

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 6<sup>TH</sup> JUDICIAL CIRCUIT  
OAKLAND COUNTY

VILLAGE OF BEVERLY HILLS, a Michigan  
Municipal Corporation,

Plaintiff,

No. 2018-164245-AA

v

HON. DENISE LANGFORD  
MORRIS

MICHIGAN DEPARTMENT OF  
ENVIRONMENTAL QUALITY, a Michigan  
state agency,

Defendant.

---

Thomas J. Ryan (P19808)  
Thomas J. Ryan, PC  
Attorney for Plaintiffs  
2055 Orchard Lake Road  
Sylvan Lake, MI 48320  
(248) 334-9938

---

Nathan A. Gambill (P75506)  
Zachary C. Larsen (P72189)  
Assistant Attorneys General  
Attorneys for Defendant  
Environment, Natural Resources, and  
Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540  
gambilln@michigan.gov  
larsenz@michigan.gov

---

**BRIEF IN SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL  
QUALITY'S MOTION TO DISMISS OR AFFIRM**

## STATEMENT OF FACTS

The Village of Beverly Hills has approximately 10,400 water customers. It purchases its water from the Southeastern Oakland County Water Authority, which is supplied by the Great Lakes Water Authority. The Village is a “supplier of water” under Michigan’s Safe Drinking Water Act because it “operates a public water supply.” MCL 325.1002(t). As such, the Village must regularly “collect water samples” and “cause those samples to be analyzed . . . for contaminants.” MCL 325.1007(1).

The Department of Environmental Quality sets water quality standards by promulgated rule. MCL 325.1005(1). Under rules promulgated by the Department, one of the contaminants the Village must monitor is lead. Mich Admin Code, R 325.10710, 325.10710a. The Village can either have its staff collect the required samples or request that residents collect the samples. Mich Admin Code, R 325.10710a(2)(b). For the monitoring period between June 1, 2017, and September 30, 2017, the Village asked residents to collect the samples. (Ex 1, Lead Sample Results.) Because the Village asked residents to take the samples, it cannot now “challenge the accuracy of the sampling results based on alleged errors in sample collection.” Mich Admin Code, R 325.10710a(2)(b).

The Village’s samples from the period at issue revealed that five samples had less than 2 parts per billion (ppb) of lead, but one sample had 228 ppb. (Ex 1.) Michigan establishes a 90th percentile “action level” for lead of 15 ppb by rule. Mich Admin Code, R 325.10604f(1)(c). Based on the six samples, the Village’s 90<sup>th</sup> percentile lead level for the period at issue was 91 ppb. (Ex 2, October 20, 2017

Notification.) Because the Village exceeded the action level, DEQ required it to take certain measures to protect the public health, including additional sampling, notification, public education, and lead service line replacement. (*Id.*)

The Village filed an application to invalidate the sample showing 228 ppb, arguing that the resident it asked to take the sample had not done it properly primarily because the resident could not be certain that the water had been stagnant for at least six hours prior to taking the sample. (Ex 3, Invalidation Request.) On January 8, 2018, DEQ denied the request. (Ex 4, Denial.) DEQ explained that had the water sat longer, the lead level would probably have been *higher*. (*Id.*) Instead, “the prudent course of action to protect public health [was] to include the sample in the 90<sup>th</sup> percentile calculation.” (*Id.*) The Village filed this suit, styled as a claim of appeal, on March 8, 2018. The Village seeks to reverse DEQ’s refusal to invalidate the 228-ppb sample.

## ARGUMENT

### **I. The Court lacks jurisdiction because the Village’s appeal is untimely and was not made in compliance with the court rules.**

There are generally three routes by which a person aggrieved by state administrative action can seek judicial review of that action: “(1) the method of review prescribed by the statutes applicable to the particular agency; (2) the method of review prescribed by the [Administrative Procedures Act] (APA); or (3) an appeal under MCL 600.631.” *Teddy 23, LLC v Michigan Film Office*, 313 Mich App 557, 567 (2015), quoting *Jackson Community College v Dep’t of Treasury*, 241 Mich App

673, 678–79 (2000). The timeline for filing an appeal is different depending on the route the person must take.

A person must take the first route if the statute authorizing the administrative action designates an appellate procedure for the action at issue. For this route, the statute generally indicates how long a person has to file an appeal. See MCR 7.104(A)(1). Here, the Michigan Safe Drinking Water Act governs DEQ’s denial of the Village’s invalidation request. But the Act does not specify an appellate procedure for DEQ’s denial of a request to invalidate water quality samples, so the first route is not an option for the Village.

A person must take the second route if the agency action is governed by the APA because it is either the promulgation of a rule or it is the result of a contested case hearing. See MCL 24.201, *et seq.* For this route, the person has 60 days from the final agency decision to file an appeal. MCR 7.119(B)(1). The APA does not apply here because the denial of the Village’s request was not the promulgation of a rule. See MCL 24.207 (defining “rule”). Nor did DEQ’s denial require an evidentiary hearing such that it was a “contested case.” See *J & P Market, Inc v Liquor Control Comm*, 199 Mich App 646, 649–50 (1993) (agency action is not a “contested case” unless an evidentiary hearing is required by law). Therefore, the Village could not take the second route.

A person must take the third route when neither the first or second route is available. The third route is established by the “catch-all” provision of the Revised Judicature Act. That provision authorizes an appeal to the “circuit court of the

county of which the appellant is a resident” of a final administrative action for “which an appeal or other judicial review has not otherwise been provided for by law.” MCL 600.631. This is the route the Village was required to take here.

Appeals under section 631 “shall be made in accordance with the rules of the supreme court.” *Id.* According to the court rules, the Village had 21 days to file its claim of appeal following DEQ’s January 8, 2018 denial of its invalidation request. MCR 7.123(B)(1); MCR 7.104(A). But the Village did not file its claim of appeal until March 8, 2018—59 days after January 8, 2018 (and well over the allowed 21 days). Because the “time limit for an appeal of right is jurisdictional,” this Court does not have subject matter jurisdiction over the Village’s appeal. MCR 7.104(A). Without jurisdiction, the Court is required to dismiss the Village’s claim of appeal in its entirety. *Fox v Bd of Regents of Univ of Mich*, 375 Mich 238, 242 (1965) (“When a court is without jurisdiction of the subject matter, any action with respect to such a cause, other than to dismiss it, is absolutely void.”); see also *Schlega v Detroit Bd of Zoning Appeals*, 147 Mich App 79, 82 (1985) (“The failure to file a timely claim of appeal deprives the circuit court of jurisdiction to hear the appeal.”). And it must do so here because of the Village’s untimely claim of appeal.

Additionally, the Village’s “appeal was not filed . . . in conformity with the rules” in one other respect. MCR 7.211(2)(b); MCR 7.110. Because the Village’s appeal is an “agency appeal,” it was required to include “a copy of a written request or order for a certified copy of the record to be sent to the circuit court.” MCR 7.104(D)(3). The Village did not make this request to DEQ. Instead, the Village

indicated that “there is no known record to transcribe.” (Village’s certification attached to claim of appeal.) That is, the Village apparently does not believe there is a record in this case because there was no evidentiary hearing. But that is not accurate. The record in this case would include “all documents, files, pleadings, testimony, and opinions and orders of the . . . agency” with respect to the administrative action at issue. MCR 7.109(A)(2); MCR 7.210(A)(2).

The Village’s misunderstanding matters for two reasons. First, the Village’s request to DEQ for the record would have served as the notice the Village was required to provide DEQ of the Village’s appeal. MCR 7.104(E)(4). And second, the date the Court received the certified record from DEQ would have been the date that established the briefing timeline in this case. MCR 7.111(A)(1). The Village’s failure to timely comply with this requirement is one additional reason why its claim should be dismissed because it “was not filed . . . in conformity with the rules.” MCR 7.211(2)(b); MCR 7.110.

**II. If the Court determines that it has jurisdiction, it should still affirm DEQ’s decision because the decision was correct.**

Even if the Court decides that it has jurisdiction over the Village’s appeal, it should affirm DEQ’s decision without appellate briefing because the “questions [the Village] sought to be reviewed are so unsubstantial” they do not need formal briefing. MCR 7.110; MCR 7.211(3)(a). If the Court reaches this analysis, its “review is limited to a determination of whether [DEQ’s] decision [was] authorized by law.” *McBride v Pontiac Sch Dist*, 218 Mich App 113, 122 (1996). The Village’s

challenge can only succeed if it shows that DEQ's decision was *not* authorized by law in that it was "arbitrary and capricious," an "abuse of administrative discretion," or unconstitutional. *Id.* The Village cannot meet that high standard.

DEQ "may" invalidate samples under one or more of four scenarios: the laboratory testing the sample made a mistake; the sample was not taken from an appropriate site; the sample container was damaged in transit; or the sample was tampered with. Mich Admin Code, R 325.10710a(6)(a). None of those scenarios exists in this case. The Village does not cite or otherwise appear to rely on Rule 10710a(6)(a). Instead, the Village raises four issues with the 228-ppb sample—none of which mandate the sample's invalidation.

First, the Village asserts that the sample was taken by the elderly resident's adult daughter, rather than the elderly resident. (Ex 3, Invalidation Request.) The Village does not identify any statute or rule requiring that the owner of the residence be the person who takes the sample because there is none. What matters is that the sample was taken from a home with a lead service line. Mich Admin Code, R 325.10710a(c). And as the Village acknowledges, the home at 19180 Riverside had a lead service line. (Claim of Appeal, ¶ 5.f.)

Second, the Village objects that 19180 Riverside was not in its "original" sampling pool, but was a replacement site because a previous location was no longer available. (Ex 3, Invalidation Request.) It is not clear why the Village believes this would be a basis for invalidation. What matters most, as noted above, is that the residence included in the sampling pool had a lead service line—which it did.

Third, the Village objects that the “sample was taken from a faucet with a treatment device.” (Ex 3, Invalidation Request.) It is true that the rules forbid the use of filtered water to test for lead. Mich Admin Code, R 325.10710a(1)(a). But as the Village concedes, the sample was *not* taken from a faucet with a filter because “the filter was removed prior to the sample collection.” (Ex 3, Invalidation Request.) What matters is that the water was unfiltered. The Village concedes that it was unfiltered.

Finally, the Village claims that the daughter of the resident could not be positive that her mother, an elderly person with an age-related cognitive impairment, did not wake in the night and use the kitchen faucet. (Ex 3, Invalidation Request.) Thus, the Village argues, it cannot be guaranteed that the water had “stood motionless in the plumbing system of each sampling site for not less than 6 hours.” Mich Admin Code, R 325.10710a(2)(b). Not only is the Village forbidden from “challeng[ing] the accuracy of the sampling results based on alleged errors in sample collection” because it allowed residents to take the samples. *Id.* But as DEQ explained in its denial of the Village’s request, had the water sat for a *longer* period, the lead content of the water likely would have been even *higher* than the already very high 228 ppb. (Ex 4, Denial.)

The reason for the Safe Drinking Water Act and its regulations is to provide for the public health. See MCL 325.1001a. The Village acknowledged in its claim of appeal that once it discovered the high lead levels at 19180 Riverside, it “immediately replaced the lead pipe with PVC pipe.” (Claim of Appeal, ¶ 5.g.) This



indicates that the Village, like DEQ, values the protection of the public health. Yet the Village seeks some way to artificially lower the lead-testing results for the sample period at issue—evidently in an attempt to avoid the additional testing required by law on account of the Village’s high lead level. See Mich Admin Code, R 325.10710b. But the reason for the additional testing is to determine if there are additional homes in the Village which, like 19180 Riverside, have high lead levels. Which is why “the prudent course of action to protect public health is to include the sample” in the Village’s lead-level calculation. (Ex 4, Denial.)

### CONCLUSION AND RELIEF REQUESTED

DEQ requests that the Court dismiss the Village claim of appeal in its entirety for lack of jurisdiction. In the alternative, DEQ requests that the Court affirm DEQ’s denial of the Village’s request to invalidate the 228-ppb sample. DEQ also requests any other relief the Court considers appropriate.

Respectfully submitted,

Bill Schuette  
Attorney General

/s/ Nathan A. Gambill  
Nathan A. Gambill (P75506)  
Zachary C. Larsen (P72189)  
Assistant Attorneys General  
Attorneys for Defendant  
Environment, Natural Resources, and  
Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540  
gambilln@michigan.gov  
larsenz@michigan.gov

Dated: March 23, 2018

LF: Beverly Hills, Village of (DEQ)/AG# 2018-0212205-AL/Brief – in Support of Motion to Dismiss or Affirm 2018-03-23

# **EXHIBIT 1**



WATER OPERATING SERVICES  
WATER QUALITY  
10100 EAST JEFFERSON AVENUE  
DETROIT, MICHIGAN 48214  
PHONE: 313-926-8102 / 313-926-8127  
FAX 313-842-6418

**Total Samples Collected: 5**

WSSN	Town	Sample Location	Site Code	Sample Date	Sample Category	Service Lines	Bldg. Plumbing	Kitchen or Bathroom Tap	Date Preserved	Lead Result (ppb)	Date Lead Analyzed	Copper Result (ppb)	Date Copper Analyzed	Date Results Reviewed	Date Results Sent to Town	MDEQ Cert. Lab#	Date to MDEQ
0690	Beverly Hills	16269 Kirkshire	010	8/23/2017	1	L	C/P	bathroom	8/31/2017	< 2	9/12/2017	135.10	9/13/2017	9/20/2017	9/21/2017	1805	9/21/2017
0690	Beverly Hills	20140 Village Drive	013	8/23/2017	2	C	C	kitchen	8/31/2017	< 2	9/12/2017	36.62	9/13/2017	9/20/2017	9/21/2017	1805	9/21/2017
0690	Beverly Hills	19180 Riverside	014	8/24/2017	1	L	C/G/P	kitchen	8/31/2017	228.26	9/13/2017	72.10	9/13/2017	9/20/2017	9/21/2017	1805	9/21/2017
0690	Beverly Hills	19630 Warwick	015	8/23/2017	2	C	C/P	kitchen	8/31/2017	< 2	9/13/2017	48.10	9/13/2017	9/20/2017	9/21/2017	1805	9/21/2017
0690	Beverly Hills	17561 Birwood	016	8/22/2017	2	C	C	kitchen	8/31/2017	< 2	9/12/2017	74.45	9/13/2017	9/20/2017	9/21/2017	1805	9/21/2017

FILED Received for Filing Oakland County Clerk 3/23/2018 11:07 AM

# **EXHIBIT 2**



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



C. HEIDI GRETHOR  
DIRECTOR

October 20, 2017

VIA E-MAIL and U.S. MAIL

Mr. Thomas H. Meszler  
Village of Beverly Hills  
18500 West 13 Mile Road  
Beverly Hills, Michigan 48025

WSSN: 00690  
Village of Beverly Hills

Dear Mr. Meszler:

SUBJECT: Lead and Copper Monitoring - Action Level (AL) Exceedance;  
Village of Beverly Hills; WSSN: 00690

The Village of Beverly Hills exceeded the AL(s) for lead during the most recent round of lead and copper monitoring of drinking water taps from June 1 to September 30, 2017, as summarized below.

Contaminant	AL	MCLG*	90 <sup>th</sup> Percentile Value	Number of Samples Above AL	Typical Source of Contaminant
Lead	15 parts per billion (ppb)	0	91 ppb	1	Corrosion of household plumbing systems; Service lines that may contain lead; Erosion of natural deposits
Copper	1.3 parts per million (ppm)	1.3	0.1 ppm	0	Corrosion of household plumbing systems; Erosion of natural deposits

\*MCLG: Maximum contaminant level goal means the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

An AL exceedance is not a violation, but it triggers other requirements under the administrative rules promulgated under the Michigan Safe Drinking Water Act, 1976 PA 399, as amended (Act 399). Requirements include water quality parameter (WQP) monitoring, source water monitoring, corrosion control treatment, and public education (PE).

**Issue a Public Advisory**

An amendment to Act 399 on March 29, 2017, requires a public water supply to issue a Public Advisory (PA) within three business days to inform all persons served about the lead AL exceedance. It is the intent of the Department of Environmental Quality (DEQ) to work with you to develop the PA materials to ensure it complies with the requirements set forth in Act 399. Enclosed with this letter is a checklist to document the PA distribution activities. Please contact the DEQ if you plan to use broadcast media as your delivery method.

### **Deliver Customer Notice of Lead Result**

Within 30 days of learning the results, you must provide individual lead tap results to the people who receive water from sites that were sampled, even if lead was not detected. You must also send us certification that you met all delivery requirements along with a sample copy of your customer notice by December 29, 2017. To download the *Lead and Copper Report and Consumer Notice of Lead Result Certificate* in Microsoft Word or PDF format, visit <http://michigan.gov/deq>. Click on Water, Drinking Water, Community Water Supply, and Reporting Forms.

### **Distribute PE**

By November 29, 2017, Deliver PE materials to all consumers. Repeat each year until the lead AL is no longer exceeded. This material is intended to educate consumers about lead health effects, sources, and steps to minimize exposure. Enclosed is a template you may use to meet the requirement. Note that the PE material must include information about the exceedance in your water supply, information about what you are doing to reduce lead levels, information about lead service lines in your distribution system, and information about the history of lead levels in your water supply.

Also attached is a checklist of PE activity requirements with certification to return to us by December 9, 2017, along with a sample copy of the PE material.

### **Conduct WQP Monitoring**

From the date of this letter, you must begin collecting one WQP sample every two weeks from the entry point to the distribution system. Since the Village of Beverly Hills purchases treated water from the Great Lakes Water Authority (GLWA), you may need to coordinate with your water seller to achieve compliance with this requirement.

By November 30, 2017, collect two WQP samples at least 24 hours apart from ten locations in the distribution system. The WQP samples shall be analyzed for pH, alkalinity, calcium, conductivity, chloride, sulfate and temperature. Temperature and pH are field tests and should be completed at the time of sample collection. Continue sampling for WQP during each lead and copper monitoring period, or every six months, until at least 90 percent of lead and copper tap results meet both ALs.

If you use the DEQ laboratory, order bottles by calling 517-335-8184, or by downloading the form EQP 2301 *Bottle Order Form* from <http://michigan.gov/deqlab>. Click on Drinking Water. The tests are analyzed from one sample bottle per location. Request the analyses using the following test codes:

Test Code	Cost	Bottle Number	Test Description
CORR	\$51.00	33	Conductivity, Alkalinity, Phosphate, and Calcium
CPH	\$13.00	33	pH Determination
R	\$18.00	32,33	Chloride, Sulfate

### **Conduct Source Water Monitoring**

By March 31, 2018, collect one sample for lead and copper at the entry point to the distribution system. Repeat every third year until both lead and copper ALs are met during the entire three-year period.

### **Correct the Problem**

Minimize lead and copper in drinking water by reducing corrosion of water pipes and household plumbing that contain lead and copper. To accomplish this, you must propose a corrosion control treatment plan or propose to perform a corrosion control study by March 31, 2018. If treatment is found to be necessary, it must be installed and samples collected to ensure the lead and copper ALs are consistently met. Contact us for guidance on corrosion control options.

### **Lead and Copper Monitoring**

To show the ALs can be met, collect a lead and copper sample from 60 sites between January 1 and June 30, 2018, and again between July 1 and December 31, 2018. You may discontinue the corrosion control study and installation of treatment if the ALs are met during future rounds of monitoring.

You may discontinue your public education activities if the lead AL has been met.

When selecting new sites, choose the highest Tier criteria available within the distribution system, giving Tier 1 sites first priority. Please see the enclosed tiering criteria to help inform your site selection process. Within 30 days of learning of results, you must provide individual lead tap results to people who receive water from sites that were sampled, even if lead was not detected. All monitoring, reporting, customer notification, and DEQ certification requirements remain in effect.

### **Consumer Confidence Report (CCR)**

Include this AL exceedance in your CCR, which is due to our office, your customers, and the local health department by July 1, 2018. You may use the table format from the first page of this letter.

Also, because the lead AL was exceeded, include the following health effects language:

*Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.*

### **Lead Service Line Replacement**

Water supplies that exceed the lead AL in a compliance monitoring period after installing corrosion control treatment must begin to replace lead service lines. You must identify the number of lead service lines in your community and replace a minimum of

seven (7) percent of the original number of lead service lines each year. Lead service line replacement (LSLR) may be discontinued if your water supply is at or below the AL for two consecutive six-month monitoring periods.

We understand that you have an active LSLR program in conjunction with your road construction/repair program. To comply with Act 399, you will need to provide the initial number of lead service lines that were in place when the replacement program began and an identification of the portion or portions owned by the system. Please submit this information no later than December 31, 2017. You are required to replace seven (7) percent of the lead service lines by September 30, 2018. You may discontinue your LSLR activities if the lead AL is met in two consecutive six-month monitoring periods.

### What Happens Next?

If you can show that both lead and copper ALs are met in two consecutive six-month periods, then many of the requirements outlined in this letter will no longer apply. However, in the meantime, you must propose a corrosion control treatment plan or propose to perform a corrosion control study. If treatment is found to be necessary, it must be installed. We will work with you to complete these corrosion control steps to optimize your corrosion control treatment.

### Timetable of Upcoming Requirements

Complete By	Requirement	Comments
Within three business days	Distribute a Public Advisory	Distribute a public advisory to inform all persons served by the water supply of the lead AL exceedance. Distribution of the notice must be in a form and manner designed to fit the specific situation and must be reasonably calculated to reach all persons served by the public water supply.
Right away	Deliver <i>Customer Notice of Lead Result</i> to persons served at each site tested within 30 days of knowing the result.	Download <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> in Microsoft Word or PDF format from <a href="http://michigan.gov/deq">http://michigan.gov/deq</a> . Click on Water, Drinking Water, Community Water Supply, and Reporting Forms.
Right Away	Collect WQP samples (entry point to the distribution system)	Collect one sample from the entry point to the distribution system every two weeks.
November 29, 2017	Perform PE activities including delivering PE materials to all consumers.	PE required activities are listed in enclosed template and checklist. Repeat every year until the lead AL is met in the most recent round of sampling.
November 30, 2017	Collect WQP samples (distribution system)	Collect two samples at least 24 hours apart from <u>ten locations</u> in the distribution system. Repeat each lead and copper monitoring period until both ALs are met.
December 9, 2017	Send us certification of PE compliance along with a sample copy of the materials delivered.	Sample certification enclosed. Required whenever PE required.
December 29, 2017	Send us certification of customer notice of lead result compliance along with a sample copy of the notice delivered.	Download <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> in Microsoft Word or PDF format from <a href="http://michigan.gov/deq">http://michigan.gov/deq</a> . Click on Water, Drinking Water, Community Water Supply, and Reporting Forms.



Complete By	Requirement	Comments
December 31, 2017	Submit your lead service line inventory	Provide the initial number of lead service lines in your distribution system. Develop a plan to remove seven (7) percent of the lead service lines by September 30, 2018.
Between January 1 and June 30, 2018	Collect 60 samples from the distribution system and have them analyzed for lead and copper.	Report the results to the DEQ and deliver the customer notice of individual lead results using the downloadable <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> . <b>Report due July 10, 2018.</b>
Between January 1 and June 30, 2018	Collect WQP samples (Distribution system)	Collect two samples at least 24 hours apart from ten locations in the distribution system. Repeat each lead and copper monitoring period until both ALs are met.
March 31, 2018	Collect one lead and copper sample from each entry point to the distribution system.	Repeat every third year until both ALs are met for the whole three-year period.
March 31, 2018	Submit a proposal for optimal corrosion control treatment or a corrosion control study.	Contact us for guidance on corrosion control options. Corrosion control study and treatment installation may cease if both ALs are met during two consecutive six-month monitoring periods.
July 1, 2018	Report the 2017 AL exceedance in the Consumer Confidence Report.	Specific lead health effects language must be included.
September 28, 2018	Send us certification of customer notice of lead result compliance along with a sample copy of the notice delivered.	Download <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> in Word or PDF format from <a href="http://michigan.gov/deq">http://michigan.gov/deq</a> . Click on Water, Drinking Water, Community Water Supply, and Reporting Forms.
September 30, 2018	Replace seven (7) percent of lead service lines.	Replace a minimum of seven (7) percent of lead service lines.
Between July 1 and December 31, 2018	Collect 60 samples from the distribution system and have them analyzed for lead and copper.	Report the results to the DEQ and deliver the customer notice of individual lead results using the downloadable <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> . <b>Report due January 10, 2019.</b>
Between July 1 and December 31, 2018	Collect WQP samples (Distribution system)	Collect two samples at least 24 hours apart from ten locations in the distribution system. Repeat each lead and copper monitoring period until both ALs are met.
March 31, 2019	Send us certification of customer notice of lead result compliance along with a sample copy of the notice delivered.	Download <i>Lead and Copper Report and Consumer Notice of Lead Result Certificate</i> in Word or PDF format from <a href="http://michigan.gov/deq">http://michigan.gov/deq</a> . Click on Water, Drinking Water, Community Water Supply, and Reporting Forms.

We recognize that the Lead and Copper Rule is complex and may be confusing. We will continue to offer assistance in implementing these regulations.

Mr. Thomas H. Meszler

October 20, 2017

Page 6

If you have any questions, please contact us at [boltj@michigan.gov](mailto:boltj@michigan.gov); [islama@michigan.gov](mailto:islama@michigan.gov); or at the phone numbers provided below.

Sincerely,



Abu Islam  
Environmental Engineer  
Southeast Michigan District Office  
Drinking Water and Municipal  
Assistance Division  
586-753-3774



Jeni Bolt  
Environmental Quality Specialist  
Technical Support Unit  
Drinking Water and Municipal  
Assistance Division  
517-284-6515

Enclosures (Public Advisory Checklist, Public Education Material Template and Sample Certificate, WQP report form, Tiering Criteria)

cc/enc: Mr. Chris Wilson, Village of Beverly Hills  
Mr. Bob Jackovich, SOCWA  
Ms. Mary Lynn Semegen, Great Lakes Water Authority  
Ms. Kristina Donaldson, DEQ

## Public Education Material Template and Certificate

*This template meets the Public Education (PE) requirements for public water supplies that exceed the lead action level in more than 10% of homes tested (that is, the water supply's 90th percentile exceeds 15 parts per billion or 0.015 milligrams per liter). **The PE material must include the topic areas in bold below.** Anything in italics under each topic area is required language and cannot be changed. Any additional information presented shall be consistent with the information in regular text below and be in plain language that can be understood by the general public.*

*The notice must begin with the following opening statement (though a water supply may include a title of the pamphlet or brochure of its choosing):*

### **IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER**

*The Village of Beverly Hills found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this notice closely to see what you can do to reduce lead in your drinking water.*

This notice is brought to you by the Village of Beverly Hills, Water Supply Serial Number 0690  
Date [Insert the date distributed]

#### **Health Effects of Lead**

*Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.*

#### **Sources of Lead**

Lead is a common metal found in the environment. Drinking water is one possible source of lead exposure. Other sources of lead exposure for most individuals are lead-based paint, lead-contaminated dust or soil, and some plumbing materials. In addition, lead can be found in certain types of pottery, pewter, fixtures, food, and cosmetics. Other sources include exposure in the work place and exposure from certain hobbies (lead can be carried on clothing or shoes).

Plumbing products such as pipes and fixtures, may contain lead. Homes built before 1988 are more likely to have plumbing containing lead, but newer homes may also contain lead. Beginning in 2014, the law reduced the allowable level of lead in these products to a maximum of 0.25 percent to be labeled as "lead free." Older fixtures may contain higher levels of lead.

[Insert utility specific information describing the community's source water – e.g. "The source of water from XX Reservoir does not contain lead" or "Community X does not have any lead in its source water or water mains in the street."] When water is in contact with pipes [or service lines]

or plumbing that contains lead for several hours, the lead may enter drinking water. Homes built before 1986 are more likely to have plumbing containing lead. New homes may also have lead; even “lead-free” plumbing may contain some lead.

EPA estimates that drinking water can make up 20 percent or more of a person’s potential exposure to lead. Infants who consume mostly mixed formula can receive 40 percent to 60 percent of their exposure to lead from drinking water.

Don’t forget about other sources of lead, such as lead paint, lead dust, and lead in soil. Wash your children’s hands and toys often as they can come into contact with dirt and dust containing lead.

### **Steps You Can Take to Reduce Your Exposure to Lead in Your Water**

1. ***Run your water to flush out lead.*** Run water for 30 seconds to two minutes or until it becomes cold or reaches a steady temperature before using it for drinking or cooking, if it hasn’t been used for several hours. This flushes lead-containing water from the pipes.

2. ***Use cold water for cooking and preparing baby formula.*** Do not cook with or drink water from the hot water tap; lead dissolves more easily into hot water. Do not use water from the hot water tap to make baby formula.

3. ***Do not boil water to remove lead.*** Boiling water will not reduce lead levels.

4. ***Look for alternative sources or treatment of water.*** You may want to consider purchasing bottled water or a water filter. Read the package to be sure the filter is approved to reduce lead or contact NSF International at 800-NSF-8010 or [www.nsf.org](http://www.nsf.org) for information on performance standards for water filters. Be sure to maintain and replace a filter device in accordance with the manufacturer’s instructions to protect water quality.

5. ***Get your child tested.*** Contact your local health department or healthcare provider to find out how you can get your child tested for lead if you are concerned about exposure.

6. ***Test your water for lead.*** Call us at [insert water supply phone number] to find out how to get your water tested for lead. [Include information on the water supply’s testing program. For example, does the water supply provide free testing? Are there labs in the area that are certified to do lead in water testing?]

7. ***Identify if your plumbing fixtures contain lead.*** Faucets, fittings, and valves may contribute lead to drinking water unless they have been replaced since 2013. Any new connecting plumbing and fittings should meet the 2014 lead-free definition. If you replace your faucet, buy a new one that meets the 2014 lead-free definition. Visit the National Sanitation Foundation Web site at [www.nsf.org](http://www.nsf.org) to learn more about lead-containing plumbing fixtures.

### **What Happened? What is Being Done?**

[Insert information about how and when the exceedance was discovered and provide information on the source(s) of lead in the drinking water, if known.]

[Insert information about what the water supply is doing to reduce lead levels in the community.]

[Insert information about lead service lines in the community, how a consumer can find out if they have a lead service line, what the water supply is doing to replace lead service lines, etc.]

[Insert information about the history of lead levels in tap water samples in the community. For example, have they declined substantially over time? Have they been low and risen recently? Is there a known reason for any lead level changes?]

#### **For More Information**

*Call us at [Insert Number] or (if applicable) visit our Web site at [insert Web site here]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's Web site at **[www.epa.gov/lead](http://www.epa.gov/lead)** or contact your health care provider.*

FILED Received for Filing Oakland County Clerk 3/23/2018 11:07 AM

## Summary of Public Education (PE) Requirements and Certificate of Distribution

For Community Water Supplies That Exceed the Lead Action Level

Public education (PE) materials must be delivered within 60 days after the end of the monitoring period in which the lead exceedance occurred and repeated once every 12 months for as long as the lead action level is exceeded. Within 10 days after the end of the period in which PE is required, send documentation to the DEQ that contains:

- A demonstration that the water supply has delivered the PE materials that meet the content requirements and the delivery requirements.
- A list of all the newspapers, radio stations, television stations, and facilities and organization to which the water supply delivered PE materials during the period in which the water supply was required to perform PE tasks.

To meet this requirement, water supplies may use this checklist to document delivery activities. Send this checklist, or similar documentation to the DEQ along with a sample copy of the PE material that was distributed.

**Start Here** if both of the following describes the water supply. Otherwise, start on the next page:

- The water supply is a facility, such as a prison or hospital where the population is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices.
  - The water supply provides water as part of the cost of services provided and does not separately charge for water consumption.
1. Post PE material in a public place or common area in each of the buildings served by the water supply.  
Locations posted: \_\_\_\_\_
  2. Distribute PE printed material to each person served by the water supply. The water supply may use electronic transmission instead of or combined with printed materials as long as it achieves at least the same coverage.  
Date delivered: \_\_\_\_\_
  3. Certify. I affirm that public education material content and delivery requirements have been completed. I am enclosing a sample of the public education material we delivered.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Water Supply Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Water Supply Serial Number (WSSN)

\_\_\_\_\_  
Title

Within 10 days of the end of the period in which PE is required, send a certification that requirements were met to the appropriate DEQ district office at <http://michigan.gov/deq>, click Contacts, click on Environmental Contacts, click on district .

**Start Here** for all other water supplies:

1. Deliver PE printed materials (pamphlets, brochures, posters) to all bill paying customers.  
Date delivered: \_\_\_\_\_
  
2. Provide the following message on or in each water bill (no less frequently than quarterly). "[Water Supply Name] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [Water Supply Name] or visit [insert Web site if available]."  
Date water bills or other delivery mechanism delivered: \_\_\_\_\_
  
3. Partner with the local public health agency to reach at-risk consumers, even if the agency is not served by the water supply:
  - a. Deliver PE materials to the local public health agency along with an informational notice encouraging them to distribute to potentially affected consumers.  
Date delivered to local public health agency: \_\_\_\_\_
  
  - b. Contact the local public health agency in person or by phone. If the agency provides a list of other organizations that serve the target population, deliver materials to those organizations too, even if not served by the water supply. A water supply serving 3,300 or fewer people may limit the distribution to organizations it serves.  
List of other organizations: \_\_\_\_\_
  
4. Deliver PE materials to the following facilities and organizations that are served by the water supply that are most likely to be visited regularly by pregnant women and children. Check all that apply and list the names of facilities and organizations:
  - \_\_\_ Public and private schools or school boards: \_\_\_\_\_
  - \_\_\_ Women Infants and Children (WIC) and Head Start programs: \_\_\_\_\_
  - \_\_\_ Public and private hospitals and medical clinics: \_\_\_\_\_
  - \_\_\_ Pediatricians: \_\_\_\_\_
  - \_\_\_ Family planning clinics: \_\_\_\_\_
  - \_\_\_ Local welfare agencies: \_\_\_\_\_
  
5. Make a good faith effort to locate the following organizations within the service area and deliver PE materials, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of the organizations from the local public health agencies, even if the agencies are not located within the water system service area. Check all organizations that apply and list the names of the organizations:
  - \_\_\_ Licensed childcare centers: \_\_\_\_\_
  - \_\_\_ Public and private preschools: \_\_\_\_\_
  - \_\_\_ Obstetricians-Gynecologists and Midwives: \_\_\_\_\_
  
6. Submit press release to newspaper, television, and radio stations. Water supplies serving 3,300 or fewer people may skip this requirement provided the water supply delivers PE materials to every household served by the water supply. List the newspapers, television, and radio stations: \_\_\_\_\_

7. Conduct activities from the following general categories.
- For water supplies serving 3,300 or fewer people, conduct 1 activity from 1 of the general categories.
  - For water supplies serving more than 3,300 people, conduct 3 activities from 1, 2, or 3 of the following general categories (for example, you may do 3 PSAs or 3 public meetings if the DEQ allows).
  - Check all that apply and note dates activities performed and locations, if applicable.

☐ Public service announcements: \_\_\_\_\_

☐ Paid advertisements: \_\_\_\_\_

☐ Display information in public areas: \_\_\_\_\_

☐ Email to customers: \_\_\_\_\_

☐ Public meetings: \_\_\_\_\_

☐ Delivery to every household: \_\_\_\_\_

☐ Targeted individual customer contact: \_\_\_\_\_

☐ Provide materials directly to multi-family homes: \_\_\_\_\_

☐ Other methods approved by the DEQ: \_\_\_\_\_

8. Post material on the water supply's Web site (required for supplies serving more than 100,000 people). Web site address: \_\_\_\_\_

9. Certify. I affirm that public education material content and delivery requirements have been completed. I am enclosing a sample of the public education material we delivered.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Water Supply Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Water Supply Serial Number (WSSN)

\_\_\_\_\_  
Title

Within 10 days of the end of the period in which PE is required, send a certification that requirements were met to the appropriate DEQ district office at <http://michigan.gov/deq>, click on Contacts, click on Environmental Contacts, click on district offices.



13. WATER QUALITY PARAMETER DATA (when applicable):

System Name/County \_\_\_\_\_ WSSN \_\_\_\_\_

Distribution System	Sample Location		Date	pH	Alk. (mg/l)	Ca as CaCO3 (mg/l)	Cond. (mmhos)	Temp. (°F)	PO4/Si	Chloride (mg/l)	Sulfate (mg/l)
Entry Point to the Distribution System	Location	Site Code	Date	pH	Alk. (mg/l)	Ca as CaCO3 (mg/l)	Cond. (mmhos)	Temp. (°F)	PO4/Si	Chloride (mg/l)	Sulfate (mg/l)

14. SOURCE WATER QUALITY DATA (when applicable):

Sample Location	Site Code	Date	Lead (ppb)	Copper (ppb)	Lab #

13. WATER QUALITY PARAMETER MONITORING (if applicable): Enter the water supply name, WSSN and corresponding related information from the water quality parameter monitoring carried out, if applicable. Indicate the street address of the sampling point (and the site code for entry point sampling points), date of sample collection and the results of chemical analyses. Note: alkalinity and calcium analyses should be reported as mg/l as CaCO<sub>3</sub>; conductivity should be reported in mmhos; temperature in degrees Fahrenheit; and where applicable, phosphate as PO<sub>4</sub> and silicates as Si.
14. SOURCE WATER QUALITY DATA (if applicable): Enter the water supply name, WSSN and corresponding related information from source water quality monitoring carried out, if applicable. Indicate the location of the sampling point (i.e. well number, name of the entry point [aka, plant tap], etc.), site code, date of sample, lead concentration in ppb, copper concentration in ppb and lab number or sample number.

Public Advisory Certificate of Distribution

**Summary of Public Advisory (PA) Requirements and  
Certificate of Distribution**

For Community Water Supplies That Exceed the Lead Action Level

A Public Advisory (PA) must be issued within three business days after the Department notifies a Water Supply that an exceedance of the lead action level has occurred. Send documentation to the DEQ that the PA was issued using an appropriate method within the required timeframe.

To meet this requirement, water supplies may use this checklist to document the PA issuance activities. Send this checklist, or similar documentation to the DEQ along with a sample copy of PA that was issued.

**Start Here** (indicate one or more of the following activities)

1. Issue PA using appropriate broadcast media, such as radio and television  
Please list media outlets and date of broadcast: \_\_\_\_\_
2. Post the PA in conspicuous locations throughout the area served by the public water supply.  
Locations posted and date of posting: \_\_\_\_\_
3. Hand deliver the PA to each person served by the water supply. The water supply may use electronic transmission instead of or combined with printed materials as long as it achieves at least the same coverage.  
Date delivered: \_\_\_\_\_
4. Use a communication method other than one listed, as approved, in writing, by the Department.  
Date delivered: \_\_\_\_\_

I affirm that Public Advisory has been issued. I am enclosing a copy of the Public Advisory.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Water Supply Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Water Supply Serial Number (WSSN)

\_\_\_\_\_  
Title

Send this checklist to the appropriate DEQ district office at <http://michigan.gov/deq>, click Contacts, click on Environmental Contacts, click on district. Or email to [DEQ-CWS-Reporting@michigan.gov](mailto:DEQ-CWS-Reporting@michigan.gov).



## Lead and Copper Rule Sample Site Selection Criteria

Based on a distribution system materials evaluation, community water supplies must identify a pool of lead and copper sampling sites large enough to ensure a sufficient numbers of sites are available for sampling. The sampling pool must target high risk sites using the criteria below.

- Samples must be collected from **Tier 1** sites, unless
- insufficient Tier 1 sampling sites are available, then **Tier 2** sites must be used, unless
- insufficient Tier 1 and Tier 2 sampling sites are available, then **Tier 3** sites must be used.
- If no Tier 1, 2, or 3 sites are available, sampling sites must be representative of plumbing materials typically found throughout the water system.

### **TIER 1 SITES - Single family residence with:**

- Lead service lines\*
- Copper plumbing with lead solder installed after 1982 and before 1989
- Interior lead plumbing
- Multiple family residences (MFR) may be used as Tier 1 sites when MFR comprise at least 20 percent of the total service connections.

### **TIER 2 SITES - Buildings or MFR with:**

- Lead service lines\*
- Copper plumbing with lead solder installed after 1982 and before 1989
- Interior lead plumbing

### **TIER 3 SITES - Single family residence with:**

- Copper plumbing with lead solder installed before 1983

### **OTHER SITES**

- Sites representative of plumbing materials commonly found throughout the water supply.

**\* If a water system has lead service lines (LSL), at least 50 percent of the sampling sites must have an LSL. EPA has clarified that sites with lead goosenecks or pigtails (commonly defined as the publically-owned portion of the service line between the water main and a either a connector line or the curb box) should be considered Tier 1 sites. Priority should be placed on sites with full LSLs, followed by partial LSLs, followed by lead goosenecks.**

### **Also Note:**

- Each round of sampling should be conducted at the same sampling sites. If an original sampling site is not available, you should collect a tap sample from another site meeting the same Tier criteria as the original site and document the reason for the change.
- For residential sites, samples must be collected from kitchen or bathroom taps typically used for consumption. For non-residential sites, samples must be collected from taps typically used for consumption. Do not sample from outside hose spigots or utility sinks.
- Samples may not be taken from taps that have point of use or point of entry treatment devices designed to remove inorganic contaminants, such as a water softener.

# **EXHIBIT 3**

## Lead and Copper Sample Invalidation Request

<b>Water Supply Name:</b> Village of Beverly Hills		<b>WSSN:</b> 00690
<b>Contact Person:</b> Village Manager Chris Wilson		<b>Date of Request:</b> 10-13-2017
<b>Phone:</b> (248) 646-6404	<b>Email:</b> cwilson@villagebeverlyhills.com	

Systems are required to report all sample results to the DEQ. If you believe that a home owner did not follow proper sampling procedures when collecting the lead and copper sample, DO NOT submit the bottle for analysis. Discard the water and recollect. This is important because if a water system (1) sends a sample bottle to a home within its compliance sampling pool, (2) receives the sample back from the homeowner (3) sends the sample to the lab for analysis, and (4) receives results from the analysis back from the lab; that result must be used in calculating the 90<sup>th</sup> percentile. Additionally, if a sample is collected from an improper location and gets invalidated by the DEQ after being tested, this may result in a monitoring violation against the water supply. If you are unsure about whether to submit a sample to the lab for analysis, please contact your DEQ representative for guidance.

### Sample to be Invalidated:

Laboratory Identification or Sample Number: 00690-014

Collection Date: 08/24/2017 Time: 8:20 a.m.

Sample Site Address: 19180 Riverside

Sample Tap Location: Kitchen

Sample Collected by: Jennifer Gilchrist

Is the site specified in the sampling pool? ☐ Yes ☒ No

### Invalidation Justification:

- ☐ The laboratory established that improper analysis caused errors
- ☒ The sample did not meet the site selection criteria
- ☐ Not a proper Tier site ☐ Not first draw ☒ Hold time <6 hours
- ☐ Not kitchen or bath ☒ In-home treatment
- ☐ The sample container was damaged in transit
- ☐ Substantial reason exists to believe that the sample was tampered with

Explain in detail and attach documented proof (such as notice from the lab, affidavit from homeowner or plumber on plumbing materials that no longer meet criteria, etc.)

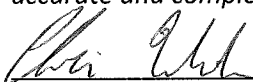
See attached answers and affidavit

Please describe the steps the water supplier will take to ensure that lead and copper samples will be collected, reviewed, and analyzed correctly in the future. The proposed improvements must be specific, must identify responsible parties.

Village will no longer allow residents to collect samples.

All samples will be collected by a Village employee or  
contractor to ensure proper protocol.

*I certify that I am the person authorized to fill out this form and the information contained herein is true, accurate and complete to the best of my knowledge and belief.*



**Signature - Person Requesting Invalidation**

10/13/17

**Date**

For DEQ Use Only

Date Received:

Approved: ☐ Yes ☐ No

**Signatures**

Field Staff:

Unit Chief:

Field Operations Section Chief:

Rational for Decision:



- The six-hour hold requirement was not met.
- Individual who signed for the sample, did not take the sample.
- The sample was taken from a faucet with a treatment device, contrary to answer provided for question "D". Per the resident who took the sample, filter was removed prior to sample collection. Home had other eligible faucets without treatment devices that could have been used.
- The sample site was not in the sample pool. This site was not in the Village's original sampling pool but was selected when another location in the sampling pool was not available. Site will remain in sampling pool going forward.
- Village has a sufficient number of samples that were properly collected to meet testing requirements, including another category 1 sample.
- See Attached Affidavit.

**AFFIDAVIT OF JENNIFER GILCHRIST**

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF OAKLAND )

Jennifer Gilchrist, being first duly sworn, deposes and states that she is of adult age, a resident of Oakland County, Michigan, and says the following:

1.       I have personal knowledge of the facts set forth in this Affidavit, and if sworn as a witness in this matter, would be able to testify competently to the facts stated in this Affidavit.

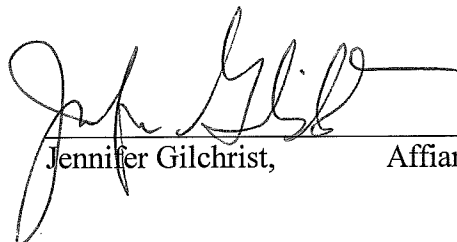
2.       On August 24, 2017 I took a water sample at 19180 Riverside Drive in the Village of Beverly Hills, Michigan. This sample was collected in conjunction with the Great Lakes Water Authority lead and copper analyses.

3.       The sample was collected by me, Jennifer Gilchrist, not the owner of the home, Joellen Gilchrist, who is my mother and who signed the sample questionnaire.


4.       The sample was taken from a faucet that had been attached to a water filtration device, contrary to the answer provided on question "D" on the sample questionnaire.

5. Affiant cannot confirm that the water at the sampling address was not utilized in the six (6) hour period prior to collection.

"Further Affiant sayeth not."

  
Jennifer Gilchrist, Affiant

Subscribed and sworn to before me this  
13th day of October, 2017.

  
Ellen E. Marshall, Notary Public  
Oakland County, Michigan  
Acting in Oakland County, Michigan  
My Commission Expires: 07-13-2018

**ELLEN E MARSHALL**  
NOTARY PUBLIC, Oakland County, MI  
My Commission Expires 7/13/2018



0690-014

1-L-C/G/P

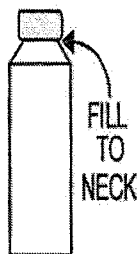
WATER OPERATING SERVICES  
WATER QUALITY  
10100 EAST JEFFERSON AVENUE  
DETROIT, MICHIGAN 48214

9.3h

Dear resident: Your community has enlisted Great Lakes Water Authority to perform lead and copper analyses on their drinking water supply. It is important that you follow these instructions so that we may collect an accurate measurement of the lead and copper that may have entered your drinking water. The sample should represent the water you would typically drink and the faucet from where you would drink the water.

Call your community water supply if you have questions at 248-646-6404

1. Select a **COLD** water faucet in the **KITCHEN OR BATHROOM** that is commonly used for drinking and cooking. **DO NOT** sample from a laundry sink or a hose spigot as these samples cannot be used for compliance. **DO NOT** use a faucet that is connected to a home water treatment device (like a filter, water softener, iron filter, reverse osmosis) unless you bypass the home water treatment device. Turn off your automatic ice maker before water sits idle in your plumbing.
2. Water must sit idle in the pipes for a minimum of 6 hours before sampling. The best time for sampling is early morning or evenings upon returning home. If you have a single handle faucet, turn it to the **COLD** side when you sample. Do not use your water for at least **6 HOURS** from any tap in the home before you plan to collect the sample. **DO NOT** use this faucet again until you collect your sample (this includes not flushing toilets during the 6 hour period). **DO NOT** remove the aerator screen prior to sampling.
3. On both the label and this form, write the **DATE** and **TIME** that you **LAST USED YOUR WATER BEFORE SAMPLING**.



4. Make sure that you wait at least the **6 HOURS** before collecting your sample.
5. After the 6 hours. Place the opened sample bottle below the faucet and open the **COLD** water tap as you would to fill a glass of water. Fill the sample bottle to the neck with the "first draw" of **COLD** water from the faucet from which you normally use water for cooking and drinking. **Tightly cap the bottle.** Write the **DATE** and **TIME** that the sample was **COLLECTED** on both the label and on this form. **BOTTLES NOT FULL TO THE NECK CANNOT BE TESTED.**
6. Peel the backing off the label and attach the label to the bottle and use the rubber band to attach this form with the survey form to the bottle. When your sample is ready for pick-up call your community at \_\_\_\_\_.

**PLEASE ANSWER THE FOLLOWING QUESTIONS AND SIGN THE FORM**

a) Did all household water remain <u>unused</u> for at least 6 hours before you filled the bottle?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
b) What date and time was your water last used before sampling?	Date: 8.23	Time: 11 am   pm
c) What date and time did you fill the sample bottle?	Date: 8.24	Time: 8:30 am   pm
d) Was the bottle filled to the neck?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
e) Which faucet did you use to fill the sample bottle?	KITCHEN	MAIN BATHROOM
f) Is the faucet from which you collected water connected to a home treatment device such as a water softener, a reverse osmosis unit, an iron removal device, OR is any kind of water additive used in the home?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

**WHERE WE SEND THE RESULTS:**

Your Printed Name: Joellen Gilchrist	Signature: (required) [Signature]
Address: 9180 Riverside Dr.	Phone: 248 - 566 - 3484

Thank you again for your help. GLWA will send your results to your community. A summary of information on this year's lead and copper monitoring will be printed in the annual water quality report that will be made available by July 1 of next year when sampling is performed in the monitoring period. If you have any questions Call your community water division or Michigan Department of Environmental Quality Southeast Michigan District Engineer, 586 506-6137.

**TO BE COMPLETED BY RESIDENT/CUSTOMER**

A. Which faucet did you use to fill the bottle?

☒ Kitchen    ☐ Main bathroom    ☐ Other

If OTHER, please describe: \_\_\_\_\_  
\_\_\_\_\_

B. When was the faucet last used before sampling?

DATE 8.23 TIME 11 AM/PM (AM)

C. When did you fill the bottle?

DATE 8.24 TIME 8:20 AM/PM (AM)

D. Is there a faucet mount filter?    ☐ YES    ☒ NO

If YES, was it bypassed?    ☐ YES    ☐ NO

E. Is this faucet connected to a home treatment device such as a water softener, a filter, a reverse osmosis unit, an iron removal device OR any other kind of treatment?

☐ YES    ☒ NO

If YES, please describe: \_\_\_\_\_  
\_\_\_\_\_

F. If any plumbing repairs or replacement has been done in the home since the previous sampling event, please note this information here:

If YES, please describe: \_\_\_\_\_  
\_\_\_\_\_

I have read the Drinking Water Lead and Copper Sampling Instructions and have taken a tap sample in accordance with these directions.

*William Bilchik*  
Signature

8.24.17  
Date

- The six-hour hold requirement was not met. The individual who took the sample and signed the attached affidavit indicates that her mother and the homeowner, Joellen Gilchrist, suffers from age related cognitive impairment and frequently wakes during the night to use the restroom, kitchen or other parts of the house. Further, the homeowner's memories of such activities are not reliable.
- Individual who signed for the sample did not take the sample. Jennifer Gilchrist filled out the sampling instruction form and took the sample. Joellen, her mother and the owner of the home signed the form but was not involved in collecting the sample or completing the sampling instruction form.
- The sample was taken from a faucet with a treatment device, contrary to answer provided for question "D". Per the resident who took the sample, filter was removed prior to sample collection. Home had other eligible faucets without treatment devices that could have been used.
- The sample site was not in the sample pool. This site was not in the Village's original sampling pool but was selected when another location in the sampling pool was not available. Site will remain in sampling pool going forward.
- Village has a sufficient number of samples that were properly collected to meet testing requirements, including another category 1 sample.
- See Attached Affidavit.

# **EXHIBIT 4**



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



C. HEIDI GRETHUR  
DIRECTOR

January 8, 2018

VIA E-MAIL and U.S. MAIL

Mr. Thomas H. Meszler  
Village of Beverly Hills  
18500 West 13 Mile Road  
Beverly Hills, Michigan 48025

WSSN: 00690  
County: Oakland

Dear Mr. Meszler:

SUBJECT: Lead and Copper Monitoring – Invalidation Request Response;  
Village of Beverly Hills

The Department of Environmental Quality (DEQ) received a request for invalidation on October 13, 2017, regarding one sample collected at 19180 Riverside. This sample was collected by a resident on behalf of the Village of Beverly Hills (Beverly Hills) during the June through September 2017 compliance period. Beverly Hills collected a total of six samples, meeting compliance criteria within the monitoring period, to comply with the requirements of the Safe Drinking Water Act, 1976 PA 399, as amended (Act 399).

Beverly Hills provided the sample result, sampling instruction form, an affidavit from the sample collector (Ms. Jennifer Gilchrist) and an explanation for why the sample should be excluded from the 90th percentile calculation. Beverly Hills requested the sample be excluded from the 90th percentile calculation because the sample may not have been properly collected. Act 399 requires compliance samples be one liter in volume, from a kitchen or bathroom cold water tap, have a minimum six hours stagnation, and be collected from an appropriate location per the site selection criteria. Based on the information provided on the sampling instruction form and the affidavit, the invalidation request is due to a potentially insufficient stagnation period.

According to the information provided, the home is an appropriate sampling location (Tier 1 site) due to the lead service line to the home. The sample was one-liter in volume collected from a kitchen or bathroom tap. However, the resident's daughter was unsure if her mother (the homeowner and resident) had used the water within the six-hour stagnation period. She completed the sampling instruction form and had her mother sign it.

The DEQ has determined the sample should not be invalidated. The sample collected on August 24, 2017, from 19180 Riverside had a lead concentration of 228 parts per billion (ppb), well above the action level of 15 ppb. Though duration of the stagnation period is uncertain, a longer stagnation would potentially increase, rather than decrease, the result. Therefore, the prudent course of action to protect public health is to include the sample in the 90th percentile calculation.



Mr. Thomas H. Meszler

Page 2

January 8, 2018

The DEQ sent a letter on October 20, 2017, detailing Beverly Hill's 90th percentile for lead and copper and the requirements associated with exceeding the lead action level.

Thank you for your efforts to comply with the requirements in this letter. If you have questions, please contact me at [boltj@michigan.gov](mailto:boltj@michigan.gov); Technical Support Unit, DWMAD, DEQ, P.O. Box 30817, Lansing, Michigan 48909-8311; or at the phone number below.

Sincerely,

A handwritten signature in black ink that reads "Amy D. Fachance". The signature is written in a cursive style. Below the signature, the word "for" is written in a smaller, simpler font.

Jeni Bolt

Environmental Quality Specialist

Drinking Water and Municipal

Assistance Division

517-331-5161

Cell: 517-331-5161

Fax: 517-284-1328

cc: Mr. Chris Wilson, Village of Beverly Hills  
Mr. Kristina Donaldson, DEQ  
Mr. Abu Islam, DEQ

FILED Received for Filing Oakland County Clerk 3/23/2018 11:07 AM