

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 19-
	)	(Enforcement - Water)
VILLAGE OF LEONORE, a municipal	)	
corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

*Via U.S. Mail and Electronic Mail*  
Mike Zimmerman, Village President  
107 Monroe Street  
P.O. Box 243  
Leonore, Illinois 61332  
Mayberrfd1956@hotmail.com

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board the Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, of the People of the State of Illinois by KWAME RAOUL, Attorney General of the State of Illinois, a copy of which is herewith served upon you.



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Dated: March 25, 2019

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corporation,	)	
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Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, VILLAGE OF LEONORE, a municipal corporation, as follows:

**COUNT I**  
**FAILURE TO COMPLY WITH PUBLIC WATER SUPPLY**  
**PUBLIC NOTICE REQUIREMENTS**

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2016).
2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2016), and is charged, *inter alia*, with the duty of enforcing the Act.
3. At all times relevant to this Complaint, Respondent, the VILLAGE OF LEONORE (“Leonore”), is and has been a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. Leonore has a population of approximately 130 citizens and is located in LaSalle County, Illinois.

5. Leonore owns and operates a public water supply that serves its population through approximately 74 service connections and obtains its water from two local groundwater supply wells.

6. Leonore's two groundwater supply wells are located at the corner of Gary and Walnut Streets in Leonore, LaSalle County, Illinois. The wells utilize sand and gravel aquifers overlain by moderate to high permeability sand and gravel sediments.

7. Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), provides as follows:

(a) No person shall:

(2) Violate regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the [Illinois Pollution Control] Board under this Act; . . .

8. Sections 3.145, 3.315 and 3.365 of the Act, 415 ILCS 5/3.145, 3.315, 3.365 (2016), provide as follows:

“Community water supply” means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents.

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

“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 or 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”.

9. Leonore, an Illinois municipal corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

10. Leonore’s public water supply is a “public water supply” and a “community water supply” as those terms are defined in Sections 3.145 and 3.365 of the Act, 415 ILCS 5/3.145 and 3.365 (2016).

11. Section 611.101 of the Illinois Pollution Control Board Public Water Supply Regulations (“Board PWS Regulations”), 35 Ill. Adm. Code 611.101, provides the following definitions:

“Community water system” or “CWS” means a public water system (PWS) that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

“Disinfectant” means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

“Haloacetic acids (five)” or “HAA5” means the sum of the concentrations in milligrams per liter (mg/l) of five haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

“Maximum contaminant level” or “MCL” means the maximum permissible level of a contaminant in water that is delivered to any user of a public water system. (See Section 611.121.)

“Maximum residual disinfectant level” or “MRDL” means the maximum permissible level of a disinfectant added for water treatment that may not be exceeded at the consumer’s tap without an unacceptable possibility of adverse health effects. MRDLs are enforceable in the same manner as are MCLs. (See Section 611.313 and Section 611.383.)

“NPDWR” means “national primary drinking water regulation”.

“Non-transient, non-community water system” or “non-transient, non-CWS” or “NTNCWS” means a public water system (PWS) that is not a community water system (CWS) and that regularly serves at least 25 of the same persons over six months per year.

“Supplier of water” or “supplier” means any person who owns or operates a public water system (PWS). This term includes the “official custodian”.

“Public water system” or “PWS” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A PWS is either a community water system (CWS) or a non-community water system (non-CWS). A PWS does not include any facility defined as “special irrigation district”. Such term includes the following:

Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

“Total trihalomethanes” or “TTHM” means the sum of the concentration of trihalomethanes (THMs), in milligrams per liter (mg/l), rounded to two significant figures.

12. Section 601.105 of the Board PWS Regulations, 35 Ill. Adm. Code 601.105,

provides the following definition:

“Responsible Operator in Charge” means an individual who is designated as a Responsible Operator in Charge of a community water supply pursuant to Section 1 of the Public Water Supply Operations Act [415 ILCS 45/1] and 35 Ill. Adm. Code 603. [415 ILCS 45/9.6]

13. Leonore’s public water supply, serving a population of approximately 130 citizens through approximately 74 service connections, is a “public water system” and a “community water system” as those terms are defined in Section 611.101 of the Board PWS Regulations, 35 Ill. Adm. Code 611.101.

14. Leonore, as the owner and operator of a public water system, is a “supplier” as that term is defined in Section 611.101 of the Board PWS Regulations, 35 Ill. Adm. Code 611.101.

15. Leonore uses sodium hypochlorite, a chemical disinfectant, to kill or inactivate pathogenic microorganisms in its public water supply.

16. Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v), provides as follows:

(b) Monitoring requirements for disinfection byproducts (DBPs).

(1) TTHMs and HAA5.

(A) Routine monitoring. A supplier must monitor at the following frequency:

(v) A supplier that uses only groundwater not under direct influence of surface water, which uses chemical disinfectant, and which serves fewer than 10,000 persons must collect one sample per year per treatment plant during month of warmest water temperature. The samples must be collected from locations representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds MCL, the supplier must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the supplier meets standards in subsection (b)(1)(D).

17. Leonore, as a supplier that uses only groundwater not under direct influence of surface water, and who uses a chemical disinfectant and serves fewer than 10,000 persons, is required to monitor for TTHMs and HAA5 by collecting one sample per year per treatment plant during the month of warmest water temperature.

18. The Illinois EPA requires Leonore to sample for TTHMs and HAA5 in August as that is the month in which the warmest water temperature is likely to occur.

19. On June 30, 2016, the Illinois EPA sent Leonore a demand letter requesting samples for TTHMs and HAA5 for the sampling period August 1, 2016 through August 31, 2016.

20. Leonore did not submit samples of TTHMs and HAA5 to the Illinois EPA for the sampling period August 1, 2016 through August 31, 2016 and, on information and belief, did not perform the required monitoring, as required by Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v).

21. Section 611.901(a) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(a), provides in part as follows:

Who must give public notice. Each owner or operator of a public water system (a CWS, an NTNCWS, or a transient non-CWS) must give notice for all violations of an NPDWR and for other situations, as listed in this subsection (a). The term "NPDWR violation" is used in this Subpart V to include violations of an MCL, an MRDL, a treatment technique, monitoring requirements, or a testing procedure set forth in this Part. Appendix G identifies the tier assignment for each specific violation or situation requiring a public notice.

1) NPDWR violations.

\* \* \*

C) A failure to perform water quality monitoring, as required by this Part.

22. Leonore, by failing to perform water quality monitoring for TTHMs and HAA5 for the sample period August 1, 2016 through August 31, 2016, was required to give public notice of that failure pursuant to Section 611.901(a)(1)(C) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(a)(1)(C).

23. Section 611.901(b) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(b), provides as follows:

The type of public notice required for each violation or situation. The public notice requirements of this Subpart V are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation listed in subsection (a) are determined by the tier to which it is assigned. This subsection (b) provides the definition of each tier. Appendix G identifies the tier assignment for each specific violation or situation.

- 1) Tier 1 public notice: required for NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.
- 2) Tier 2 public notice: required for all other NPDWR violations and situations with potential to have serious adverse effects on human health.
- 3) Tier 3 public notice: required for all other NPDWR violations and situations not included in Tier 1 and Tier 2.

24. Pursuant to Appendix G of Part 611 of the Board PWS Regulations, 35 Ill. Adm. Code 611. Appendix G, Leonore was required to provide Tier 3 public notice for failing to perform water quality monitoring for TTHMs and HAA5 for the sample period August 1, 2016 through August 31, 2016.

25. Section 611.904(b) of the Board PWS Regulations, 35 Ill. Adm. Code 611.904(b), provides as follows:

When the Tier 3 public notice is to be provided.

- 1) A PWS supplier must provide the public notice not later than one year after the supplier learns of the violation or situation or begins operating under relief equivalent to a SDWA section 1415 variance or section 1416 exemption. Following the initial notice, the supplier must repeat the notice annually for as long as the violation, relief equivalent to a SDWA section 1415 variance or section 1416 exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, relief equivalent to a SDWA section 1415 variance or section 1416 exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).



- 2) Instead of individual Tier 3 public notices, a PWS supplier may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of subsection (b)(1) are met.

26. Pursuant to Section 611.904(b)(1) of the Board PWS Regulations, 35 Ill. Adm. Code 611.904(b)(1), Leonore was required to provide the public notice not later than one year after learning of the violation of Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v).

27. In a letter dated October 17, 2016, the Illinois EPA informed Leonore and its Responsible Operator in Charge that Leonore was required to issue public notice of the violation of Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v).

28. In a letter dated September 22, 2017, the Illinois EPA informed Leonore's Responsible Operator in Charge that public notice of the violation was due by October 17, 2017.

29. Section 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.840(d), provides as follows:

The supplier, within ten days after completing the public notification requirements under Subpart V of this Part for the initial public notice and any repeat notices, must submit to the Agency a certification that it has fully complied with the public notification regulations. The PWS must include with this certification a representative copy of each type of notice distributed, published, posted, or made available to the persons served by the supplier or to the media.

30. Leonore, as a supplier, is required pursuant to Section 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.840(d), to provide the Illinois EPA with a certification that Leonore has fully complied with the public notification regulations within ten days after completing the public notification requirements.

31. On June 12, 2018, Leonore submitted to the Illinois EPA the public notice certification required under Section 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.840(d). Leonore's Responsible Operator in Charge verified in the certification that public notice was direct mailed to each paying customer on March 1, 2018. Leonore therefore provided the required certification to the Illinois EPA 103 days after completing the public notification requirements of Section 611.901(b) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(b).

32. Leonore, by failing to provide public notice of its violation of the monitoring requirements of Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v), within one year of learning of the violation, violated Section 611.901(b) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(b).

33. Leonore, by failing to provide the Illinois EPA with a certification that Leonore has fully complied with the public notification regulations within ten days after completing the public notification requirements, violated Section 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.840(d).

34. By violating Sections 611.901(b) and 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(b) and 611.840(d), Leonore violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondent, VILLAGE OF LEONORE, with respect to Count I:

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

2. Finding that the Respondent has violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), and Sections 611.901(b) and 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.901(b) and 611.840(d);

3. Ordering the Respondent to cease and desist from any further violations of Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), and Sections 611.901(b) and 611.840(d) of the Board PWS Regulations, 35 Ill. Adm. Code 611.904(b)(1) and 611.840(d);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day during which the violation continues;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the Complainant in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

**COUNT II**  
**FAILURE TO COMPLY WITH PUBLIC WATER SUPPLY**  
**MONITORING REQUIREMENTS**

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2016).

2-20. Plaintiff realleges and incorporates herein paragraphs 2 through 20 of Count I as paragraphs 2 through 20 of this Count II.

21. By not performing monitoring of TTHMs and HAA5 in the sampling period August 1, 2016 through August 31, 2016, Leonore violated Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v).

22. By violating Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v), Leonore violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondent, VILLAGE OF LEONORE, with respect to Count II:

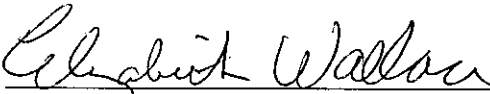
1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that the Respondent has violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), and Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v);
3. Ordering the Respondent to cease and desist from any further violations of Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), and Section 611.382(b)(1)(A)(v) of the Board PWS Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v);
4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day during which the violation continues;
5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the Complainant in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* KWAME RAOUL, Attorney  
General of the State of Illinois,

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

By:



ELIZABETH WALLACE, Chief  
Environmental Bureau  
Assistant Attorney General

OF COUNSEL:

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	)	(Enforcement – Water)
VILLAGE OF LEONORE, a municipal	)	
corporation,	)	
	)	
Respondent.	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2016), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2016). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2016), and Sections 611.382(b)(1)(A)(v), 611.840(d), and 611.901(b) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v), 611.840(d) and 611.901(b).
2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2016).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
State of Illinois

BY:



\_\_\_\_\_  
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DATE: March 25, 2019





the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2016), against Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2016).

3. At all times relevant to the Complaint, Respondent was and is a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a public water supply that obtained its water from two local groundwater supply wells.

5. Respondent's two groundwater supply wells are located at the corner of Gary and Walnut Streets in Leonore, LaSalle County, Illinois ("Facility").

**B. Allegations of Non-Compliance**

Complainant contends that Respondent has violated the following provisions of the Act and Board regulations:

Count I: Failure to comply with public water supply public notice requirements, in violation of Section 18(a)(2) of the Environmental Protection Act, 415 ILCS 5/18(a)(2) (2016), and Sections 611.901(b) and 611.840(d) of the Illinois Pollution Control Board Public Water Supply Regulations, 35 Ill. Adm. Code 611.901(b) and 611.840(d).

Count II: Failure to comply with public water supply monitoring requirements, in violation of Section 18(a)(2) of the Environmental Protection Act, 415 ILCS 5/18(a)(2) (2016), and Section 611.382(b)(1)(A)(v) of the Illinois Pollution Control Board Public Water Supply Regulations, 35 Ill. Adm. Code 611.382(b)(1)(A)(v).

**C. Non-Admission of Violations**

Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation.

By entering into this Stipulation and complying with its terms, Respondent does not

affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

On March 1, 2018, Respondent provided public notice of its failure to comply with public water supply monitoring requirements by direct mail to each paying customer, and on June 12, 2018 submitted public notice certification to Illinois EPA.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2016).

**III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2016), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;

3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The Illinois EPA's information gathering responsibilities and the public's right to this information were hindered by Respondent's violations, thereby threatening human health and the environment.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Timely compliance with public water supply monitoring and public notice requirements at the Facility is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2016), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;

4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The alleged monitoring violations began on or around September 1, 2016, when Respondent failed to perform public water supply monitoring for haloacetic acids (five) and total trihalomethanes in August, 2016.
2. The alleged notice violations began on or around October 18, 2016, when the time period for Respondent to issue public notice and corresponding certification had expired.
3. Respondent resolved the alleged public notice violation on March 1, 2018 by directly mailing notice to each paying customer. Respondent also submitted the proper certification to the Illinois EPA on June 12, 2018.
4. Respondent was diligent in attempting to come back into compliance with the Act and Board regulations once the Illinois EPA notified it of its noncompliance.
5. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delayed compliance.

6. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Hundred Dollars (\$500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

7. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

8. Self-disclosure is not at issue in this matter.

9. The settlement of this matter does not include a supplemental environmental project.

10. A Compliance Commitment Agreement was not at issue in this matter

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

Respondent shall pay a civil penalty in the sum of Five Hundred Dollars (\$500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2016), interest shall accrue on any penalty amount owed by Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty

amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Daniel Robertson  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. Respondent shall timely comply with public water supply monitoring and public notice requirements at the Facility in the future.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon Respondent's Facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In

conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

4. Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of Respondent's payment of the \$500.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, and upon the Board's approval of this Stipulation, Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on March 25, 2019. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for

any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondent.

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

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WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

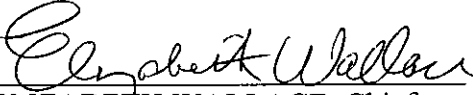
PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

KWAME RAOUL  
Attorney General  
State of Illinois

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

JOHN J. KIM, Acting Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
DANA VETTERHOFFER,  
Acting Chief Legal Counsel

DATE: 3/21/19

DATE: 3-13-19

VILLAGE OF LEONORE

BY: \_\_\_\_\_  
MIKE ZIMMERMAN  
Village President

DATE: \_\_\_\_\_

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

KWAME RAOUL  
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ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY: \_\_\_\_\_  
DANA VETTERHOFFER  
Acting Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

VILLAGE OF LEONORE

BY:   
\_\_\_\_\_  
MIKE ZIMMERMAN  
Village President

DATE: 3-11-19

**CERTIFICATE OF SERVICE**

I hereby certify that on March 25, 2019, via electronic mail and regular mail as indicated, I served a true and correct copy of the Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement to the person listed on said Notice of Filing.



\_\_\_\_\_  
Daniel Robertson