Melvin D. Williams, v. The Pittsburgh Water and Sewer Authority Initial Call-In Telephonic Hearing	Docket No.: C-2022-3030717, C-2022-3030719

Pages 1 - 113

Judge's Chambers
Piatt Place
301 5th Avenue
Pittsburgh, PA

Tuesday, July 7, 2022
Commencing at 10:05 a.m.

INDEX TO EXHIBITS

Docket No. C-2022-3030717, C-2022-3030719

Hearing Date: July 7, 2022

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Docket No. C-2022-3030717, C-2022-3030719

Hearing Date: July 7, 2022

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PWSA

Exhibit 1

Formal Complaint
by Melvin Williams

DATE OF DEPOSIT

DEC 3 1 2021

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Melvin D. Williams

Street/P.O. Box 1131 N. Lang Ave Apt # One

City Pittsburgh State PA Zip 15208-1458

County Allegheny

Telephone Number(s) Where We Can Contact You During the Day (required):

(412) 361-3516 (home) (412) 302-9108 (mobile)

89 yr old

E-mail Address (required): Disabled Vet - Cannot use

Utility Account Number (from your bill) 5033046-1119564

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

Name

Street/P.O. Box 1032 N. Lang Ave

City Pittsburgh State PA Zip 15208-1458

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Pittsburgh Water and Sewer Authority

3. **Type of Utility Service**

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ☐ ELECTRIC
- ☐ GAS
- ☑ WATER
- ☐ STEAM HEAT
- ☑ STORM WATER
- ☐ WASTEWATER/SEWER
- ☐ TELEPHONE/TELECOMMUNICATIONS (local, long distance)
- ☐ MOTOR CARRIER (*e.g.* taxi, moving company, limousine)

4. **Reason for Complaint**

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

☐ The utility is threatening to shut off my service or has already shut off my service.

☐ I would like a payment agreement.

☐ Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

☐ I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important. Water is flooding through my basement wall at a newly installed lead line replacement line by a PWSA contractor. They refused to correct the the flow. It is destroying my basement

☐ Other (explain).

Note: If your complaint is <u>only</u> about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

The PWSA should dig up its new lines and determine the source of the flooding water and halt it.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC <u>cannot</u> decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)/ Domestic Violence

Has a court granted you a "Protection From Abuse" order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this 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 problem involving billing, 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 or any other order for your personal safety or welfare?

YES ☐

NO ☑

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES ☐

NO ☑

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES ☑

NO ☐

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. **If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.**

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City_____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink.** **If you do not sign the Formal Complaint, the PUC will not accept it.**

Verification:

I Melvin D. Williams, 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).

Melvin D. Williams 12-30-21

(Signature of Complainant) **(Date)**

_____

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. How to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at http://www.puc.pa.gov/efiling/default.aspx.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

If you are appealing a BCS decision: follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. ONLY Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. All other formal complaints MUST be efiled or mailed.

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 Formal Complaint for your records.

7019 2970 0001 4407 0694

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL

7019 2970 0001 4407 0694

FROM:

Melvin D. Williams
1131 N. Lang Ave
Pgh PA 15208-1458

1000

17120

U.S. POSTAGE PAID
FCM LG ENV
PITTSBURGH, PA
15220
DEC 01, 21
AMOUNT
$5.11
R230 E106909-09

RECEIVED
JAN 06 2022
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

TO:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg Pennsylvania 17120

Bubble Mailer
6" x 10"

PWSA

Exhibit 2

PWSA Answer with New Matter to Melvin Williams' Formal Complaint

ECKERT SEAMANS
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101

TEL: 717 237 6000
FAX: 717 237 6019

February 23, 2022

Karen O. Moury
717.237.6036
kmoury@eckertseamans.com

Via Electronic Filing
Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Melvin D. Williams v. The Pittsburgh Water and Sewer Authority
Docket No. C-2022-3030717

Dear Secretary Chiavetta:

Enclosed for electronic filing please find The Pittsburgh Water and Sewer Authority's Answer and New Matter with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ *Karen O. Moury*

Karen O. Moury

Enclosure

cc: Certificate of Service (with Enclosures)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing Answer and New Matter upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail

Melvin D. Williams
1131 N. Lang Ave., Apt. 1
Pittsburgh, PA 15208-1458
(no email address)

Via Email Only

Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

Date: February 23, 2022

/s/ *Karen O. Moury*
Karen O. Moury, Esquire
Counsel for
The Pittsburgh Water and Sewer Authority

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Melvin D. Williams,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3030717
	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent.	:	

NOTICE TO PLEAD

To: Melvin D. Williams
1131 North Lang Avenue, Apt. One
Pittsburgh, PA 15208-1458

You are hereby notified that an Answer to the enclosed **New Matter** of The Pittsburgh Water and Sewer Authority must be filed within 20 days of the date of service. All pleadings, such as an Answer to New Matter, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for the Authority and the Office of Administrative Law Judge.

File with:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
https://efiling.puc.pa.gov/Login

With a copy to:
Karen O. Moury
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com

Lauren M. Burge
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com

/s/ *Karen O. Moury*
Karen O. Moury
Counsel for The Pittsburgh Water and Sewer Authority

Date: February 23, 2022

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Melvin D. Williams,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3030717
	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent.	:	

THE PITTSBURGH WATER AND SEWER AUTHORITY'S
ANSWER AND NEW MATTER TO FORMAL COMPLAINT

Pursuant to the regulations of the Pennsylvania Public Utility Commission ("Commission" or "PUC") at 52 Pa. Code § 5.61, The Pittsburgh Water and Sewer Authority ("PWSA") submits this Answer and New Matter to the Formal Complaint of Melvin D. Williams ("Mr. Williams" or "Complainant") served on February 3, 2022.[1] In support of this Answer and New Matter, PWSA avers as follows:

INTRODUCTION

In his Formal Complaint, the Complainant alleges that water is flooding through his basement wall at a newly installed lead line replacement by a PWSA contractor. The Complainant states that PWSA refuses to correct the flow and it is destroying his basement. The Complainant seeks to have PWSA dig up the new line to determine the source of the flooding water and halt it.

For the reasons discussed below, PWSA requests that this Complaint be dismissed. PWSA completed a lead line replacement at the subject property on July 2, 2019. Nearly two years later, the Complainant contacted PWSA stating water was entering the property from the wall where the lead line had entered the property. PWSA visited the property on several occasions, and during

[1] Since the Complainant checked both the water and stormwater boxes in Paragraph 3 of the Complaint, the Commission assigned two docket numbers to the Complaint. PWSA is also filing an Answer today at Docket No. C-2022-3030719, along with a Motion to Consolidate.

these visits, the wall where the lead line had entered the property was resealed twice, the service line was sounded, and there was no noise of a leak detected. Water was found to be coming into the property from multiple locations, and Mr. Williams stated that water was entering the property after heavy rainfall. PWSA and the contractor, Independent Enterprises, Inc ("IEI"), confirmed that the leak was not coming from PWSA's service line or from the Complainant's water line.

On January 21, 2022, PWSA conducted a site visit to further investigate the complaint. The investigation conducted at the property showed poorly waterproofed walls, active infiltration in areas outside of the lead line penetration location, evidence of prior water saturation in several locations in the basement unrelated to the lead line penetration area, and active water flowing into the sump pump. There was no visual active infiltration of water around the service line penetration area during the visit.

At the end of the site visit, PWSA recommended collecting a sample of water from inside the sump pump. The test results would show if the water in the sump was natural ground water or treated water from the municipal system. On January 28, 2022, PWSA returned to the subject property and collected a water sample. PWSA's test results concluded that the origin of the water entering Mr. William's property is ground water.

Additionally, the Commission's jurisdiction does not include actions that sound in either contract or tort.[2] The powers of the Commission do not include the power to award monetary damages, such as damages to property.[3] It is well settled that the courts of common pleas have

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[2] All political subdivisions (including municipal authorities such as PWSA) in the Commonwealth of Pennsylvania are afforded immunity against third party claims for property loss damage under the Political Subdivision Tort Claims Act, 42 Pa. C.S. § 8541 et seq. Some exceptions do apply, but generally conditions are very specific for exceptions to be validated.

[3] The Commission possesses no jurisdiction over real property issues. *See, e.g., Leonard Kapel v Peoples Natural Gas Company LLC*, Docket No. C-2010-2153364 (Final Order (Act 294) entered October 6, 2011, adopting Initial Decision dated August 12, 2011); *David E. Stefanoski v. Pennsylvania-American Water Company*, Docket No. C-20078219 (Opinion and Order entered September 22, 2008).

jurisdiction over suits for damages, including claims against public utilities. The Commission does not have jurisdiction to grant the relief requested by the Complainant.

The flooding issues that the Complainant is experiencing are outside PWSA's control and are not caused by deficiencies in PWSA's infrastructure or maintenance thereof. There are no repairs necessary on PWSA's behalf. The Complainant may want to hire a private contractor to investigate the property line and walls because the property barrier may have to be sealed internally. PWSA has maintained its system in compliance with Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501, and therefore the Complaint should be dismissed.

ANSWER

1. To the best of PWSA's knowledge and belief, the name and contact information for the Complainant is accurate. *Per* the Allegheny County Real Estate Assessment website, the Complainant is the owner of the subject three-family residential property located at 1032 North Lang Street ("the Property").[4]

2. It is admitted that the Formal Complaint is directed at PWSA. By way of further answer, PWSA is a municipal authority created in 1984 and is responsible for producing and supplying water along with maintaining and operating the water and sewer infrastructure in Pittsburgh. Effective April 1, 2018, PWSA became subject to the jurisdiction of the Commission as a regulated public utility. 66 Pa. C.S. §§ 3201-3209. PWSA's currently approved water, wastewater and stormwater tariffs became effective on January 12, 2022 (see January 11, 2022 Secretarial Letters entered at Docket Numbers: R-2021-3024773 [water], R-2021-3024774 [wastewater] and R-2021-3024779 [stormwater]).

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[4] *See* Allegheny County tax records for 1032 North Lang Street, Pittsburgh (Parcel ID: 0174-E-00043-0000-00), which are available at: http://www2.alleghenycounty.us/RealEstate/search.aspx.

3. It is admitted that PWSA provides water service to the Complainant. By way of further response, PWSA also provides wastewater conveyance service and stormwater service to the Property. Additionally, the Complainant's bill includes sewage treatment charges from the Allegheny County Sanitary Authority ("ALCOSAN"), which are established by ALCOSAN and paid by PWSA to ALCOSAN pursuant to PWSA's tariff.

4. The allegations in Paragraph 4 of the Formal Complaint are admitted and denied consistent with the following:[5]

Lead Line Replacement and Flooding Issues

(a) On July 2, 2019, PWSA completed a lead line replacement at the Property.

(b) On September 1, 2021, the Complainant contacted the Lead Help Department stating that water is coming into the Property from the wall where the lead line enters the Property.

(c) On September 3, 2021, IEI investigated the Complainant's complaint and resealed the wall as a precaution but discovered that the water was coming into the basement from multiple locations.

(d) On September 17, 2021, PWSA's Leak Detections Crew and Manager of Field Operations met Mr. Williams at the Property to resolve the leak complaint for work order 57799. PWSA sounded the service line and there was no noise of leak detected. Mr. Williams stated that water was entering the property after heavy rain fall.

(e) On October 27, 2021, Mr. Williams contacted the dispatch and lead help department to follow up on his previous complaint. The Senior Lead Help Coordinator confirmed that IEI went back and resealed the service line patch as a precaution, but noted that the water is coming into the property from multiple locations and there is not a service line leak. This information was shared with the Director of Customer Service and Emergency Dispatch.

BCS Informal Complaint

(f) On October 27, 2021, Mr. Williams filed an Informal Complaint with the Bureau of Consumer Services ("BCS") at the PUC with case number 3810380 regarding his basement flooding. The customer claimed that the new service line is leaking and has been damaging his walls and basement door. The customer requested that PWSA come and fix the pipe.

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[5] This Complaint was submitted on the Commission's Formal Complaint form. The allegations within each numbered paragraph of that the Formal Complaint are not styled in numbered paragraphs. PWSA is answering the allegations within the numbered paragraphs under separate headings for ease of reference.

(g) On December 7, 2021, BCS issued a decision on case number 3810380. The decision explained that although the customer stated that there were leaks on the service line after the new line was installed. PWSA visited the property twice and did not find a leak on the line. The decision further explained that the PUC has limited jurisdiction over this service issue and the case was dismissed.

PWSA's January 2022 Site Investigation

(h) On January 21, 2022, PWSA conducted a site visit to further investigate the complaint. It was observed that there was no visual infiltration of water around the service line penetration through the basement wall. There was active infiltration observed to the left of the service line penetration. There was visible condensation on the area of the wall that was previously sealed.

(i) On this site inspection, PWSA also observed that the basement walls were previously sealed with some type of paint or waterproofing. There was clear indication of water infiltration through the basement wall in the general area of the water line penetration. The waterproofing has eroded, and the underlying concrete wall was visible. Other portions of the waterproofing that have not eroded were bubbling and showing signs of water infiltration that is causing the waterproofing to peel away.

(j) Also on this site inspection, PWSA observed a small room to the left of the service line penetration. This room was originally a service chute for coal delivery. The chute has been abandoned and it is now a small, empty room. Plywood had been placed on the ceiling and concrete had been poured in the sidewalk area to effectively abandon exterior access. Both the floor and ceiling showed active infiltration into the room. At the time of the inspection, the plywood ceiling was completely saturated and actively dripping. The floor also had accumulation and there was evidence on the walls of prior infiltration.

(k) During the site inspection, PWSA's Water Distribution Program Coordinator mentioned to Mr. Williams that a prior investigation noted water infiltration through the basement wall in the area of the hot water tank. The tank is located on the wall opposite from where the service line enters the basement. Mr. Williams strongly objected to the coordinator's request to view the area.

(l) Additionally, the property is equipped with a sump pump to collect and discharge water leaking into the basement. The coordinator recommended sampling the water within the sump. The test results would show if the water in the sump was natural ground water or treated water from the municipal system.

(m) As a result of this inspection, PWSA returned to collect a water sample from the sump on January 28, 2021. PWSA test results conclude that the origin of the water entering Mr. William's property is ground water. The primary indicator to determine if a sample is not from the municipal system is if there is limited fluoride (<0.4 mg/L) and low orthophosphate (<0.75 mg/L) because both chemicals are added during treatment. Mr. William's sample results showed fluoride and orthophosphate levels lower than the

standard in PWSA's treated water. Another indicator used to determine ground water versus municipal water is the chloride level. Surface water will be high in chloride during the winter months because of all the ice melt being used. Mr. Williams sample showed a high chloride level.

Additional Responses By PWSA

(n) No response is required to the legal conclusions in the Formal Complaint.

(o) After reasonable investigation, PWSA does not have sufficient information to form a belief as to the truth of the remaining factual allegations in the Formal Complaint. Such allegations are, therefore, denied. Strict proof of said allegations is demanded at the time of hearing in this matter.

(p) The Formal Complaint fails to allege a violation by PWSA of PWSA's tariff.

(q) The Formal Complaint fails to allege a violation by PWSA of the Public Utility Code, another statute administered by the Commission, the Commission's Regulations and/or the Commission's Orders.

5. It is denied that Complainant is entitled to the requested relief, beyond the modifications and inspections that PWSA has identified above in response to Paragraph 4. The Formal Complaint fails to allege that PWSA has violated Pennsylvania law, Commission regulations, or its Tariffs. By way of further answer, PWSA incorporates herein its response to Paragraph 4, above. PWSA has adequately maintained and updated its infrastructure and provides adequate, efficient, safe and reasonable service and facilities in compliance with Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. The flooding issues that the Complainant is experiencing are outside PWSA's control and are not caused by deficiencies in PWSA's infrastructure or maintenance thereof. For these reasons, the Complainant is not entitled to the requested relief and the Complaint should be dismissed.

6-10. No response is required to Paragraphs 6 through 10 of the Formal Complaint. To the extent such allegations are deemed factual, the factual allegations in Paragraphs 6 through 10 of the Formal Complaint are admitted or denied consistent with Paragraphs 1 through 5 of this

Answer. By way of further answer, PWSA admits that this Complaint is related to a prior decision of BCS Case No. 3810380, in which the case was dismissed.

NEW MATTER

11. As a creation of the General Assembly, the Commission has only the powers and authority granted to it by the General Assembly and contained in the Public Utility Code ("Code").[6] The Commission must act within, and cannot exceed, its jurisdiction.[7] Jurisdiction may not be conferred by the parties where none exists.[8] Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy.[9]

12. Claims for property damage and/or diminution of property values are not determined by the Commission.[10] The Commission's jurisdiction does not include actions that sound in either contract or tort.[11] The authority of the Commission does not include the power to

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6 66 Pa. C.S. §§ 101 *et seq.* *See City of Phila. v. Phila. Elec. Co.,* 473 A.2d 997, 999-1000 (Pa. 1984) ("We begin our inquiry by recognizing that the authority of the Commission must arise from the express words of the pertinent statutes or by strong and necessary implication therefrom...It is axiomatic that the Commission's power is statutory; and the legislative grant of power in any particular case must be clear."); *see also Feingold v. Bell Tel. Co. of Pa.,* 383 A.2d 791, 795 (Pa. 1977); *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.,* Docket No. C-20066937 (Order entered May 28, 2008).

7 *City of Pittsburgh v. PUC*, 43 A.2d 348 (Pa. Super. 1945).

8 *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

9 *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992), appeal denied, 637 A.2d 293 (Pa. 1993).

10 The Commission has not been given authority under any other statute to assess damage to private property value caused by the activities of a public utility. *See Letter of Notification of Philadelphia Electric Company*, PUC Docket No. A-110550F055, Opinion and Order entered March 26, 1993; 1993 Pa. PUC LEXIS 32 (determination of damages due to alleged decreases in market value is not within the Commission's jurisdiction to hear and determine).

11 All political subdivisions (including municipal authorities such as PWSA) in the Commonwealth of Pennsylvania are afforded immunity against third party claims for property loss damage under the Political Subdivision Tort Claims Act, 42 Pa. C.S. § 8541 et seq. Some exceptions do apply, but generally conditions are very specific for exceptions to be validated.

award monetary damages, such as damages to property.[12] It is well settled that the courts of common pleas have jurisdiction over suits for damages, including claims against public utilities.[13]

13. To the extent that Mr. Williams is seeking a Commission directive for an award of damages or for PWSA to conduct repairs unrelated to its facilities, these matters are beyond the jurisdiction of the Commission.

14. The water entering the Property is ground water, and therefore, is not the responsibility of PWSA.

CONCLUSION

WHEREFORE, The Pittsburgh Water and Sewer Authority respectfully requests that the Commission (a) dismiss the Complaint; and, (b) grant any other relief deemed appropriate. Notwithstanding PWSA's requests for dismissal of the Complaint, PWSA is willing to work with the Complainant to resolve this matter and therefore requests that the Office of Administrative Law Judge issue an "Interim Order Setting Resolution Conference" directing the parties to hold a conference about resolving the case.

[Signature on Next Page]

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[12] The Commission possesses no jurisdiction over real property issues. *See, e.g., Leonard Kapel v Peoples Natural Gas Company LLC*, Docket No. C-2010-2153364 (Final Order (Act 294) entered October 6, 2011, adopting Initial Decision dated August 12, 2011); *David E. Stefanoski v. Pennsylvania-American Water Company*, Docket No. C-20078219 (Opinion and Order entered September 22, 2008).

[13] *See, e.g., DeFrancesco v. W. Pa. Water Co*., 453 A.2d 595 (Pa. 1982); *Elkin v. Bell of Pa*., 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell Telephone Co. of Pa.,* 383 A.2d 791 (Pa. 1977).

Respectfully submitted,

/s/ *Karen O. Moury*

Karen O. Moury, Esquire (I.D. No. 36879)
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
(717) 237-6036 (phone)
(717) 237-6019 (fax)
kmoury@eckertseamans.com

Lauren M. Burge, Esquire (I.D. No. 311570)
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-2146 (phone)
(412) 566-6099 (fax)
lburge@eckertseamans.com

Date: February 23, 2022

Counsel for
The Pittsburgh Water and Sewer Authority

Verification

I, Julie A. Quigley, am the Director of Customer Service for The Pittsburgh Water and Sewer Authority ("PWSA" or "Authority"), and I hereby state that the facts set forth in the foregoing **Answer and New Matter** are true and correct to the best of my knowledge, information and belief and that I expect the Authority 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).

Dated: February 23, 2022

/s/ *Julie A. Quigley*
Julie A. Quigley
Director of Customer Service
The Pittsburgh Water and Sewer Authority

PWSA

Exhibit 3

BCS Informal Complaint Decision

Case#:	3810380
Utility Name:	Pittsburgh Water & Sewer Authority (Water)
Utility Type:	Water Municipal
Date Opened:	10/27/2021
Reason For Contact:	PEOPLE-DELIVERED SERVICE (I.E., SCHEDULING DELAYS, PERSONNEL, DAMAGES) (# 58)
Other Related Information/Disputes:	Cust states that his basement is flooding. Utility put a new line and it is leaking. Cust contacted the utility and they stated they have nothing to do with it and he had to call the contractor. The contractor came out and sealed it and it has since started leaking. Cust states this has been damaging his walls and basement door. Cust wants them to come and fix the pipe. - Relief Sought - To have the issue fixed properly and for the damage to be repaired as well. The Cell Phone Number (412) 302 - 9108 has been allowed to be shared.
Company Position:	10/27/2021 Company states they sent someone out to patch the wall.
Misc. Information:	No Email
Case Origin:	Telephone
Term Date:	
Arrearage:	0.00
Caller other than Rate Payer/Business Name:	
BCS referral to the Universal Service Program:	M
BCS Interviewer:	Merikka Shirk
BCS Investigator:	Michael Stabley
Investigator Phone:	(717)787-5408
Customer Name:	Melvin Williams
Account Number:	50330461119564
Service Class:	RESIDENTIAL
Service Address:	1032 N Lang Avenue, Pittsburgh, PA 15208
Mailing Address:	1131 N Lang Ave, Pittsburgh, PA 15208
Home Phone:	
Work Phone:	

Case#:	3810380
Utility Name:	Pittsburgh Water & Sewer Authority (Water)
Decision Issue:	No
Oral/Written:	
Violation:	NO
Chapter 56/64/Other:	
Section/Rule:	
Total Balance:	$6.37
Closing Date:	12/07/2021
Resolution:	Dismissal letter - Customer states had leaks on service line after new line installed. Company visited property twice and did not find a leak on line. BCS has limited jurisdiction over this service issue, and we have closed your informal complaint. - case dismissed
Service Restored Pay(Offs):	$0.00
Account Balance Date:	11/01/2021
Keep Service on Pay(Remeds):	$0.00
By:	
Terms:Begining	
Special Budget/Opt Payment:	$0.00
Regular Budget Amount:	$0.00
Plus Pay Toward Arrears:	$0.00
Final Monthly Pay:	$0.00
Current Monthly Pay:	$0.00
End of Month Payment:	$0.00
10 Day/Reconnect Pay:	$0.00
Begin with Bill Date:	
Pay Current Bill Plus:	$0.00
BCS Investigator:	Michael Stabley
Letter Type:	Short Blank Letter
Letter Head Date:	12/03/2021
Customer Name:	Melvin Williams
Account Number:	50330461119564
Service Address:	1032 N Lang Avenue, Pittsburgh, PA 15208
Home Phone:	
Work Phone:	

PWSA

Exhibit 4

GIS Map with Notes
re: Leak Detection Efforts

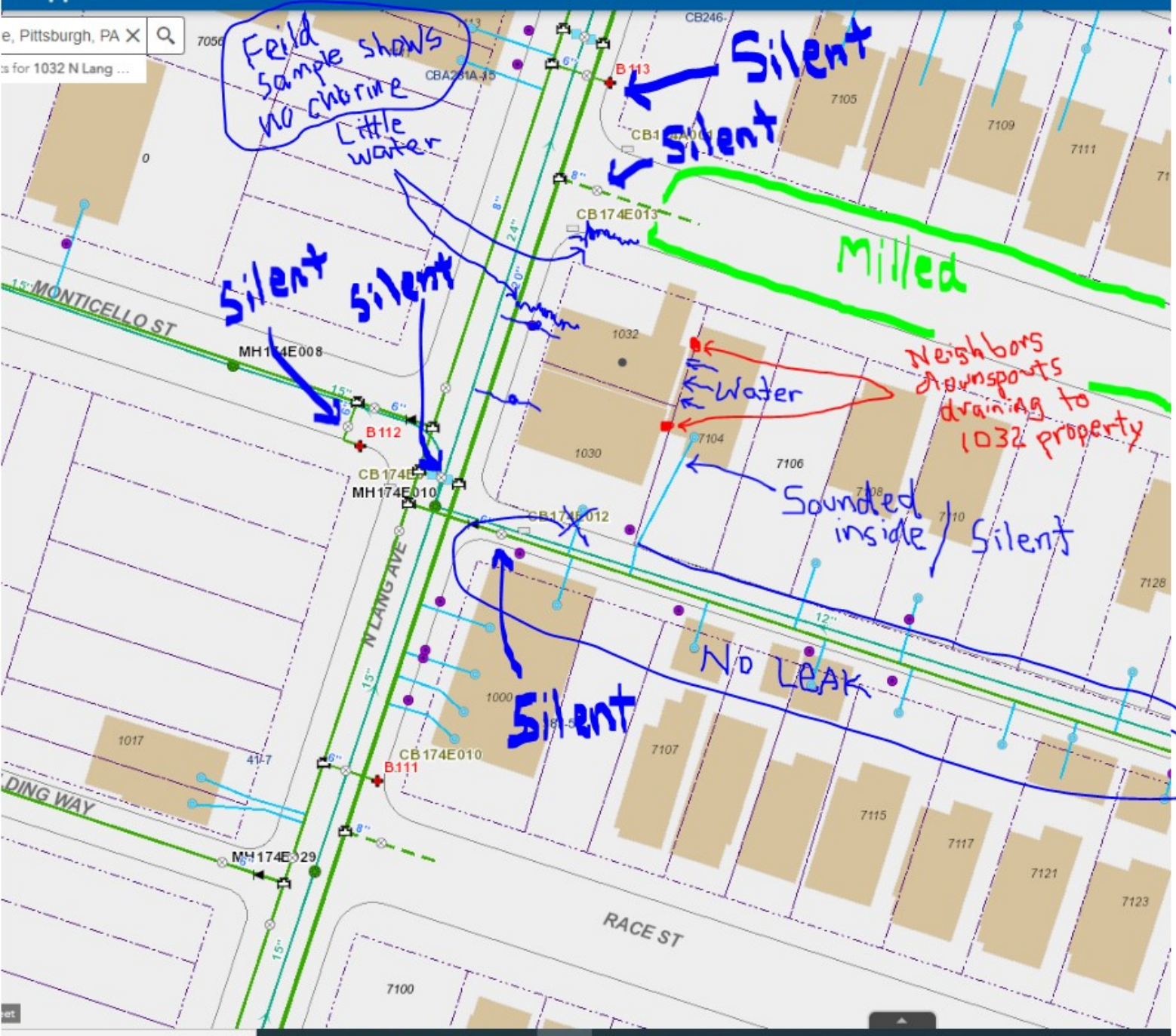
isweb.pgh2o.com/Applications/PWSAGISWebApplication/

Applic... GIS Web Application 10.10.1.21 Omnicoll GIS Web Application Dayforce Mine Subsidence In... DocuWare Applications | Penn...

eb Application

e, Pittsburgh, PA

s for 1032 N Lang ...



search

PWSA

Exhibit 5

Downspout Photograph –
1032 N. Lang Avenue

35°F

PWSA

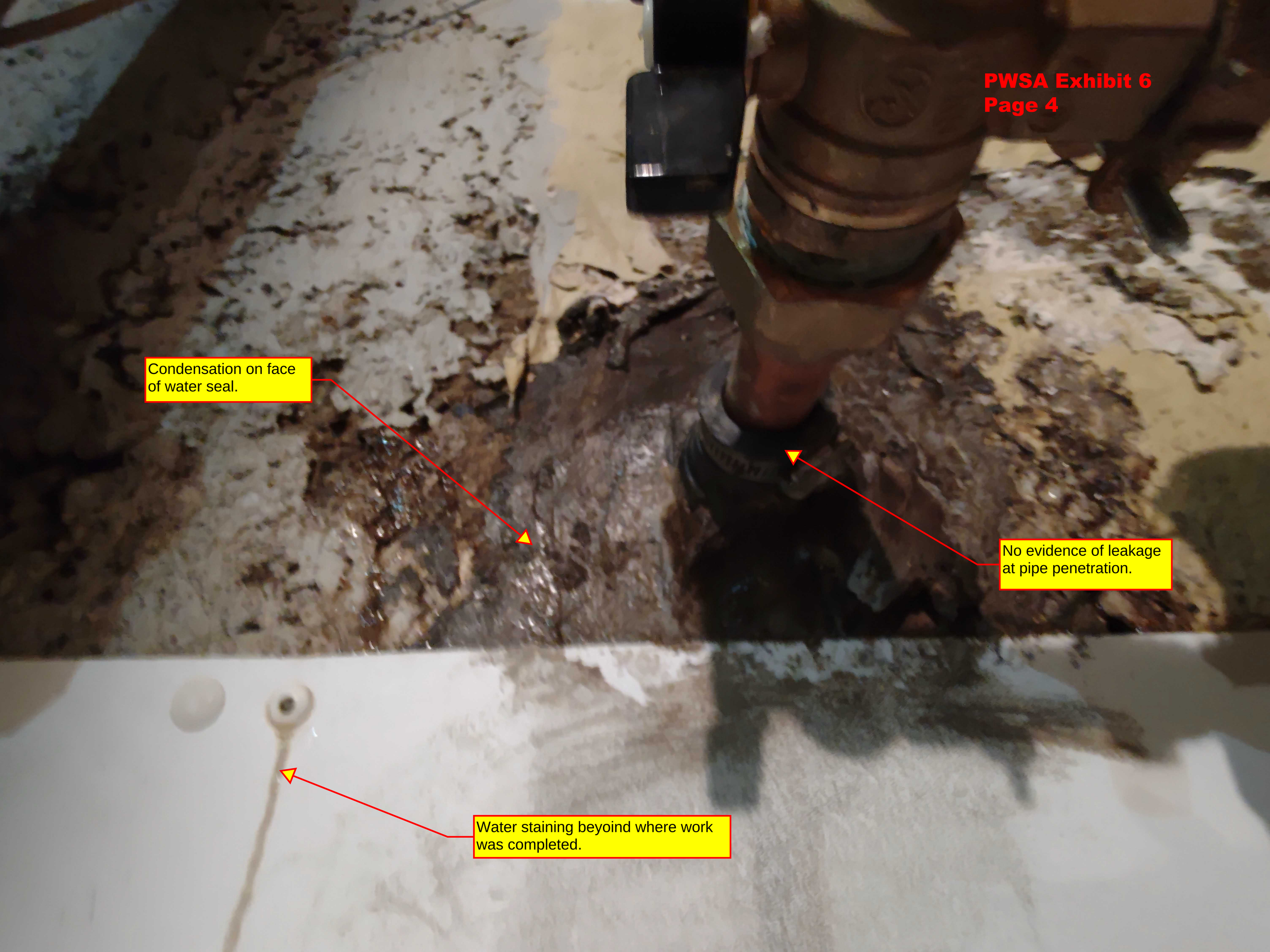
Exhibit 6

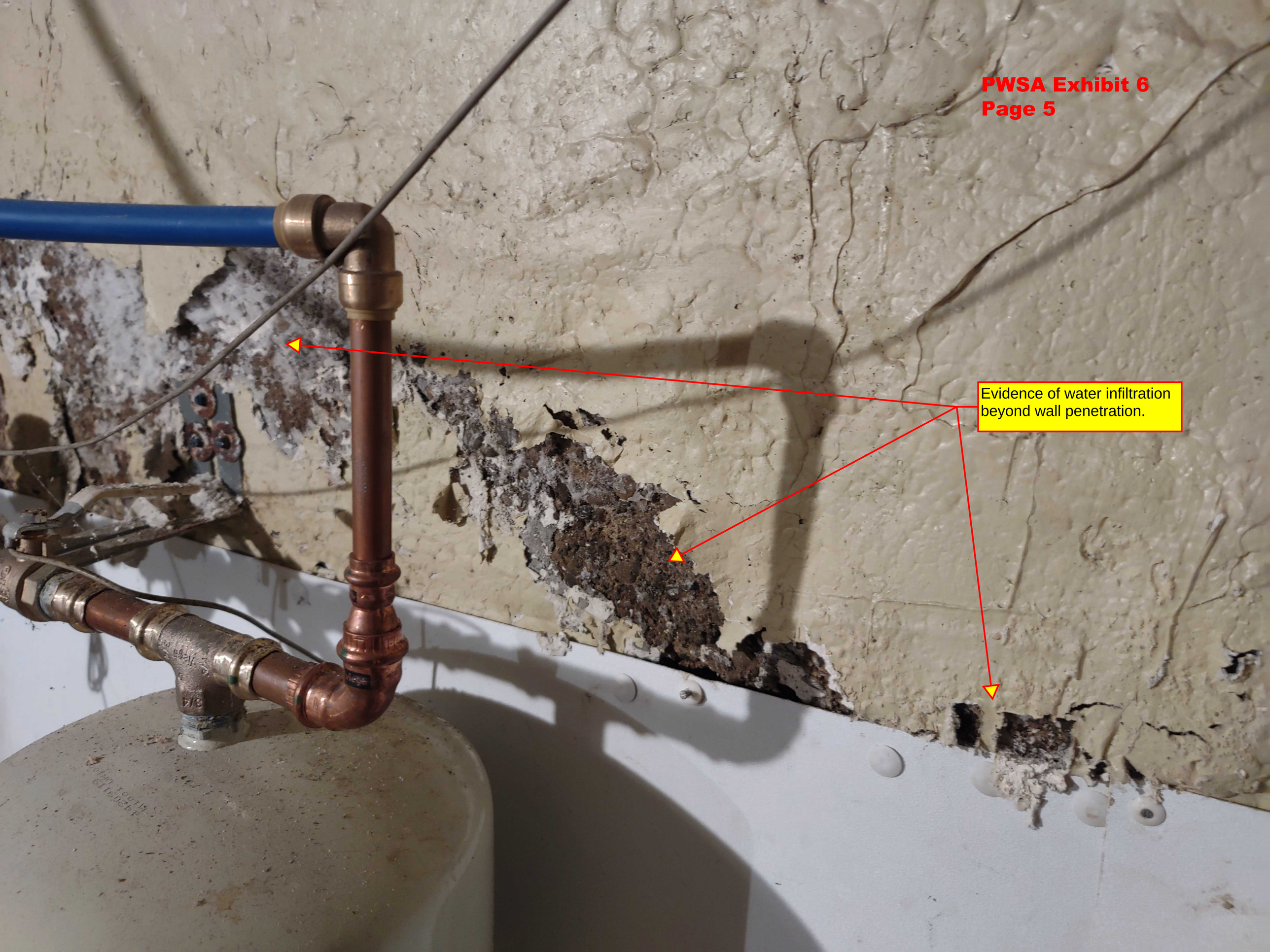
Photographs and Diagram of 1032 N. Lang Avenue Basement from January 21, 2022 Site Visit

PWSA Exhibit 6
Page 1
Deterioration of wall due to active infiltration.
Active infiltration
Infiltration staining

PWSA Exhibit 6
Page 2
Condensation on surface of patch.
No evidence of leakage at pipe penetration.
Active infiltration ouside of wall penetration.

Active infiltration ouside
of wall penetration.


Condensation on face of water seal.
No evidence of leakage at pipe penetration.
Water staining beyoind where work was completed.


PWSA Exhibit 6
Page 5
Evidence of water infiltration beyond wall penetration.

PWSA Exhibit 6
Page 6
Evidence of water infiltration beyond wall penetration. Paint flaked away readily with little effort.

Evidence of previous water leakage at wall / floor joint. Located directly below service line penetration.

PWSA Exhibit 6
Page 8
Floor tiles show evidence of prior water saturation.

Base of chair shows heavy corrosion, likely caused by prior water stauration.

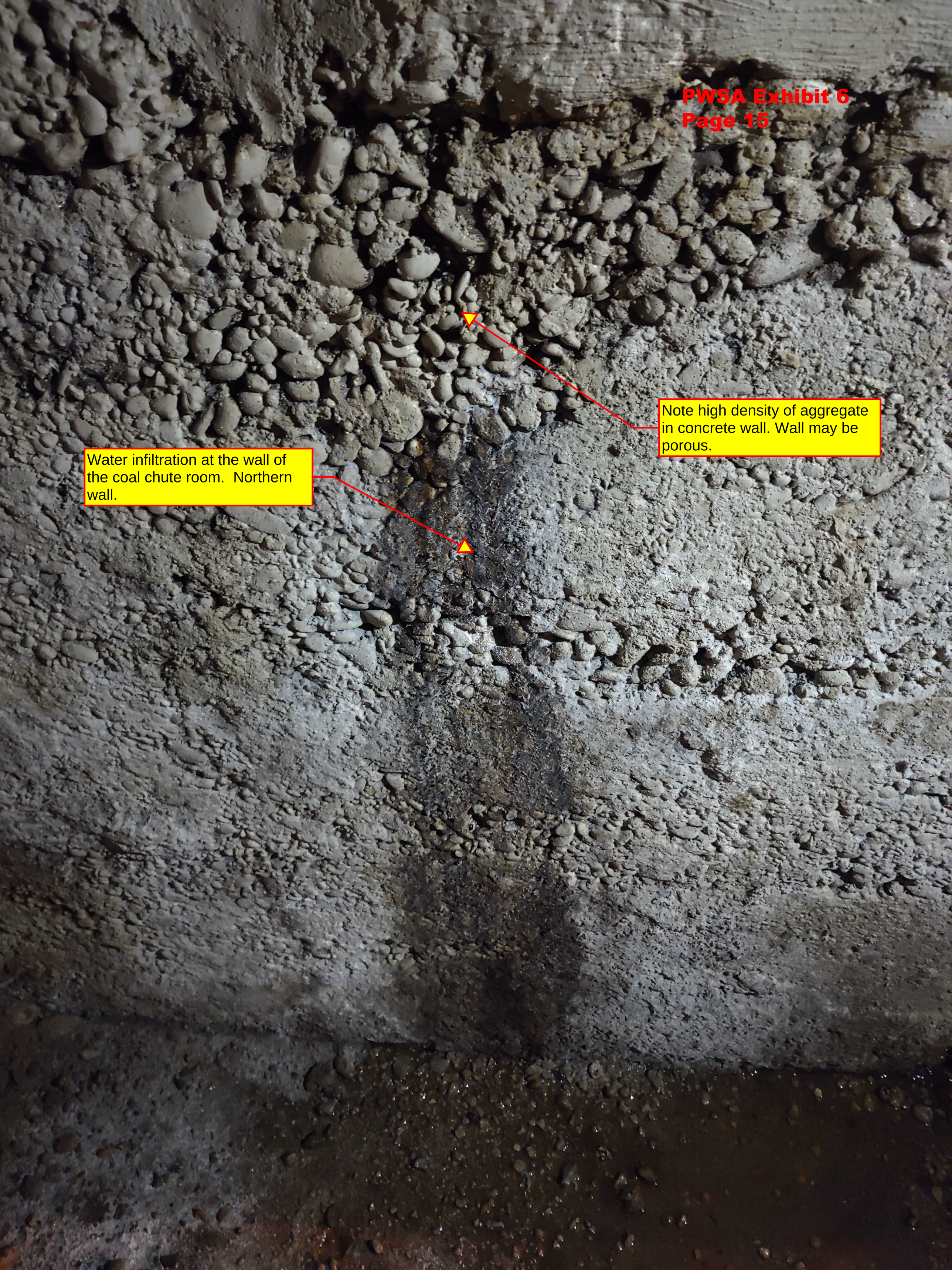
PWSA Exhibit 6
Page 10
Base of furnace shows heavy corrosion.
Possibly caused pry prior water saturation.

Door to coal chute room.
Evidence of water dripping
onto the door.

Evidence of water dripping onto the door.
Door to coal chute room. Door is warped and splitting at the bottom. Evidence of prior water saturation.

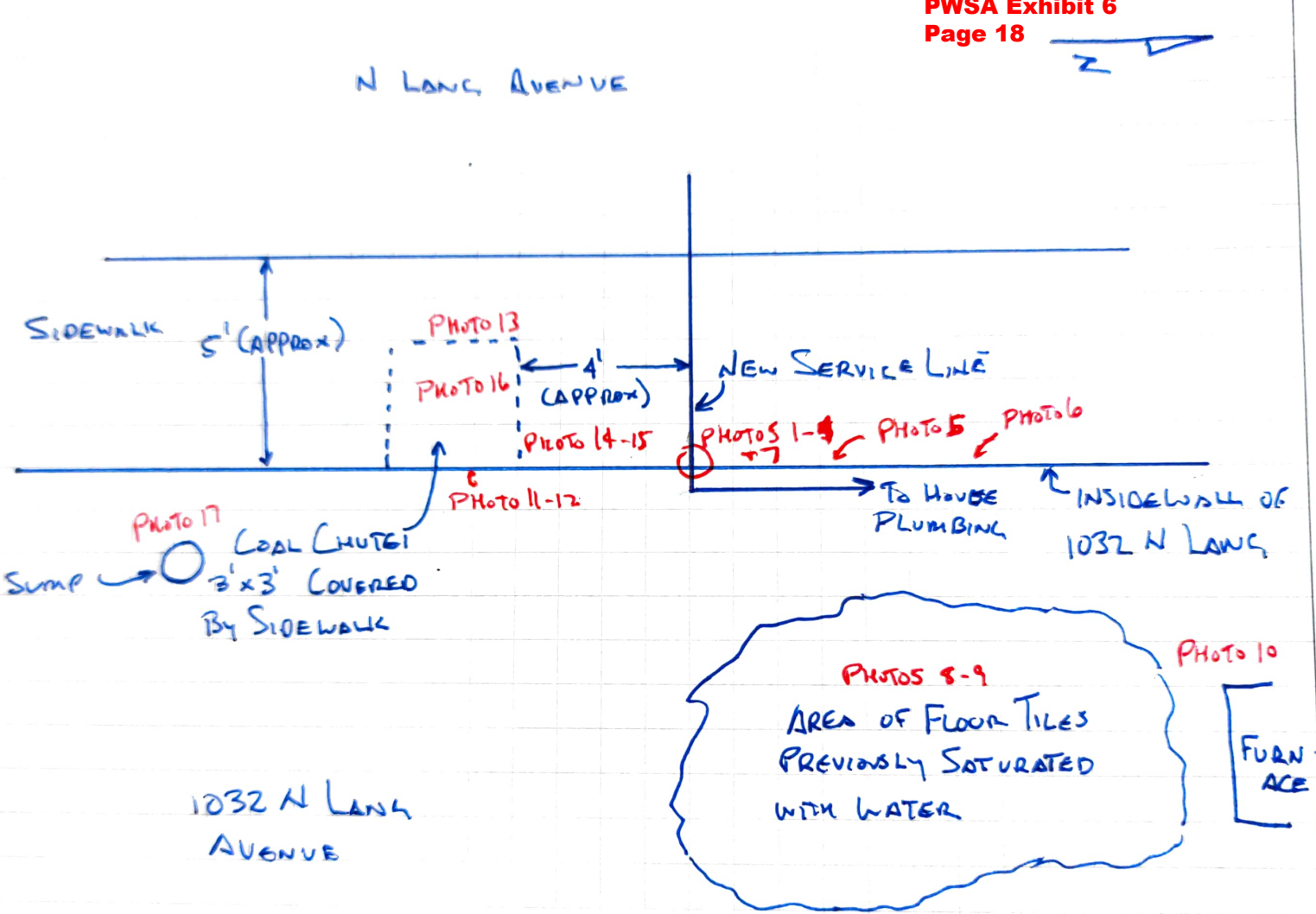
Water infiltration at the floor of the coal chute room. Western wall.

PWSA Exhibit 6
Page 14


Note high density of aggregate in concrete wall. Wall may be porous.
Water infiltration at the wall of the coal chute room. Northern wall.

Unsealed gap between floor and plywood.
Coal chute room ceiling. Evidence of active infiltration. plywood ceiling was heavily saturated with water.

URE NOT TO EXCEED 140
Water actively flowing into sump.


N
N LANG AVENUE
SIDEWALK
5' (APPROX)
PHOTO 13
PHOTO 16
4' (APPROX)
NEW SERVICE LINE
PHOTO 14-15
PHOTOS 1-4 +7
PHOTO 5
PHOTO 6
PHOTO 11-12
TO HOUSE PLUMBING
INSIDEWALL OF 1032 N LANG
PHOTO 17
COAL CHUTE
SUMP
3'x3' COVERED BY SIDEWALK
PHOTOS 8-9
AREA OF FLOOR TILES PREVIOUSLY SATURATED WITH WATER
PHOTO 10
FURNACE
1032 N LANG AVENUE

PWSA

Exhibit 7

PWSA Lab Analysis Report

Pittsburgh Water & Sewer Authority

1200 Penn Ave
Pittsburgh, PA 15222

Water Quality Laboratory
900 Freeport Road
Pittsburgh, PA 15238

Lab Analysis Report

Customer: Aspinwall Plant
Project: Determinations

Sample: 1032 N. Lang
Sample Number: 22A2805-01
Collection: 28-Jan-22 08:00

Received: 28-Jan-22 15:01
Matrix: Water
Collection Method: Grab

Analyte	Result	Reporting Limit	Units	Analysis Date	Analyst	Method
Field Chemistry & Analysis						
Orthophosphate	0.130		mg/L	01/28/22 08:00	LAL	HACH 8048
Process Control Analysis						
Alkalinity, Total	100	2.00	mg/L	01/28/22 15:18	JS	SM 2320 B
Ammonia	0.00		mg/L	01/28/22 15:23	JS	*** DEFAULT SPECIFIC METHOD ***
Chloride	2800		mg/L	01/28/22 15:20	LAL	SM 4500-Cl- C
Fluoride	0.118		mg/L	01/28/22 15:04	FMD	SM4500F-C
Hardness	1520		mg/L	01/28/22 15:19	JS	SM 2340 C
pH	7.66		SU	01/28/22 15:17	JS	SM4500 H+B

** This report is for informational use only.*