected contaminants.
 - 1) This subsection (d) specifies the requirements for information to be included in each report for contaminants

subject to mandatory monitoring (except Cryptosporidium).
It applies to:

- A) Contaminants subject to an MCL, action level, or treatment technique (regulated contaminants);
 - B) Contaminants for which monitoring is required by Section 611.510 (unregulated contaminants); and
 - C) Disinfection byproducts or microbial contaminants for which monitoring is required by Section 611.382 and Subpart L, except as provided under subsection (e)(1) of this Section, and which are detected in the finished water.
- 2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results that a CWS chooses to include in its report must be displayed separately.
- 3) The data must be derived from data collected to comply with monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter, except that:
- A) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling, and the report must include a brief statement indicating that the data presented in the report is from the most recent testing done in accordance with the regulations. No data older than five years need be included.
 - B) Results of monitoring in compliance with Section 611.382 and Subpart L need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.
- 4) For detected regulated contaminants (listed in Appendix F of this Part), the table(s) must contain:
- A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided Appendix F of this Part);

- B) The Maximum Contaminant Level Goal (MCLG) for that contaminant expressed in the same units as the MCL
- C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique or action level, as appropriate, specified in subsection (c)(3) of this Section;

* * *

- G) For total coliform:
 - i) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or
 - ii) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;
 - H) For fecal coliform: the total number of positive samples; and
 - I) The likely source(s) of detected contaminants to the best of the supplier's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and must be used when available to the supplier. If the supplier lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Appendix G of this Part which are most applicable to the CWS.
- 5) If a CWS distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table must contain a separate column for each service area and the report must identify each separate distribution system. Alternatively, a CWS may produce separate reports tailored to include data for each service area.

- 6) The table(s) must clearly identify any data indicating violations of MCLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the CWS to address the violation. To describe the potential health effects, the CWS shall use the relevant language of Appendix H of this Part.
 - 7) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.
- e) Information on Cryptosporidium, radon, and other contaminants:
- 1) If the CWS has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of Subpart L, that indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:
 - A) A summary of the results of the monitoring; and
 - B) An explanation of the significance of the results.
 - 2) If the CWS has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:
 - A) The results of the monitoring; and
 - B) An explanation of the significance of the results.
 - 3) If the CWS has performed additional monitoring that indicates the presence of other contaminants in the finished water, the report must include:
 - A) The results of the monitoring; and
 - B) An explanation of the significance of the results noting the existence of any health advisory or proposed regulation.

* * *

8. Edelstein failed to correct deficiencies in its 2005 Consumer Confidence Report (“CCR”), issued in 2005 concerning violations and information for calendar year 2004. Specifically, it failed to include a detected contaminant water quality data table, monitoring violations and explanations, and an MCL violation and explanation.

9. Edelstein’s failure to prepare and distribute a corrected 2005 CCR to include all required CCR elements is a violation of Section 611.883 of the Board’s Public Water Supplies Regulations, 35 Ill. Adm. Code 611.883, and Section 18 of the Act, 415 ILCS 5/18 (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, EDELSTEIN WATERWORKS CO-OP.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
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of the State of Illinois

MATTHEW J. DUNN, Chief
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BY:



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Dated: 2/28/07