

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
LORETTA THIGPEN)
)
Complainant.)
) PCB 2007 -
v.)
)
MORTON MOBILE HOME PARK, LLC,)
an Illinois limited liability company, d/b/a)
EDGEWOOD TERRACE MOBILE HOME)
PARK,)
)
Respondent.)

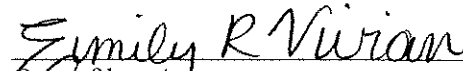
NOTICE OF FILING

TO: Morton Mobile Home Park, LLC
Attn: Thomas P. Conley, Registered Agent
120 S. Riverside Plaza #1200
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on this date I filed electronically with the Clerk of the Pollution Control Board of the State of Illinois, a CITIZEN'S 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 Officer or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1-19 (2007), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,
LORETTA THIGPEN, Complainant,



One of her Attorneys

David L. Wentworth II
Emily R. Vivian
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500

CERTIFICATE OF SERVICE

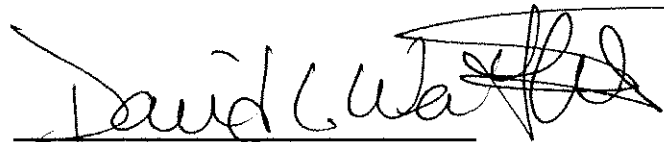
I hereby certify that I did on July 30, 2007, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE, and CITIZEN'S COMPLAINT:

TO: Morton Mobile Home Park, LLC
Attn: Thomas P. Conley, Registered Agent
120 S. Riverside Plaza #1200
Chicago, Illinois 60606

and the same by electronic filing as authorized by the Clerk of the Illinois Pollution Control Board;

and a courtesy copy by First Class Mail with postage thereon fully prepaid of the same foregoing instruments:

TO: Stephen J. Janasie, Esq.
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706

A handwritten signature in black ink, appearing to read "David L. Wentworth II", written over a horizontal line.

David L. Wentworth II

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 EDGEWOOD TERRACE MOBILE HOME)
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 Respondent.)

ENTRY OF APPEARANCE

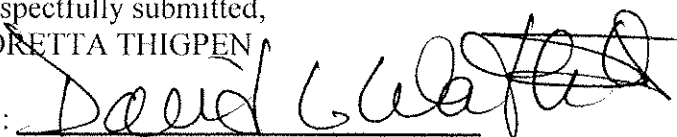
TO: Clerk of the Illinois Pollution Control Board and All Parties of Record

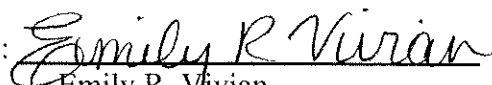
Please enter our appearance as counsel of record in this case for the following:

LORETTA THIGPEN

Dated: July 30, 2007.

Respectfully submitted,
LORETTA THIGPEN

By: 
 David L. Wentworth II
 One of Her Attorneys

By: 
 Emily R. Vivian
 One of Her Attorneys

David L. Wentworth II
 Emily R. Vivian
 Hasselberg, Williams, Grebe,
 Snodgrass & Birdsall
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EDGEWOOD TERRACE MOBILE HOME)
PARK,)
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Respondent.)

CITIZEN'S COMPLAINT

NOW COMES Complainant, LORETTA THIGPEN, by and through her attorneys, HASSELBERG, WILLIAMS, GREBE, SNOGRASS & BIRDSALL, and complains of Respondent MORTON MOBILE HOME PARK, LLC, an Illinois limited liability company, d/b/a EDGEWOOD TERRACE MOBILE HOME PARK, as follows:

COUNT I
ARSENIC MCL EXCEEDANCES

1. This Citizen's Complaint is brought by Complainant on her own motion, pursuant to the terms and provisions of Section 31(d)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(d)(1), and Section 103.200 of the Illinois Administrative Code, 35 Ill. Adm. Code 103.200.

2. Respondent, Morton Mobile Home Park, LLC, is an Illinois limited liability company which owns, operates, and does business as the Edgewood Terrace Mobile Home Park ("Edgewood Terrace") located at 24150 Veteran's Road in the Village of Morton, Tazewell County, Illinois, and in connection therewith also operates the "Morton Mobile Home Park Public Water Supply," Illinois Environmental Protection Act (IEPA) Facility No. IL1795345, which is a "public water supply" as defined under Section 3.365 of the Act, 415 ILCS 5/3.365 (2007), 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 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."

Respondent'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 (2007).

3. Complainant is a resident of Edgewood Terrace, Lot 67, and obtains her water source from the Morton Mobile Home Park Public Water Supply, provided by Respondent.

4. Respondent's water supply is located in the Village of Morton, Tazewell County, Illinois.

5. Section 18(a) of the Act, 415 ILCS 5/18(a) (2007), 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 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 [415 ILCS 5] (Act), the Pollution Control Board (Board) Rules, and the Safe Drinking Water (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.

7. "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 system.

8. 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.

9. Section 611.301 of the Board's Public Water Supplies Regulations, 35 Ill Adm. Code 611.301, provides, in pertinent part:

Revised MCLs for Inorganic Chemical Contaminants

- b. The MCLs in the following table apply to CWSs. Except for fluoride, the MCLs also apply to NTNCWSs. The MCLs for nitrate, nitrite, and total nitrate and nitrate also apply to transient non-CWSs.

Arsenic (effective January 23, 2006): 0.010 mg/l.

10. The Illinois EPA determines compliance with the Arsenic MCL through a running annual average for arsenic ("RAA"), reported quarterly and derived from Respondent's arsenic samples take at the mobile home park's water supply.

11. In the second quarter of 2006, Respondent's RAA was .051 mg/l.

12. In the third quarter of 2006, Respondent's RAA was 0.046 mg/l.

13. In the fourth quarter of 2006, Respondent's RAA was 0.033 mg/l.

14. In the first quarter of 2007, Respondent's RAA was 0.033 mg/l.

15. In the second quarter of 2007, Respondent's RAA was 0.026 mg/l.

16. Respondent has knowingly allowed the distribution of water with levels of arsenic exceeding the standard in 35 Ill. Adm. Code 611.301(b), thereby violating Section 611.121(a) of the Board's Public Water Supplies Regulations 35 Ill. Adm. Code 611.121(a), and thereby violating Section 18 of the Act, 415 ILCS 5/18 (2007).

17. Section 611.Appendix H of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.Appendix H, provides the following Standard health effects language for public notification for contaminant #9, Arsenic: "Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer."

18. Complainant has had numerous health problems that have been caused or exacerbated by the arsenic, including but not limited to, eye irritation, skin rashes, gastrointestinal problems, and dermatological problems.

19. Complainant requests that the Board order Respondent to immediately and permanently clean up the water supply, whether by installation of a filtration system, or other method, pay civil penalties to the fullest extent of the law, and any and other relief this Board deems just and reasonable.

PRAYER FOR RELIEF

WHEREFORE, Complainant, LORETTA THIGPEN, respectfully requests that the Board enter an Order against the Respondent, MORTON MOBILE HOME PARK, LLC, an Illinois limited liability company, d/b/a EDGEWOOD TERRACE MOBILE HOME PARK:

A. Authorizing a hearing in this matter at which time the Respondent shall 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) (2007), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

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

COUNT II
VIOLATION OF GENERAL PUBLIC NOTIFICATION REQUIREMENTS

20. Complainant realleges paragraphs 1-19 of Count I as paragraphs 1-19 of Count II.

21. By Violation Notice No. W-2006-00117, dated April 13, 2006 ("Violation Notice"), the Illinois EPA cited Respondent for exceeding arsenic MCL of 0.010 mg/l, listing the highest annual average of 0.051 mg/l.

22. The Violation Notice required the water system to issue public notification by direct mail to customers every ninety (90) days so long as the contaminant concentration exceeds the MCL.

23. Respondent's violation of the arsenic MCL constitutes a violation that requires a "Tier 2 Public Notice" pursuant to Section 611.903 of the Board's Public Water Supply Regulations. 35 Ill. Adm. Code 611.903(a)(1).

24. Respondent is required to repeat the notice every three (3) months, as long as the violation or situation persists. 35 Ill. Adm. Code 611.903(b)(2).

25. Respondent is required to provide said notices by mail or other direct delivery to each customer receiving a bill and to other service connections to which water

is delivered by the Respondent. 35 Ill. Adm. Code 611.903(c)(1)(a).

26. On information and belief, after an initial notice (presumably pursuant to 35 Ill. Adm. Code 611.903(b)(1)), Respondent has failed to provide any repeat notices despite the fact that the violation and situation continues to persist.

PRAYER FOR RELIEF

WHEREFORE, Complainant, LORETTA THIGPEN, respectfully requests that the Board enter an Order against the Respondent, MORTON MOBILE HOME PARK, LLC, an Illinois limited liability company, d/b/a EDGEWOOD TERRACE MOBILE HOME PARK:

- A. Authorizing a hearing in this matter at which time the Respondent shall be required to answer the allegations herein;
- B. Finding that the Respondent have violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2007), impose upon the Respondent a monetary penalty of not more than the statutory maximum;
- D. Grant such other and further relief as the Board deems appropriate.

COUNT III
CONTAMINANTS IN WATER

27. Complainant realleges paragraphs 1-26 of Count II as paragraphs 1-26 of Count III.

28. Section 611.121(b)(1) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.121(b)(1), provides that:

The finished water delivered to any user at any point in the distribution system must contain no impurity at a concentration that may be hazardous to the health of the consumer or that would be excessively corrosive or otherwise deleterious to the water supply. Drinking water delivered to any user at any point in the distribution system must contain no impurity that could reasonably be expected to cause offense to the sense of sight, taste, or smell.

29. The drinking water at Edgewood Terrace regularly smells like sewage, is discolored (usually brown, orange, black or grey), and contains thick pieces of black, orange and brown sediment. It appears that in the past, after complaints by residents, the water has been overtreated with chlorine for a short amount of time. However, the water

then returns to its polluted state soon after such chlorination, usually after complaints by residents. Complainant has made numerous complaints to Respondent and Respondent's representatives and was told over a year ago that a new water treatment system was to be installed in 2006 (as well as being told this in 2004), but no such system has ever been installed. Complainant is never provided with proper, timely boil orders or warnings with regard to the water quality. In addition, there have been numerous problems with water shortages and water stoppages, without warning. Please refer to the pictures on Exhibit A attached hereto and made a part hereof.

30. The pollution problems described above, on information and belief, began sporadically in 2000. However, beginning in 2003, the aforementioned pollution problems have been continuous and daily. The problems have gotten worse over time. As aforementioned, occasionally the water is overchlorinated after Respondent receives a complaint, but the water soon returns to its polluted state.

31. Complainant has had numerous health problems that have been caused or exacerbated by the water quality, including but not limited to, eye irritation, skin rashes, gastrointestinal problems, and dermatological problems. In addition, the water has a profound negative effect on enjoyment of life and property as the water is unfit for drinking due to the taste and smell, makes bathing unpleasant and ineffective, causes foul odors in Complainant's home, kills plants, causes pets to become sick, damages fixtures and appliances such as faucets, water heaters and purifiers, for which repairs and replacement are costly, makes ordinary household chores, such as carpet cleaning, washing dishes and laundry, very difficult due to the fact that the water itself is unclean and stains dishes, utensils, clothes and towels.

32. Section 30 of the Act, 415 ILCS 5/30 (2007), states as follows:

The Agency shall cause investigations to be made upon the request of the Board or upon receipt of information concerning an alleged violation of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order, and may cause to be made such other investigation as it shall deem advisable.

33. Complainant requests that the Board request the Agency to investigate the violations indicated throughout this Complaint.

32. Complainant requests that the Board order Respondent to immediately and permanently clean up the water supply, whether by installation of a filtration system, or other method, pay civil penalties to the fullest extent of the law, and any and other relief this Board deems just and reasonable.

PRAYER FOR RELIEF

WHEREFORE, Complainant, LORETTA THIGPEN, respectfully requests that the Board enter an Order against the Respondent, MORTON MOBILE HOME PARK,

LLC, an Illinois limited liability company, d/b/a EDGEWOOD TERRACE MOBILE HOME PARK

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

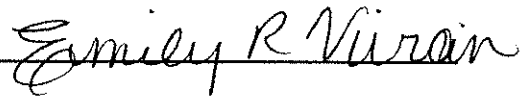
B. Finding that the Respondent have violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2007), impose upon the Respondent a monetary penalty of not more than the statutory maximum;

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

Respectfully submitted,

LORETTA THIGPEN, Complainant

By: 
One of Her Attorneys

David L. Wentworth II
Emily R. Vivian
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hwgsb.com
evivian@hwgsb.com

CERTIFICATION

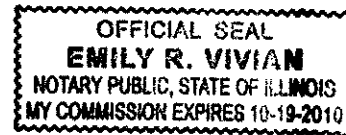
I, Loretta E. Thigpen, on oath or affirmation,
state that I have read the foregoing and that it is accurate to the best of my knowledge.

Loretta E. Thigpen
(Complainant's signature)

Subscribed to and sworn before me this 27th day of July, 2007.

Emily R Vivian
Notary Public

My commission expires: 10/19/2010



NOTICE TO RESPONDENT

NOTE: THIS STATEMENT MUST BE INCLUDED IN THE SERVICE OF THE FORMAL COMPLAINT ON THE RESPONDENT

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

Please take notice that today I filed with the Clerk of the Illinois Pollution Control Board (Board) a formal complaint, a copy of which is served on you along with this notice. You may be required to attend a hearing on a date set by the Board.

Information about the formal complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*) and the Board's procedural rules (35 Ill. Adm. Code 101 and 103). These can be accessed at the Board's Web site (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules. It is provided for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation:

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this formal complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202). "Duplicative" means that an identical or substantially similar case is already pending before the Board or in court. *See* 35 Ill. Adm. Code 103.212(a) and item 10 of the formal complaint.

"Frivolous" means that the formal complaint seeks relief that the Board does not have the authority to grant, or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. *See* 35 Ill. Adm. Code 103.212(a) and items 5 and 9 of the formal complaint.

If you believe that this formal complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you were served with the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. If you need more time than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after service of the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion

alleging that the complaint is duplicative or frivolous will stay the 60-day period for filing an answer to the complaint. *See* 35 Ill. Adm. Code 103.204, 103.212(b).

All motions filed with the Board's Clerk must include an original, nine copies, and proof of service on the other parties. Service may be made in person, by U.S. mail, or by messenger service. Mail service is presumed complete four days after mailing. *See* 35 Ill. Adm. Code 101.300(c), 101.302, 101.304.

If you do not respond to the Board within 30 days after the date on which the complaint was served on you, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing. The Board will then assign a hearing officer who will contact you to schedule times for telephone status conferences and for hearing. *See* 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an answer to this formal complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an answer within 60 days after the Board rules on your motion. *See* 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

The Board's procedural rules require the complainant to tell you as respondent that:

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the 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. 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. *See* 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file your answer or any other document with the Board. The Board will pay any hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3629.

Photo 1: March 29, 2007 - Sample of water taken from Complainant's water filter



Photo 2: March 29, 2007 – Sample of water taken from Complainant's water filter



Photo 3: March 29, 2007 – New water filter that Complainant is getting ready to install



Photo 4: March 29, 2007 – New water filter installed in Complainant's home



Photo 5: April 19, 2007 – Water filter in Complainant's home after only three weeks



Photo 6: May 18, 2007 – Water filter in Complainant's home after less than two months



Photo 7: May 18, 2007 – Water filter in Complainant's home after less than two months



Photo 8: May 18, 2007 – Contaminants from water shown in Complainant's sink



Photo 9: May 18, 2007 – Bucket with filter being cleaned

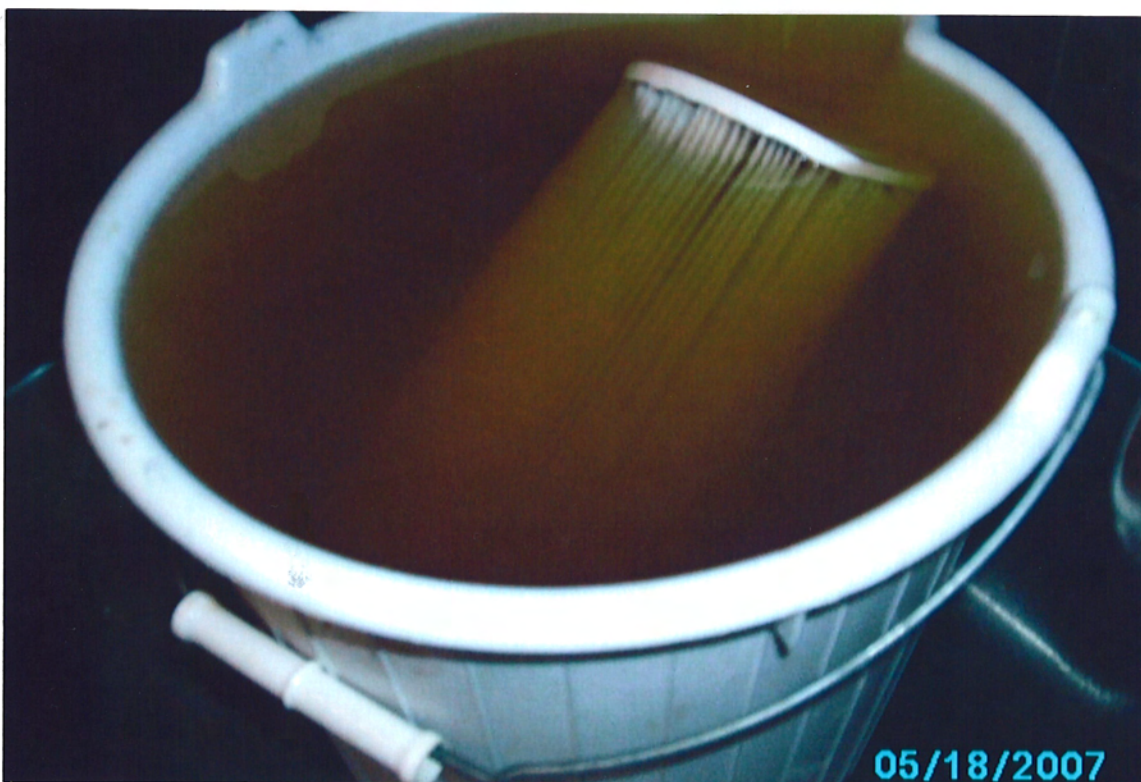


Photo 10: May 18, 2007 – Bucket of water after cleaning filter



Photo 11: Complainant's kitchen sink stains and tap filter



Photo 12: Various samples of water taken from Complainant's kitchen sink

