

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AQUA ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB No. 23-12
)	(Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
)	
Respondent.)	

NOTICE OF FILING

Please take notice that on October 11, 2022, I filed Respondent's Motion to Hearing Officer to Supplement Hearing Report, a copy of which is attached and served upon you.

Respectfully Submitted,

BY: /s/ CHRISTOPHER GRANT
Senior Assistant Attorney General
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Certificate of Service

I, CHRISTOPHER GRANT, an attorney, do hereby certify that today, October 11, 2022, I caused to be served Respondent's Motion to Hearing Officer to Supplement Hearing Report, and Notice of Filing, on the individuals listed below, by electronic mail.

/s/ CHRISTOPHER GRANT

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AQUA ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 2023-012
)	(Permit Appeal - Public Water Supply)
ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Respondent.)	

MOTION TO HEARING OFFICER TO SUPPLEMENT HEARING REPORT

NOW COMES Respondent, the Illinois Environmental Protection Agency, by KWAME RAOUL, Attorney General of the State of Illinois, and moves to supplement the Hearing Officer's October 6, 2022 Hearing Report to correct an omission. In support thereof, Respondent states as follows.

1. Hearing in this Matter was held on September 28, 2022. At hearing Respondent requested that the Hearing Officer take Public Notice of the Complaint and Answer in the case *People v. Aqua Illinois Inc.*, 19 CH 1208 (Will County). Plaintiff's request was made in accordance with Section 101.630 of the Board Procedural Rules, 35 Ill. Adm. Code 101.630.

The Board can take public notice of evidence where the facts are capable of immediate and accurate demonstration. *Gary Polchow v. Village of Rankin*, PCB 15-157 (March 19, 2015); *see also Morton College v. Town of Cicero*, PCB 98-59 (January 8, 1998) (Board takes notice of Circuit Court Complaint for Declaratory Relief).

2. In our Case an Agreed Interim Order entered in 19 CH 1208 is in the record in this matter (R 000602-R000621), and is referred to in the Permit at issue in this Matter. Respondent

believes that the Complaint and Answer in 19 CH 1208 provide background and further information on issues relevant to the Board's consideration of this case.

3. Over Complainant's objection, the Hearing Officer admitted both the Complaint and Answer at hearing as Hearing Officer Exhibit A (transcript of September 28, 2022 hearing, pp. 13-14).

4. However, in the October 6, 2022 Hearing Report, the Hearing Officer refers to Hearing Officer Exhibit 1, the "Complaint for injunctive relief", without reference to the Answer.

5. Respondent believes that the exclusion of the Answer from the October 6, 2022 Hearing report was inadvertent, as it was already admitted at hearing. Respondent therefore requests that the Hearing Report be supplemented to include the reference to the admitted Answer in 19 CH 1208.

Respectfully Submitted

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

/s/ Christopher Grant

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MOTION TO HEARING OFFICER TO SUPPLEMENT HEARING REPORT

Hearing Transcript Pages 13-14

ILLINOIS POLLUTION CONTROL BOARD

AQUA ILLINOIS, INC.,)
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Petitioner,)
)
vs.) No. PCB 23-12
)
ILLINOIS ENVIRONMENTAL)
)
PROTECTION AGENCY,)
)
Defendant.)

REPORT OF THE PROCEEDINGS held in the
above-entitled cause before Hearing Officer
BRAD HALLORAN, taken by Raelene Stamm, CSR,
Certified Shorthand Reporter licensed by the State
of Illinois, 100 West Randolph Street, Chicago,
Illinois, on the 28th day of September, 2022,
commencing at the hour of 9:00 a.m.

Reported By: Raelene Stamm, CSR

License No.: 084-004445

1 notice, judicial notice, sorry, you have a copy.

2 HEARING OFFICER HALLORAN: Does Mr. -- does
3 Aqua have a copy?

4 MR. DEEB: Yes, we do.

5 HEARING OFFICER HALLORAN: Okay. I'll take it
6 to the Board hearing officer, Exhibit A.

7 MR. DEEB: Hearing Officer, for the record Aqua
8 objects. We think this continues to conflate the
9 enforcement action with the permit appeal.

10 HEARING OFFICER HALLORAN: Mr. Grant?

11 MR. GRANT: First, this is a sort of document
12 that is routinely given judicial notice to. And,
13 second, it relates directly to the interim
14 administrative order that's in the record. It has
15 been in the record and was used in depositions and
16 is referenced in the condition permit itself.

17 So without having the underlying facts and
18 the admissions by Aqua in their answer to the
19 complaint, I think the Board is missing some pretty
20 important information. And there's no question as
21 to the authenticity of this.

22 HEARING OFFICER HALLORAN: Yeah. I'm very
23 hesitant to accept it because it is an enforcement
24 matter, and this is not an enforcement matter. You

1 know, it's a pretty close call, but I think the
2 Board can use it for background since it's referred
3 to in the interim order that's in the record. So
4 I'll accept it.

5 And, Petitioners, feel free to state your
6 objection in your interlocutory appeal.

7 MR. DEEB: Thank you.

8 HEARING OFFICER HALLORAN: Miss Pamenter, your
9 witness.

10 MS. PAMENTER: Before we begin with our exam,
11 apologies, sir, we do have a brief opening
12 statement, if we may present that.

13 HEARING OFFICER HALLORAN: Oh, sorry. Sure.

14 MS. PAMENTER: Thank you.

15 MS. HANOANO: This dispute originated from the
16 significant levels observed in drinking water in
17 University Park. The Village of University Park is
18 located in an environmental justice area.
19 Aqua Illinois is the owner and operator that
20 provides water service to the Village of University
21 Park.

22 The USEPA has set 15 micrograms per liter
23 as the action level for lead in drinking water. In
24 late May 2019, water testing on homes within