

STEVENS & LEE
LAWYERS & CONSULTANTS

17 North Second Street
16th Floor
Harrisburg, PA 17101
(717) 234-1090 Fax (717) 234-1099
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Direct Dial: (717) 255-7365
Email: mag@stevenslee.com
Direct Fax: (610) 988-0852

July 12, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Thomas Olup v. Pennsylvania-American Water Company
Docket No. C-2011-2247941

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company are originals of the following documents filed in the above-referenced Docket:

- Answer and New Matter to Complaint
- Preliminary Objections to Complaint

These documents were e-filed at the Pennsylvania Public Utility Commission's website. Copies have been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE


Michael A. Gruin

Encl.

cc: Certificate of Service

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOMAS OLUP	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2247941
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

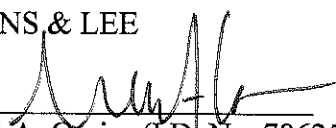
To: *Thomas Olup*

You are hereby notified to file a written response to the attached Preliminary Objections of Pennsylvania-American Water Company within ten (10) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Preliminary Objections within ten (10) days of service, the facts set forth by Pennsylvania-American Water Company may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as responses to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for Pennsylvania-American Water Company. Failure to respond to this Answer and New Matter could result in the dismissal of your case.

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: July 12, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOMAS OLUP	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2247941
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**PRELIMINARY OBJECTIONS OF RESPONDENT,
PENNSYLVANIA-AMERICAN WATER COMPANY**

AND NOW, Pennsylvania-American Water Company (“Respondent” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby files these Preliminary Objections requesting partial dismissal of the Complaint of Thomas Olup (hereinafter “Complainant”). As set forth below, the Complaint should be partially dismissed pursuant to 52 Pa. Code § 5.101(a)(6) because of the pendency of a prior proceeding related to Complainant’s claims regarding the Company’s proposed rate increase, and pursuant to 52 Pa. Code § 5.101(a)(4) because it is legally insufficient in that some of the relief sought by the Complaint cannot be granted by the Commission as a matter of law.

I. INTRODUCTION

1. On December June 22, 2011, the Company was served with a notice of the Formal Complaint (“Complaint”) filed by the Complainant against the Company. A copy of the Formal Complaint is attached hereto as Exhibit 1 and incorporated herein by reference.

2. The Commission's Rules of Administrative Practice and Procedure permit the filing of Preliminary Objections. See, 52 Pa. Code Section 5.101. Pursuant to 52 Pa. Code § 5.101(a)(4), a formal complaint may be dismissed for legal insufficiency. Pursuant to 52 Pa. Code §5.101(a)(6), a formal complaint may be dismissed on the grounds of pendency of a prior proceeding.

3. The Company's Preliminary Objections request the partial dismissal of the Formal Complaint for pendency of a prior proceeding under 52 Pa. Code § 5.101(a)(6), because the Complaint seeks to oppose the Company's proposed rate increase, which is the subject of an open Commission proceeding at Docket No. R-2011-2232243.

4. The Company's Preliminary Objections also request partial dismissal of the Formal Complaint for legal insufficiency under 52 Pa. Code § 5.101(a)(4). One of the reliefs requested by the Complainant is monetary compensation, including punitive damages, from the Company. To the extent that the Complaint seeks monetary damages and/or punitive damages, the Commission is without jurisdiction to award such damages. It is well settled that the Commission does not have the power or jurisdiction to award monetary damages for the actions of a utility company. See *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977).

5. The Company is also filing an Answer and New Matter in response to the Complaint, simultaneously with the filing of these Preliminary Objections.

II. Preliminary Objection under 52 Pa. Code § 5.101(a)(6) – Pendency of a Prior Proceeding

6. Accordingly to publicly-available documents filed with the Commission, on April 29, 2011 the Company filed a request to the Commission for approval for a residential

rate increase. The Company's rate case was docketed by the Commission at Docket No. R-2011-2232243 and the rate increase is currently before an Administrative Law Judge for disposition.

7. The Complainant's present Formal Complaint, attached hereto as Exhibit 1, sets forth two protests related to the Company's proposed rate increase. See Paragraphs 4(B) 1 and 4(B) 2 of the Formal Complaint.

8. Because the Complainant's Formal Complaint included protests regarding the Company's proposed rate increase, the Formal Complaint was also docketed in the pending rate case docket (R-2011-2232243), as confirmed by the publicly available Secretarial Letter from the Commission attached hereto as Exhibit 2.

9. The Commission's Regulations at 52 Pa. Code §5.101(a)(6) permit the filing of a Preliminary Objection to a formal complaint on the grounds of pendency of a prior proceeding. Commission preliminary objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Cf., Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

10. The purposes of recognizing the doctrine of *lis pendens* are to prevent the respondent from having to defend several suits on the same cause of action at the same time, to prevent the squandering of scarce judicial resources on duplicative actions, to maintain an orderly legal process, and to avoid inconsistent decisions on the same causes of action. "The law is quite clear that *lis pendens* is a valid defense only when the parties, the causes of action and the relief sought are the same in both actions (citations omitted)." *Procacina v. Susen*, 301 Pa.Super. 392, 394, 447 A.2d 1023, 1025 (1982).

11. In the instant case, the identity of the issues, parties and relief is the same. The Complainant's Formal Complaint was also docketed in the pending rate case docket (R-2011-2232243), as confirmed by the Secretarial Letter from the Commission attached hereto as Exhibit 2. Therefore, the same rate issues have been raised by Mr. Olup against the Company in both the rate case docket and the present formal complaint docket.

12. The Complainant will have the opportunity to voice his concerns over the Company's proposed rate increase in the rate case docket. The Company should not be forced to incur the time and expense of presenting witnesses and testimony on the appropriateness of the proposed rates in this Complaint docket. To allow any customer to have a separate investigation would result in exactly the wasting of resources and the possibility on inconsistent results *lis pendens* was developed to prevent.

III. Preliminary Objection under 52 Pa. Code § 5.101(a)(4) – Legal Insufficiency

13. Pursuant to 52 Pa. Code § 5.101(a)(4), a formal complaint may be dismissed for legal insufficiency. 52 Pa.Code § 5.101(a)(4) is comparable to Pa.R.C.P. 1028(a)(4), "legal insufficiency of a pleading (demurrer)."

14. The principles applied in ruling upon a demurrer are well-settled:

[W]hen ruling on preliminary objections, [the] Court considers as true all well-pleaded facts which are material and relevant. Specifically, a preliminary objection in the nature of a demurrer is deemed to admit all well-pleaded facts and all inferences reasonably deduced therefrom. In determining whether to sustain a demurrer the court need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. A demurrer will not be sustained unless the face of the complaint shows that the law will not permit recovery, and any doubts should be resolved against sustaining the demurrer. *Giffin v. Chronister*, 151 Pa.Cmwlth. 286, 290, 616 A.2d 1070, 1072 (1992) (citations omitted).

15. The relief requested by the Complaint in this case includes a request that “the owner should be fully compensated for the damage, including punitive damages against PAWCo.” See Complaint, at paragraph 5. This portion of the Complaint is legally insufficient and fails to state a claim for which relief can be granted.

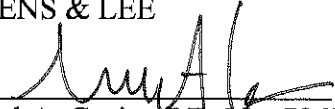
16. It is well settled that the Commission does not have the power or jurisdiction to award monetary damages for the actions of a utility company. See *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977). As such, it is evident that one of the reliefs requested by the Complainant (compensation including punitive damages) is beyond the power of the Commission to Order. Therefore, the Complaint is legally insufficient to the extent that it seeks compensation and punitive damages, and the Counts of the Complaint which seek such relief should be dismissed.

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that your Honorable Commission grant its Preliminary Objections and dismiss the Counts of the Formal Complaint which relate to the Company’s pending request for a rate increase, pursuant to 52 Pa. Code § 5.101(a)(6) and the doctrine of *lis pendens*; and dismiss the Counts of the Formal Complaint which seek compensation and punitive damages from the Company, pursuant to 52 Pa. Code § 5.101(a)(4) and the well-settled authority which holds that the Commission does not have the power to order or award monetary damages.

Respectfully submitted,

STEVENS & LEE


Michael A. Gruin, (I.D. No. 78625)

17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852

Dana Pirone Carosella, Esquire
Attorney I.D. No. 57221
Stevens & Lee
1818 Market Street, 29th Floor
Philadelphia, PA 19103
215-751-2890/610-371-7978 (fax)
dpc@stevenslee.com

COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: July 12, 2011



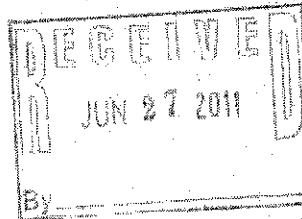
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: June 22, 2011

C-2011-2247941

PENNSYLVANIA AMERICAN
WATER COMPANY
KATHY PAPE, PRESIDENT
800 WEST HERSHEY PARK DRIVE
HERSHEY, PA 17033



Dear Mrs. Pape:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by Thomas Olup. To defend yourself against the claims stated in the complaint, you must respond within twenty (20) days of the above date served by filing with the Commission, in writing, an Answer in accordance with 52 Pa. Code Section 5.61, either personally or through your attorney. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days of the above date served.

IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN TWENTY (20) DAYS OF THE ABOVE DATE SERVED, THE CLAIMS AGAINST YOU MAY BE DEEMED ADMITTED, THE CASE MAY GO FORWARD IN YOUR ABSENCE, AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

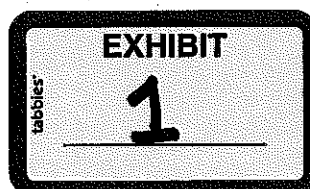
CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.



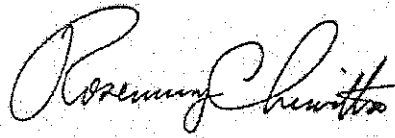
9171 9690 0935 0005 8284 60

June 22, 2011

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

al

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: June 22, 2011

THOMAS OLUP

Complainant

v.

PENNSYLVANIA AMERICAN WATER
COMPANY

Respondent

Complaint Docket
No: C-2011-2247941

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PENNSYLVANIA AMERICAN WATER COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. **The date served is the mailing date appearing at the top of this Notice.** Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

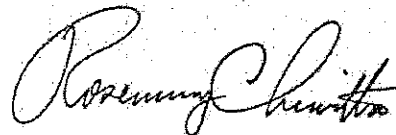
2. If you fail to either satisfy or settle this complaint, or to file an answer or other responsive pleading within twenty (20) days of the date served, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section

101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy or settle this complaint, you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

PENNSYLVANIA PUBLIC UTILITY COMMISSION

COPY

Formal Complaint Form

Pennsylvania PUC

JUN 13 2011

Consumer Services
CAC Division

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name THOMAS V. OLUP, P.E.

Street/P.O. Box 719 AGNEW ROAD Apt # (N/A)

City PITTSBURGH State PENNA Zip 15227

County ALLEGHENY

Daytime Telephone Number Where We Can Contact You: (412) 884-8426

E-mail Address (optional): N/A

Utility Account Number 24-0885244-6 (PRESENT)
(from your bill) 24-21675972 (PROSECUTED)

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

RECEIVED
2011 JUN 13 PM 2:38
PA PUC
SECRETARY'S BUREAU

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PENNSYLVANIA AMERICAN WATER

3. TYPE OF UTILITY (check one)

ELECTRIC

STEAM HEAT

GAS

WASTE WATER

WATER

MOTOR CARRIER

TELEPHONE
(local, long distance)

(e.g., taxi, moving company, limousine)

71803

COPY

4. COMPLAINT (check one)

A. In general, what is your complaint?

- 1 = I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- 2 = There is a reliability (safety) or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- 3 = Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

© THIS "COMPLAINT" IS NOT ABOUT A BILL. PAYMENTS TO PAWCO - HAVE BEEN MADE TO PAWCO FOR SOME APPROXIMATELY FORTY-TWO (42) SINCE 1970 - WITH ALL CHARGES - PAID - TO FULL @ MY COMPLAINT(S) IS AS FOLLOWS:

- 1 = - RATE INCREASE - THERE SHOULD BE NO CONSIDERATION UNTIL PAWCO CAN CERTIFY AND ATTEST THAT THERE ARE "NO" OUTSTANDING CLAIMS OR PAYMENT FOR DAMAGES CAUSED BY PAWCO - WATER DAMAGES IN ANY COUNTIES IN ITS SERVICE JURISDICTION(S). THIS WOULD BE IN WRITING, WITH RELEASE FORMS (SIGNED) BY THE DAMAGES CUSTOMERS (ENTITIES).
- 1 = - RATE INCREASE - AUDITS SHOULD BE PERFORMED BY AN INDEPENDENT AEA FOR COSTS (ONLY) - DIRECTLY ATTRIBUTED TO WATER DISTRIBUTION. EXAMPLE: LOBBYING = NOT; LEGAL = NOT; ETC.
- 2 = - SAFETY - FLOODING (CONTINUAL - TRESPASS) BY PAWCO HAS CREATED A HEALTH AND SAFETY PROBLEM (WITHIN THE DWELLING @ 719 A GLEN ROAD
- 3 = - OTHER - LOSS OF MARKET VALUE (HOUSE AND SURROUNDINGS SINCE 2008 AND BEFORE) LOSS OF RENTAL INCOME / OR POSSIBLE SALE OF DWELLING

SUPPLEMENTAL SHEET NO. 7 A
(CONTINUATION)

COMPLAINT
AGAINST

PAW CO.

THE FOLLOWING EXHIBITS ARE (RATE INCREASE,
INCLUDED (SUBMITTED) FOR THE PUC ETC.)
AND CONCERNED PARTIES, REGARDING THIS COMPLAINT

EXHIBIT A - LETTER OF MAY 01, 2011 TO KATHY PATE,
PRES & C.E.O. (PAW CO.)

EXHIBIT B - CERTIFIED MAIL RECEIPT OF 5/09/11

EXHIBIT C - LETTER OF JUNE 12, 2009 TO PAW CO.

EXHIBIT D - BECK'S RUN IN FIRE CO. - WATER LINE
BREAK (FLOODING AT HOMES - 719 AGUE RD./ETC.)
(BASE BREAK OF 3/28/1994) - ON OR ABOUT

EXHIBIT E - BALGWIN BORN POLICE DEPT. REPORT
(DATED 3/28-1994 (SIC=?))

EXHIBIT F - PROBABLE CAUSE OF MARCH 28, 1994
WATER MAIN BREAK BY THOMAS V. OLUP, P.E.

EXHIBIT G - PLAN OF DWG @ 719 AGUE ROAD
WITH DIRECTION OF MAJOR DELUGE FROM
PAWCO'S - MAIN LINE BREAK (AGAIN)
FROM 719 AGUE ROAD ON JUNE 14, 2008

EXHIBIT H - TYPICAL SECTION OF U-GROUND
FRENCH DRAIN AND ROOF DRAIN SYSTEM - BLOWN-
OUT BY PAWCO'S - MAIN LINE BREAK ON
JUNE 14, 2008

5. RELIEF

How do you want your complaint to be resolved? Use additional paper if you need more space.

① PENNSYLVANIA AMERICAN WATER CO. - SHOULD MAKE ANY OR ALL REPAIRS/PIKES (ETC. TO THE PRE-EXISTING MAJOR DELUGE ON OR ABOUT JUNE 14, 2008 - TO THE DWELLING/ENVIRONMENT AND FINANCIAL DAMAGE (START SYSTEM)

② ABSEN THE ABOVE, THE OWNER(S) SHOULD BE FULLY COMPENSATED FOR THESE DAMAGE IN CLINICAL POSITIVE DAMAGES AGAINST PAWCO. THEY HAVE CONTINUOUSLY DELAYS AND STALL-WAYS THE OWNER(S) @ 719 AGNEW RD, IN BALDUIN BORO; ALLEGHEMNT COUNTY.

③ THEY HAVE DIMINISHED THE MARKET VALUE OF THIS HOME/DWELLING/ENVIRONMENT BY SOME 60K TO 80K IN 2008 DOLLARS. FURTHER, THE OWNER CAN NOT RENT/SELL/OCCUPY THE HOME - DUE TO HEALTH SAFETY AND SANITARY CONDITIONS (ADVERSE).

④ FURTHER, PAWCO APPEARS TO HAVE MADE REPAIRS AND/OR RESTITUTION TO ALL (?) OF SURROUNDING OWNERS, EXCEPT FOR 719 AGNEW ROAD.

⑤ OBVIOUSLY, PAWCO - APPEARS AS VINDICTIVE AND ABUSIVE TO THE OWNER(S) @ 719 AGNEW ROAD

⑥ IT IS A CONTINUAL VENDETTA, SINCE 1994/1996 BY PAWCO AGAINST THE OWNER(S) OF 719 AGNEW ROAD, AND THEY (PAWCO) HAVE A TOTAL DIS REGARD OF THEIR RESPONSIBILITY. MAYBE (?) THE PUC CAN GET THEIR ATTENTION.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NOT TO A RESPONSIBLE / AUTHORIZE

NO

REP. OF PAWCO.

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

TO K. PAPE / W KELVINGTON, ET AL

The PUC SHOULD CONTACT THE FOLLOWING REPS OF PAWCO: RE: VULIT-?

- 1) KATHY PAPE - PRESIDENT & C.E.O. } SEE COMPS OF*
 - 2) WILLIAM KELVINGTON - VICE PRESIDENT } CERTIFIED*
- LETTERS*

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (If Known) _____

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I THOMAS V. OLUP, P.E., hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Thomas V. Olup, P.E.
(Signature)

ORIGINAL COPY TO PUC = 5/23/11
REC'D FORM (COMPANY) = 5/28/11
FILED FORM (DATE) = 6/08/11
MAILED: 6/10/11
(Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

MAY 01, 2011

(A)

KATHY PAPE
PRESIDENT & CEO
PA AMERICAN WATER CO.
800 W. HERSHEY PARK DR.
HERSHEY, PA. 17033

LATEST WATER DELUGE OF
JUNE 14, 2008 AT
719 AGNEW ROAD
BALDWIN BOROUGH
PGH, PA. 15227
PAW Co. - NON RESPONSIVE
TO OWNERS @ 719 AGNEW RD.

DEAR MS. PAPE,

① YOUR DERELICT MAIN LINES HAVE CONTINUOUSLY BATTERED THE ENVIRONMENT / DWELLING AT 719 AGNEW ROAD FOR APPROXIMATELY 40 TO 60 YEARS. THE "LATEST" MAJOR DELUGE OCCURED ON OR ABOUT JUNE 14, 2008. YOUR "CAVALIER" EMPLOYEES / REPS. HAVE STILL NOT ADDRESSED / FIXED / SETTLED THE DAMAGES / REPAIRS TO THIS DWELLING. ALL OTHERS ALONG AGNEW ROAD APPEAR TO HAVE BEEN RESTORED BY PAW Co.

② YOU WILL BE SPENDING 101 TO 150 MILLION DOLLARS FOR UPGRADES TO YOUR SYSTEM IN THE AREA. IN ADDITION, YOU WILL BE GETTING A RESIDENTIAL INCREASE OF \$6.42 / MONTH FOR SOME 533 MILLION, SINCE YOUR LAST RATE INCREASE IN 2009. YOUR MOTTO WE CARE ABOUT WATER. IT'S WHAT WE DO - IS A HYPOCRITICAL JOKE. WHAT ABOUT THE "CARING" OF DAMAGES TO YOUR CUSTOMER REGARDING THEIR DAMAGES BY YOUR COMPANY?? PATRONS

HAVE YOU NO SHAME???

HAVE YOU NO DECENCY???

HAVE YOU NO SENSE OF RESPONSIBILITY???

cc: JEFFREY T. OLUP, ESQUIRE
© WILLIAM M. KELWINGTON, PAW Co.

VERY TRULY YOURS,
Thomas V. Olup, P.E.
THOMAS V. OLUP, P.E.

ENCLOSURES:
1) LETTER OF JUNE 17, 2009 (NON-RESPONSE) TO PAW Co.

(FORMER REGISTERED PROFESSIONAL ENGINEER)

(B)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <i>David W. Lambert</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
	B. Received by (Printed Name) _____	C. Date of Delivery 5/9/11
1. Article Addressed to: WILLIAM KELVINGTON 300 GALLEY ROAD Mc MURRAY, PA 15317 (PA AMER. WATER CO.)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label) 7010 1670 0001 1855 1995		
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <i>J. P. August</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
	B. Received by (Printed Name) J. August	C. Date of Delivery 5/9/11
1. Article Addressed to: KATHY PARE PRES. & CEO (PA. AMER. H2O Co.) 800 W. HERSHEY PARK DR. HERSHEY, PA 17033	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label) 7010 1670 0003 1855 2008		
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

June 12, 2009

RE:

- * PA American Water Co.
- * Latest Main Line Break
- * On or about June 14, 2008
- * Baldwin Borough @ 745/741 Agnew Road
- * Latest water intrusion/ trespass damages to at 719 Agnew Road

* *REGISTERED MAIL (RETURN RECEIPT)*

Ms. Kathy Pape
President and CEO
800 W. Hershey Park Drive
Hershey, PA 17033

Mr. William Kelvington
VP Operations
300 Galley Road
McMurray, PA 15317

X CLAIM CUT = 6/15/09

Corporate Officers,

Be advised that the Pennsylvania American Water Company, (as your employees/company is aware) had another, and latest-main-line water break in Baldwin Borough at 745/741 Agnew Road, on or about June 14, 2008.

Previously, PAWC was alerted, advised and apprised that ongoing and the latest substantial damages had and has occurred to the dwelling at 719 Agnew Road. This was due to your company's main line break(s) and related /ongoing installations of valves and related items of work at Agnew Road, Joseph Street, and Custer Avenue. (@ least).

My ongoing verbals and meetings with PAWC employees and its insurance carrier have been a waste of my time. It appears that PAWC wants to delay, deny and defend this claim. As an aside, this major water line break is at the same location where it occurred in 1994, and at least three (3) previous times before 1994. The dwelling at 719 Agnew Road had two (2) to three (3) feet of water inundation in its basement and garage area in 1994.

The three (3) previous inundations were 4 inches, 6 inches, and 8 inches of water in the basement at 719 Agnew Road.

In 2008, the northeast and northwest areas of the basement (primarily) had 6 to 8 inches of water from the latest break.

Employees of WPAC have estimated that at least 300,000 or 350,000 gallons of water had been lost and trespassed to the environs of 719 Agnew Road.

On or about 1996/1997, a total (replacement) french drain and underground storm system (2) had been installed at 719 Agnew Road. Further replacement for flooring, painting and utilities had to be restored.

Presently, PAWC has repaired or paid for the claim of the latest damage at 745,741, and 725 Agnew Road. PAWC's agent(s) of Disaster Restoration were still working on the environment as of June, 2009.

It appears that PAWC/insurance carrier's position is the same indefensible ploy and tack that was taken in 1994 regarding the damages at 719 Agnew Road. Ultimately, after two to three years of delay and denials with needless litigation, PAWC/insurance paid out \$30,000 for damages to 719 Agnew Road. Legal costs were not paid by PAWC to the owners of 719 Agnew Road.

The PAWC's insurance company's attorney, Zimner-Kunz of Pittsburgh, arrogantly and laughingly stated that, "They (the firm) cannot settle or resolve this claim because they are making \$300 an hour," and they will take this claim to the mat. How much did PAWC pay out to this firm?

I am aware that the statute of limitations is two (2) years from the date of loss, which statute may or may not expire on or about June 14, 2010. Therefore, PAWC is hereby put on "written" notice that legal action may be taken in the event that this claim is not addressed and resolved, expeditiously.

I am requesting that a responsible, knowledgeable employee of PAWC directly meet with me as soon as possible to discuss and resolve this claim for water damages.

I can be reached at (412) 884-8426, and would appreciate your call no later than the next two (2) weeks. Thank you.

The employee(s) of PAWC and its insurance carrier had suggested the possibility that litigation could ensue for this claim. That is a warped sense of the mindset to force litigation and renounce responsibility. (Defend) Let's move to resolve this claim.

Very truly yours,

Thomas V. Olup, P.E.

Thomas V. Olup, P.E.

P.S. Say hello to Bob Ross for me. He will remember me regarding his days at Western Pennsylvania Water and the infamous (fast) gear, installed by WPW in Ashli Alley, Munhall Borough, to record false and inflated readings. (Billings to Munhall Borough)

cc: Jerry Hankey, P.E.
Chief Engineer
300 Galley Road
McMurray, PA 15317

(MAILED OUT = 6/15/09)

Bassi, McCune & Vreeland (MAILED OUT = 6/15/09)

(D)

BECKS RUN INDEPENDENT FIRE COMPANY FIRE REPORT

DATE: MARCH 28

LOCATION OF FIRE CALL: 741 AGNEW ROAD

TYPE OF FIRE CALL: DWELLING VEHICLE(S) OTHER (Explain) WATERBREAK/FLO
BAS

NAME OF OWNER: BARROWMAN NAME OF OCCUPANT SAME

If Vehicle(s):

Plate # _____ Make _____ Plate # _____ Make _____

Plate # _____ Make _____ Plate # _____ Make _____

NAME OF CALLER: BALDWIN FIRE RADIO PHONE #: 881-8000

TIME OF ALARM: 4:30 am TIME RESPONDED: 4:30 am

TIME ON SCENE: 1:00 am TIME RETURNED: 8:35, am
(CALL BOROUG FOR CORRECT TIMES)

TRUCK(S) ANSWERING CALL: ENGINE #11 ENGINE #12 SQUAD #14

Company(s) called to assist: BALDWIN #1 OPTION SOUTH BALDWIN OTHER _____

Details of Fire Call FLOODED BASEMENT DUE TO WATERBREAK/ PUMPS USED TO REMOVE WATER FROM/

Detail any Accidents and/or Injuries to: Fire Personnel Other SEE ATTACHED REPC

Name: _____ Nature of Accident or Injury: _____

Officer or Fireman in Charge: ORIGINATED 1C1 / 11C1 WAS GIVEN COMMAND UPON ARRIVAL

FIRE PERSONNEL RESPONDING TO FIRE CALL: TOTAL (9)

- 1. LEN NOVAK 11C1 _____
- 2. BILL PELL L1 _____
- 3. STEVE BONEPPI L2 _____
- 4. TOM PRATLEY C4 _____
- 5. GIL FOX _____
- 6. GORDON SULLIVAN _____
- 7. SHAWN PETRIE _____
- 8. JAMES KASICKY _____
- 9. DENNIS SCHLOTT _____
- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____
- 16. _____
- 17. _____
- 18. _____
- 19. _____
- 20. _____

(SIGNATURE)

FILE NO. 94045
DATE 3/28/94

EMERGENCY OFFICE
0008-188 (219)
0008-188 (219)

FIRE CO. 11

IMPORTANT MESSAGE

TO
DATE
TIME
FROM
WHERE YOU WERE OUT

BECKS RUN INDEPENDENT FIRE COMPANY



BALDWIN BOROUGH



RE: WATERBREAK / 741 AGNEW

- * CALL CAME IN FOR A FLOODED BASEMENT DUE TO A WATERBREAK .
- * STATION 11 RESPONDED ALONG WITH STATION 1 , 1C1 ARRIVED ON THE SCENE ASSEST THE SITUATION AND RELAYED IT TO 11C1 THAT IT WAS A MAJOR WATERBREAK AND WAS FLOODING DIRECTLY INTO 741 AGNEW AND BEYOND
- * 11C1 ARRIVED ON THE SCENE AND ASSUMED COMMAND FROM 1C1 AND WAS FILLED IN OF THE SITUATION WHICH PERTAINED TO HAVING HIS OFFICER 1C4 AND ADDITIONAL PERSONNEL FROM STATION 1 an 11 CHECK THE RESIDENTS DOWN HILL FROM 741.
- * 1C4 REPORTED TO COMMAND THAT 719 WAS FLOODED AND COULD NOT GET ANY ANSWER AT THE DOOR OF THE RESIDENTS
- * COMMAND CALLED FIRE RADIO AND INSTRUCTED TO LOOK UP THE ADDRESS AND SEE IF THEIR WAS A TELEPHONE NUMBER ON HAND FOR 719. WHICH WAS DONE AND BEGAN CALLING BUT THEIR WAS NO ANSWER
- * IN THE MEAN TIME MEDICS WERE CALLED TO THE SCENE PER COMMAND (11C1) FOR FEAR THAT THE WATER HAD FLOODED OUT THE PILOTS ON FURNACE AND THE RESIDENTS MAY HAVE BEEN OVERCOME BY FUMES AT 719 / BOTH RESIDENTS ON EACH SIDE OF 719 WERE AWAKEN BY THE FIREMEN AND TOLD THEM THAT THE RESIDENTS OF 719 ARE HOME
- * AFTER A GOOD 15 MINUTES OF KNOCKING THE RESIDENTS FINALLY WERE AWOKEN AND ANSWERED THE DOOR AND WERE TOLD OF THE FLOODING IN THEIR BASEMENT/COMMAND WAS INFORMED THAT THEY WERE AWAKE AND FINE AND CLEANUP WAS STARTED
- * 741 AGNEW WAS ALSO CONTINUED TO BE CLEANED UP AND PUMPED OUT.
- * NOTE THAT THE DAUGHTER OF 719 WAS TOLD THAT WE COULD NOT GET AN ANSWER AT HER PARENTS WHICH SHE INTURNED CALLED THEM AND THEY ANSWERED AND CAME DOWN TO LET THE FIREMEN IN (HER ADDRESS WAS NOT GIVEN BUT WE WERE TOLD SHE ALSO RESIDES ON AGNEW.)

OWNER (Name)

RECORDED / INDEXED

741 AGNEW (RD)

4:25

94045

3/28/44

NO. 4 31

OFFICE Emergency (412) 881-8000 (412) 881-2510

IND. FIRE CO.

4/4

INDEPENDENT FIRE COMPANY
BOROUGH



[Handwritten notes and signatures, including names like 'KAWINSKI' and 'CLARK']

... TO A WATERBREAK .
... 1, 101 ARRIVED ON THE SCENE ASSEST THE
... IT WAS A MAJOR WATERBREAK AND WAS FLOODING
... COMMAND FROM 101 AND WAS FILLED IN OF THE
... OFFICER 104 AND ADDITIONAL PERSONNEL
... DOWN HILL FROM 741.
... ANSWER AT THE
... TO LOOK UP THE ADDRESS AND SEE IF THEIR
... WHICH WAS DONE AND BEGAN CALLING BUT

- * IN THE MEAN TIME MEDICS WERE CALLED TO THE SCENE PER COMMAND (1101) FOR FEAR THAT THE WATER HAD FLOODED OUT THE PILOTS ON FURNACE AND THE RESIDENTS MAY HAVE BEEN OVERCOME BY FUMES AT 719 / BOTH RESIDENTS ON EACH SIDE OF 719 WERE AWAKEN BY THE FIREMEN AND TOLD THEM THAT THE RESIDENTS OF 719 ARE HOME
- * AFTER A GOOD 15 MINUTES OF KNOCKING THE RESIDENTS FINALLY WERE AWOKEN AND ANSWERED THE DOOR AND WERE TOLD OF THE FLOODING IN THEIR BASEMENT/COMMAND WAS INFORMED THAT THEY WERE AWAKE AND FINE AND CLEANUP WAS STARTED
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BALDWIN BOROUGH POLICE DEPT.

Agnew Rd
 LOCATION OF OFFENSE OR INCIDENT
 Water Line Break
 NATURE OF COMPLAINT
 102028
 CASE NUMBER
 Jim Schwarz
 COMPLAINANT'S OR VICTIM'S NAME
 732 Lafferty
 ADDRESS
 884 2170
 PHONE NUMBER
 3-28-94
 TIME AND DATE OCCURRED
 Sr
 REPORTED BY
 Sr
 ADDRESS
 SM
 PHONE NUMBER
 Nath
 RECEIVED BY
 3-28-94
 DATE
 Brunswick Fleming
 OFFICERS ASSIGNED
 Sgt 1, Med 51
 1
 DISTRICT

NARRATIVE Report of a water line break on Agnew Rd, upon arrival of Of Brunswick he found a large water break in front of 741 Agnew Rd. Dispatch had already called the water Co., but was told to call back & send someone quickly.

At 741 Agnew Rd the driveway sits down off the roadway. The water was on that side of the street. A portion of a wall was broken, water was pouring across the front lawn of 741, down the driveway & into the house.

Of Brunswick woke the owners of [redacted] checked the [redacted] Station 1 was called out to pump out the house & Med 51 to be in the area.

~~The water Co. received a call to report a break separate valves to shut the water off. The 1st two did not work; the third was found in front of the Alleyway building.~~

April 24, 1994

- 1/ Police Reports
- 2/ Program Cause of [redacted] (EVO)
- 3/ J.M. Smith & Associates, etc.

(F)

PROBABLE CAUSE OF MARCH 28, 1994, WATER MAIN BREAK

The information produced in discovery reveals that on March 28, 1994, an 18' section of 8" cast iron pipe ruptured along Agnew Road. This particular pipe appears to have been installed in 1937. As such, the break occurred within the useful life of the pipe section, which useful life exceeds 57 years.

PAWCO's Answer to Supplemental Interrogatories No. 9 states that "the calculated main line water operating pressure at the site of the March 28, 1994, break is approximately 120 pounds per square inch". This is by Pennsylvania American Water Company's theoretical calculations for operating pressure at the location of the break, but may not necessarily be the true or actual pressure in the line at the time of the break.

Answer to Supplemental Interrogatory No. 8 states that "the water mains along Agnew Road did not include restraining mechanisms" such as thrust blocks or restraining devices to mitigate high operating pressures in the distribution line(s).

In addition, it has been stated by residents on Agnew Road that this is the third (3rd) water line break or leakage at the same location.

In Exhibit 1 to the Second Set of Production, there is a note card which reads:

Agnew Road	Baldwin Borough
Repaired 8" C. - I. Main (Transverse Break)	
1937	12/5/78

The work order for this break (Exhibit "G" to the first Production), under dates of 12/4/78 and 12/5/78 confirms that PAWCO drilled holes, sounded out the leak, shut off the main line and jack-hammered around the pipe and discovered a transverse break. The estimated water loss was 75,000 gallons of water, or fifteen (15) tanker trucks of 5,000 gallons each.

It is important to note that the materials used by PAWCO on this break was ~~one (1) eight inch (8") full circle clamp~~

If this is a magnitude of break that allowed some 75,000 gallons of water to escape, then prudent engineering practice for an 8" main line water distribution line should have been to introduce a full-length section of pipe replacement. To try to ~~band-aid~~ this main line was not the correct measure of repair. At this point in time, one can only speculate or conjecture on why the Pennsylvania American Water Company chose to put a ~~clamp~~ on this line and not replace the full section of pipe of eighteen (18) feet.

Some educated reasons for their rationale include, but may not be limited to, the following:

1. December 4, 1978, was a severely cold day and the field forces decided to ~~clamp~~ the break because of the water and icing conditions. It is recalled that the years of 1977, 1978 and 1979 were brutally cold during the months of January, February, etc. Frost during one of these years may have penetrated to as deep as 40 - 44 inches due to long-sustained cold spells.
2. Agnew Road is a heavily-travelled road and access for buses and vehicular traffic had to be provided as quickly as possible.
3. There existed a pedestrian and traffic hazard due to an excessive water and icing condition.
4. It was felt by the Pennsylvania American Water Company field forces and management that the placing of a ~~clamp~~ on this line would be adequate to seal the transverse break in light of the need to open the road to traffic and mitigate the water and icing conditions.

As to why the 8" main line burst and spewed approximately 194,000 gallons of water and caused extensive damage, the writer is of the opinion that the following were the cause(s) of the break, or at least, to a large degree of engineering certainty, appear to be the large contributor(s).

Initially, it must be noted that water main lines made of proper materials, and properly installed, inspected and maintained, do not ordinarily break, under normal circumstances. The apparent culpable element appears to be the introduction by Pennsylvania American Water Company in 1978 of utilizing a ~~clamp~~ in December 4 and 5 of 1978 and assuming this would be adequate and control the previous transverse break. Obviously, this pipe burst on March 28, 1994, at the same location and probably within the location of the previously placed ~~clamp~~.

Through time, pipe ~~clamps~~ have proven to be just a quick fix for main line breaks or leak problems.

It has been deemed more sound to replace the broken pipe section. Historically, pressure within the main line has a force action of its own that tends to allow leakage around the ~~clamp~~ location and ultimately loosen the ~~clamp~~ and its mechanism from around the circumference of the pipe and usually cause a breaking or bursting at the same location or in very close proximity. It is unlikely that the break would have occurred if the line was replaced, instead of affixing a ~~clamp~~.

Further, the pressure of this line as calculated by Pennsylvania American Water Company under Answer No. 9 was approximately 120 pounds per square inch (120 psi).

It is felt that this is a theoretical determination and that just previous to bursting or breaking the main line pipe may have had a substantially larger pressure acting on the ~~clamp~~.

It is interesting to note that when Mr. and Mrs. Francis Klawinski subsequently had to replace their water heater, the specialists in water heater replacements, Mr. Waterheater, Inc., reported that their service line pressure on July 29, 1994, was at 110 pounds per square inch. They stated that this service line should have a normal water pressure reading between 40 to 70 pounds per square inch. Therefore, it appears that the service line pressure exceeded the recommended normal water pressure by approximately 50%.

It is not known what the American Water Works Association or PAWCO considers a low or high operating pressure for this line. However, there are no pressure regulators, as acknowledged by the water company, for the line in Agnew Road.

It is strongly felt that the high pressure in this line contributed and/or caused the ~~clamp~~ and its attachments to loosen and/or weaken and ultimately the pipe burst.

Pennsylvania American Water Company acknowledges that they did not salvage the burst/broken pipe, nor is there any mention of the status of the ~~clamp~~.

Finally, the writer's experience is that ~~clamps~~ on main line operating distribution lines are deemed as ~~stop-gap or band-aid~~ measures. Further, this location with a ~~clamp~~ mechanism is a candidate for monitoring for leaks and pressure fluctuations. In addition, it is the first location (suspect) for ultimate pipe replacement. The considered opinion, in the industry, is that a ~~clamp~~ can last six (6) seconds, six minutes, six months, or six years...but ultimately it will fail at some future time frame.

The time frame was March 28, 1994.

Based upon the foregoing, it is my opinion, to within a reasonable degree of engineering certainty, that:

1. Water main lines made of proper materials and properly installed, inspected and maintained do not ordinarily break.
2. Previous installation of a ~~clamp~~ instead of a pipe section, was not prudent engineering practice.
3. Pressures in the line contributed to the weakening of the ~~clamp~~ ultimately leading to the pipe rupturing.

Date: APRIL 13, 1996

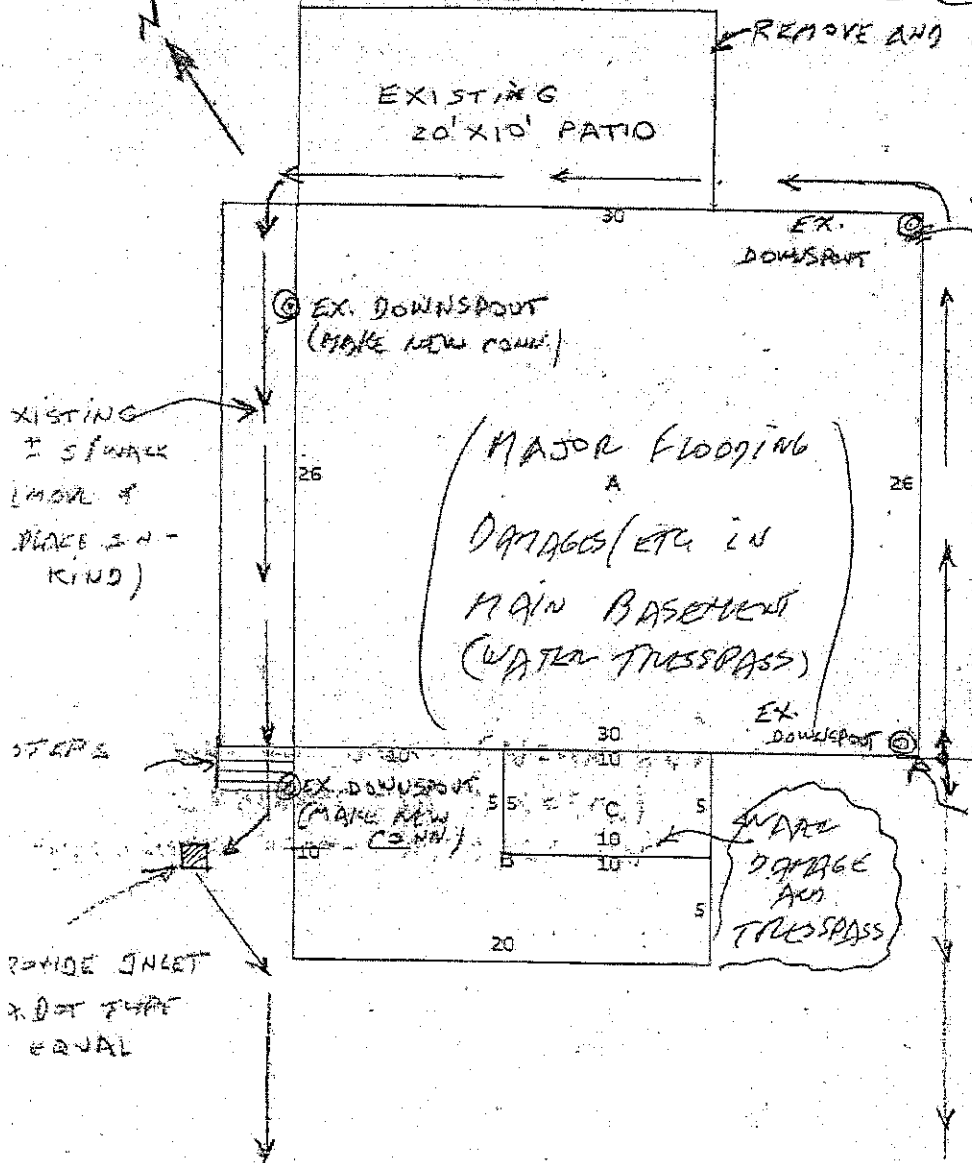
Thomas V. Olup, P.E.
THOMAS V. OLUP, P.E.

Parcel: 0059-R-00064-0000-00
 Property Location: 719 AGNEW RD
 PITTSBURGH, PA 15227 0000
 Municipality: Baldwin Boro
 School District: Baldwin Whitehall

LATEST DELUGE FROM
 741 AGNEW RD TO
 719 AGNEW RD

(G)

LATEST DELUGE
 DIRECT



MAKE NEW CONNECTION
 LATEST DELUGE

ALTERNATE PLAN B:
 1) HIGH POINT @ PT. OF DELUGE
 - PROCEED SOUTH AND
 - PROCEED WEST TO OUTFALL (STREET)
 LATEST DELUGE

MAKE NEW CONNECTION
 LATEST DELUGE
 EXCAVATE 20' OF 7' DIA. DIA.
 ○ PLACE 4" PERF. PIPE @ BOTTOM
 ○ MIN. = 2% GRADE
 ○ 2" AGGREGATE AND 4" TO POOL TO GRADE
 ○ STRIP WITH MIN. 3'-0" DIA. (DEPTH)

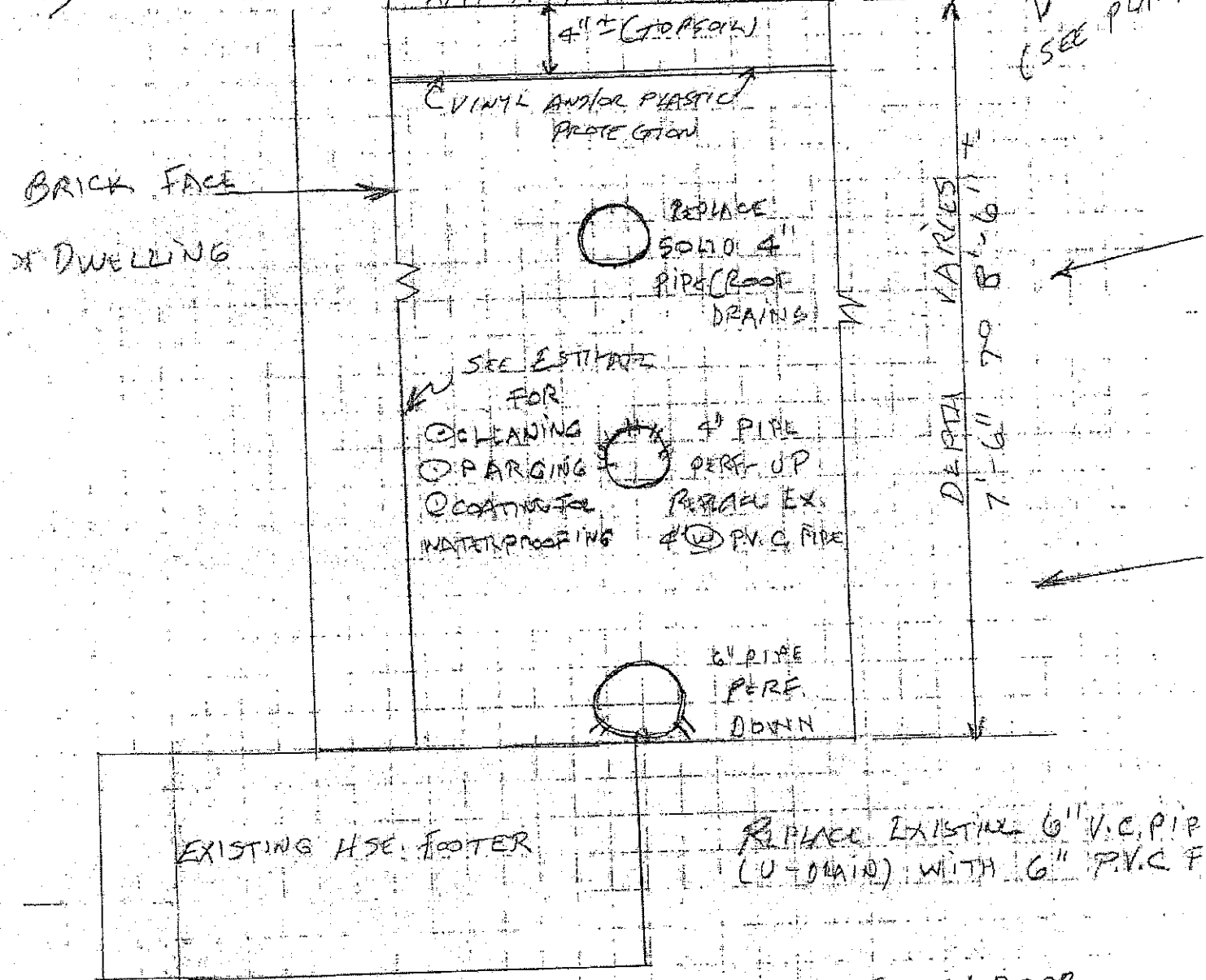
- A Main Level
- B Stoop Masonry
- C Full Basement (conv main bldg) 1 story masonry
- D UPPER ATTIC LIVING AREA (ADJ)

780 Sq. Ft. ✓
 150 Sq. Ft. ✓
 50 Sq. Ft. (?) (NOT VERIFIED)
 26 Sq. Ft. (NONE - NO ATTIC)

NOTE: INLET WILL HAVE 6" PERF. PIPE
 CENTERED AND PIPE (6")
 PIPE TO OUTLET (AGNEW RD)

PLAN-HOUSE AND SCOPE OF WORK

EXISTING TYPICAL SECTION @ 719 AGUA RD
 BLOW-OUT BY
 RAUCO - 350,000 TO
 500,000 GALLONS



LATEST DELUGE - ON ON A307 JUNE 14 2008
 (APPROX. 350,000 TO 500,000 GALLONS)
 TYPICAL SECTION - PIPE TRENCH

EXCAVATION - FRENCH DRAINS (2)
 AND U-GROUND - ROOF DRAINS
 (SEE ESTIMATE FOR EXC., BRICK WALL, ETC.)

EXISTING AND PROPOSED - IN (RUND)

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P O BOX 3265, HARRISBURG PA 17105-3265

Formal Complaint
Docket #: C-2011-2247943

June 22, 2011

PA AMERICAN WATER COMPANY
ROD NEVIRASKAS
800 WEST HERSHEY PARK DRIVE
HERSHEY PA 17033

RE: PA PUC vs PA AMERICAN WATER COMPANY
Rate Case Docket #: R-2011-2232243

Dear Mr. Neviraskas:

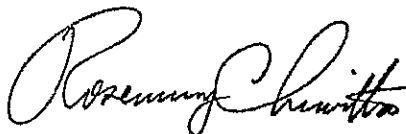
A Formal Complaint has been filed against you in the above-captioned matter before the Pennsylvania Public Utility Commission by Thomas Olup.

This true and correct copy of the complaint has been filed of record with the Pennsylvania Public Utility Commission. Both the Pennsylvania Public Utility Code, 66 Pa. C.S. and the Commission's regulations at 52 Pa. Code Section 1.53, requires the Commission to serve on each party named in a Formal Complaint a copy of the complaint.

Within ten (10) days from the above date of service, you may either satisfy or answer this complaint in accordance with the provisions of 52 Pa Code, §5.61(d).

When filing your answer to the Formal Complaint, please reference the "Formal Complaint Docket Number" located in the upper-right hand corner of this Notice.

Very Truly Yours,

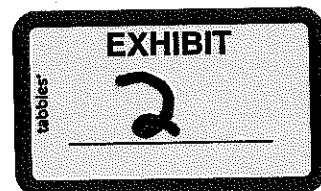


Rosemary Chiavetta
Secretary

al

(SEAL)

Certified Mail
Return Receipt Requested



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

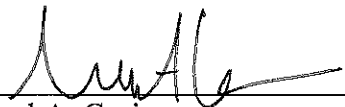
THOMAS OLUP	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2247941
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Thomas Olup
719 Agnew Rd.
Pittsburgh, PA 15227



Michael A. Gruin

DATED: July 12, 2011