

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CONCERNED PASTORS FOR SOCIAL
ACTION, et al.,

Plaintiffs,

v.

NICK A. KHOURI, et al.,

Defendants.

Case No. 16-10277

Hon. David M. Lawson

Mag. J. Stephanie Dawkins Davis

**PLAINTIFFS' MOTION TO ENFORCE PARAGRAPHS 38 AND 117 OF
SETTLEMENT AGREEMENT AND FOR CONSOLIDATED HEARING**

Plaintiffs Concerned Pastors for Social Action, Melissa Mays, American Civil Liberties Union of Michigan, and Natural Resources Defense Council respectfully move the Court to order relief necessary to ensure the City of Flint's and City Administrator's immediate compliance with Paragraphs 38 and 117 of the Settlement Agreement ordered by the Court on March 28, 2017. *See* ECF Nos. 147-1, 152. Plaintiffs also respectfully ask this Court to set a modified briefing schedule and to consolidate hearing of this motion with the already scheduled August 1 hearing. *See* ECF No. 168.

On July 12, 2018, counsel for Plaintiffs communicated with opposing counsel in accordance with Local Rule 7.1(a) explaining the nature of the relief sought in this motion and seeking concurrence in the relief. State Parties indicated

that they do not support or oppose the relief sought. Counsel for the City indicated that they have not been able to consult with City Administration to determine the City's position on this motion.

Dated: July 13, 2018

Respectfully submitted,

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**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION TO ENFORCE
PARAGRAPHS 38 AND 117 OF SETTLEMENT AGREEMENT AND FOR
CONSOLIDATED HEARING**

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
CONCISE STATEMENT OF THE ISSUE PRESENTED.....	iii
CONTROLLING AUTHORITIES.....	iv
INTRODUCTION	1
STATEMENT OF FACTS	2
I. The City’s filter verification obligations under the Settlement Agreement.....	2
II. The City’s May 25 status report and subsequent correspondence	4
III. The City’s past noncompliance with its filter verification obligations	9
STANDARD OF REVIEW	10
ARGUMENT	11
I. The City is violating Paragraphs 38 and 117 of the Settlement Agreement and endangering public health.....	11
A. The City is delaying faucet filter verification, violating the Agreement’s requirement to act “immediately”	11
B. The City still has not made the three required attempts to ensure faucet filter verification at dozens of homes	12
C. The City has failed to adequately document and report filter verification efforts	14
II. The Court should order the City to comply with Paragraphs 38 and 117 and provide additional reporting.....	16
CONCLUSION.....	19

TABLE OF AUTHORITIES

CASES

<i>Frew ex rel. Frew v. Hawkins</i> , 540 U.S. 431 (2004).....	10
<i>Pedreira v. Sunrise Children’s Servs., Inc.</i> , 802 F.3d 865 (6th Cir. 2015)	10
<i>Shy v. Navistar Int’l Corp.</i> , 701 F.3d 523 (6th Cir. 2012)	10
<i>United States v. Apple Inc.</i> , 992 F. Supp. 2d 263 (S.D.N.Y. 2014), <i>aff’d</i> , 787 F.3d 131 (2d Cir. 2015)	16
<i>Whitlock v. FSL Mgmt., LLC</i> , 843 F.3d 1084 (6th Cir. 2016)	10

CONCISE STATEMENT OF THE ISSUE PRESENTED

To protect Flint residents against spikes in lead levels immediately following service line replacement, the Settlement Agreement requires the City of Flint to “make a good faith effort to ensure that each household has a properly installed Faucet Filter immediately after its service line replacement.” The City has failed to do so—the latest in a string of serious, systemic violations of the Settlement Agreement’s terms. Should the Court order the City to comply with its obligations under the Agreement and order additional reporting to bolster compliance?

CONTROLLING AUTHORITIES

Shy v. Navistar Int'l Corp., 701 F.3d 523 (6th Cir. 2012)

Whitlock v. FSL Mgmt., LLC, 843 F.3d 1084 (6th Cir. 2016)

INTRODUCTION

The Court-ordered Settlement Agreement resolving Plaintiffs' Safe Drinking Water Act claims requires the City of Flint to replace thousands of lead and galvanized steel service lines that connect homes in Flint to the public water system. But the Agreement does not end there. It spells out clear, specific steps the City must take to protect public health while service lines are being replaced. In particular, to protect against spikes in lead levels, the Agreement requires the City to ensure that faucet filters are properly installed *immediately* at each home where a service line is replaced. The City must provide Plaintiffs with documentation proving it has done so.

These measures are not suggestions. They were negotiated for and agreed to by all parties. They provide critical protections against further lead exposure in Flint. Without them, there is a risk that service line replacement could make things worse, not better, in the short term for some Flint residents.

Despite the importance of these terms, the City's most recent status report shows that the City is failing to ensure filter installation. The City's failures take three forms. First, the City has consistently taken far too long to verify filter installation; though the Agreement calls for immediate verification, the City has routinely taken weeks to contact households after service line replacements, with some households waiting more than eight weeks before being contacted. Second,

even after Plaintiffs put the City on notice of these violations, the City still has not undertaken the required efforts to verify proper filter installation at dozens of households where pipe replacements occurred between April 1 and June 1, 2018. Third, the City has not maintained adequate records of filter verification, making it impossible for Plaintiffs to ensure that the Agreement is being implemented properly.

These failures are a serious breach of the Agreement. And they are only the most recent examples of the City's failure to comply. The City's cavalier approach over the last sixteen months reveals either an unwillingness or an inability to fulfill its legal obligations under the Agreement and its duty to protect public health. Regardless, the City's violations are jeopardizing the safeguards that Plaintiffs negotiated on behalf of Flint's residents.

Accordingly, Plaintiffs ask this Court to order the City to immediately comply with Paragraphs 38 and 117 of the Settlement Agreement. Plaintiffs further ask the Court to require weekly status reports until the City demonstrates compliance with the Agreement's filter requirements.

STATEMENT OF FACTS

I. The City's filter verification obligations under the Settlement Agreement

In March 2017, the parties, the State of Michigan, and the Michigan Department of Environmental Quality entered into a binding Settlement

Agreement resolving Plaintiffs' claims under the Safe Drinking Water Act. *See* Settlement Agmt. (Agmt.), ECF No. 147-1. The Agreement requires the City to replace thousands of lead and galvanized steel service lines at occupied homes in Flint by January 1, 2020. *See id.* ¶¶ 8-20. The Agreement also directs the City to take additional steps at the time of service line replacement. *See id.* ¶¶ 34-38.

Among other requirements, the City must “make a good faith effort to ensure that each household has a properly installed Faucet Filter *immediately* after its service line replacement is complete.” *Id.* ¶ 38 (emphasis added). At a minimum, this effort “shall include three attempts to obtain access to a household to properly install a Faucet Filter.” *Id.*

Paragraph 38's filter verification requirements serve an important public health purpose. When lead pipes are disturbed, including during service line replacement, there is a risk that lead can mobilize, causing significant short-term spikes of lead levels in drinking water. *See, e.g.*, Tallman Decl. Exs. A at 1-2, 6, 7 (American Water Works Association, “Communicating About Lead Service Lines”); B at x (American Water Works Association, “Replacement and Flushing of Lead Service Lines”) (describing lead service line replacement as “rais[ing] concerns about elevated lead levels”); C at 2 (U.S. EPA, Science Advisory Board, “Drinking Water Committee Augmented for the Review of the Effectiveness of Partial Lead Service Line Replacements”) (explaining that service line replacement

“generally result[s] in elevated Pb levels for a variable period of time after replacement”). These spikes can occur immediately after service line replacement, and can persist for weeks or months. *See, e.g., id.* Ex. A at 6, 7. Thus, though service line replacement is an effective long-term strategy for reducing lead contamination, it should be accompanied by immediate filter use to protect against short-term lead exposure. *See id.; cf.* Dec. 27, 2017 Chaudhary Decl. Ex. I at 2, ECF No. 155-2 (“Proper installation is critical to protect residents from spikes in lead release that can occur as a result of the physical disturbance of pipes during service line replacement.”).

The Agreement includes reporting and disclosure provisions to ensure the City’s compliance with its filter verification obligations. The City must regularly report to Plaintiffs not only the number of households where service lines have been replaced, but also, for each household, whether proper installation of a filter has been verified. Agmt. ¶ 117.c.i-ii. Such reports should include “any underlying documentation or records.” *Id.* ¶ 117. The City must also respond within 14 days to requests by Plaintiffs for information on filter verification. *Id.* ¶ 118.

II. The City’s May 25 status report and subsequent correspondence

On May 25, pursuant to Paragraph 117 of the Agreement, the City produced a quarterly status report covering the period from February 15, 2018, to May 14, 2018. *See* Tallman Decl. Ex. D. The report documented service line replacement at

61 households.¹ *Id.* With the report, the City provided several spreadsheets with data on each service line replacement. *See id.* Ex. E.

According to the “Filter Installation Tracking” tab of the City’s May dataset, the City did not make *any* attempt to verify filter installations at *any* of the households at which replacements occurred until May 16, 2018, nine days before the City’s status report was due. *See id.* On that date, the City attempted telephone calls to 45 households where service lines had been replaced over the preceding four weeks. *Id.* For seven households, the spreadsheet indicates only that the City had no contact name or number; it shows no evidence of any effort to contact the residents at these homes. *Id.* Ten households where service line replacements occurred between May 14 and May 18 are not even listed on the “Filter Installation Tracking” tab. *Id.*

Of the 45 households that the City attempted to contact to verify filter installation, the spreadsheet indicates that three refused filters. *Id.* Eleven households scheduled a date and time that they would be available for the City to deliver a filter and verify installation; though all of these appointments preceded

¹ The status report stated that service line replacement had occurred at 52 households during the February 15–May 14 time period. Tallman Decl. Ex. D. However, the data provided by the City with its report documented an additional nine households at which service lines were replaced between May 15 and May 18. *See id.* Ex. E at 3 (showing nine rows with pipe replacements dated May 16 or later).

the May 25 reporting date, the spreadsheet provides no indication of whether filter verification actually occurred. *Id.* For the other 31 households listed in the “Filter Installation Tracking” tab, the City at most left a voicemail; the spreadsheet includes no indication of any further attempt to contact these households. *Id.* Thus, as of May 25, the City had fulfilled its Paragraph 38 obligations for just three of the 61 households that received new service lines between February 15 and May 18—the three that refused further contact. The May 25 status report did not document a single household at which the City had actually verified proper filter installation.

On June 1, 2018, Plaintiffs notified the City that it was in violation of Paragraphs 38 and 117 of the Settlement Agreement. *See* Tallman Decl. Ex. F. Plaintiffs stated that “the City is failing to ensure that residents have a properly installed faucet filter immediately after service line replacement.” *Id.* at 1. Plaintiffs pointed out that the violations were “part of an ongoing pattern of noncompliance by the City.” *Id.* at 2-3.

On June 14, 2018, the parties discussed by phone the City’s violations. *See* Tallman Decl. ¶ 10. On June 22, the City provided a memorandum explaining “the City’s efforts to verify filter installations . . . for those homes at which a service line was replaced between April 1 and June 1, 2018.” *See id.* Ex. G. Enclosed with that memorandum was a table of 103 homes at which service lines were replaced

between April 1 and June 1 (“Table 1”), as well as a separate table documenting filter verification efforts at these homes (“Table 2”). *Id.* The June 22 correspondence also included a third table, “Table 3,” documenting an additional 21 households at which the City replaced service lines between April 1 and June 1 during its next “phase” of service line replacement work. *Id.*

The June 22 data documents the date of service line replacement, *id.* (tbl. 1, column labeled “Date work performed”), and the date the City first sought to verify proper filter installation, *id.* (tbl. 2, column labeled “First Visit”). For over three-quarters of the 103 households listed in Tables 1 and 2 of the June 22 data, more than seven days passed between service line replacement and the first attempt at contact by the City; for several homes, the delay was more than 50 days. Fort Decl. ¶ 9; *see* Tallman Decl. Ex. G. For these 103 households, an average of 21 days passed before the City first attempted contact. Fort Decl. ¶ 10; *see* Tallman Decl. Ex. G.

As of June 22, the City had not verified filter installation at 35 of the 103 homes listed in Table 2. *See* Fort Decl. ¶ 8 & Ex. A. These 35 households included 23 households from the City’s May dataset, plus an additional 12 homes at which service line replacement occurred between May 15 and June 1. *See id.* Ex. A.

On July 3, Plaintiffs sent a letter to the City asking it to remedy its ongoing noncompliance with Paragraphs 38 and 117. *See* Tallman Decl. Ex. H. Plaintiffs

asked the City, within seven days, to provide documentation that it had met its obligations to verify filter installation at the 34 homes for which Table 2 showed noncompliance.² Plaintiffs also sought assurances that the City had put in place operating procedures that would ensure compliance moving forward. *See id.* Ex. H. On a telephone call that same day, counsel for the City informed Plaintiffs' counsel that the City would not be able to provide a full response within the requested time period. *See id.* ¶ 11. As of the time of filing, Plaintiffs have received no further assurances from the City that it has conducted any additional filter verification efforts at these homes.

Following Plaintiffs' June 1 letter notifying the City of its violations, the City produced a set of procedures that it represented will govern service line replacements moving forward. *Id.* Exs. I, J. The procedures do not describe the specific steps the City's contractors will take to complete the required three attempts to verify filter installation, and do not provide a deadline for accomplishing these attempts. *See id.* Ex. I at 13. After additional inquiries from Plaintiffs, the City provided further correspondence concerning its plans, *id.* Ex. G at 1-2, but conceded that it still could not provide any information "regarding who

² Plaintiffs' July 3 letter inadvertently omitted one household at which the City has not made three good-faith attempts to verify filter installation. The correct number of households for which the City has not fulfilled its Paragraph 38 obligations is 35. *See Fort Decl.* ¶ 8 & Ex. A.

exactly is responsible for second and third attempts, their scheduling, and their timeframe.” *Id.* Ex. K.

III. The City’s past noncompliance with its filter verification obligations

In December 2017, following months of noncompliance by the City, Plaintiffs moved to enforce the Agreement’s reporting and disclosure provisions. *See* Pls.’ Dec. 27 Mot. to Enforce Settlement Agmt., ECF No. 155. The violations described in Plaintiffs’ motion included the City’s persistent failure to provide documentation concerning whether immediate filter verification was completed following each service line replacement. *Id.* at 6-9. Plaintiffs had notified the City in writing of this noncompliance again and again—more than eight separate times—during the first year of the Agreement’s implementation. *Id.* at 6. Nonetheless, by the time pipe replacements had stopped for the winter in late 2017, Plaintiffs had been unable to obtain information sufficient to assess whether each of the thousands of households at which service lines had been replaced were protected from the risk of lead spikes immediately thereafter. *Id.* at 9. The limited information the City provided suggested that it was not coordinating with the State with sufficient frequency to ensure immediate filter verification. *Id.* at 7-9.

Plaintiffs’ December 2017 motion to enforce remains pending with the Court. *See* Stipulated Order on Pls.’ Mot. to Enforce Settlement Agmt. 1, ECF No. 164. Pursuant to a Stipulated Order, the Court required the City to improve its

reporting and recordkeeping on filter verifications after service line replacements. For all future status reports for the duration of the Agreement, the City must provide, “in a reasonably usable format,” information showing, “for each address at which a service line was replaced: the date of service line replacement; the date(s) and time(s) of any visit(s) from the City or its contractors to verify whether a faucet filter was properly installed following service line replacement; and the result of any such visit(s) (i.e., whether verification was successful).” *Id.* at 1-2.

STANDARD OF REVIEW

The Settlement Agreement operates as a consent decree. *See Pedreira v. Sunrise Children’s Servs., Inc.*, 802 F.3d 865, 871 (6th Cir. 2015). “Federal courts are not reduced to approving consent decrees and hoping for compliance.” *Frew ex rel. Frew v. Hawkins*, 540 U.S. 431, 440 (2004). Rather, “[o]nce entered, a consent decree may be enforced,” *id.*, and this Court has “broad equitable remedial powers” to do so, *Shy v. Navistar Int’l Corp.*, 701 F.3d 523, 533 (6th Cir. 2012) (internal quotation marks omitted). The Agreement thus provides “a prospective form of relief involving continuous court oversight.” *Whitlock v. FSL Mgmt., LLC*, 843 F.3d 1084, 1094 (6th Cir. 2016).

ARGUMENT

I. The City is violating Paragraphs 38 and 117 of the Settlement Agreement and endangering public health

A. The City is delaying faucet filter verification, violating the Agreement's requirement to act "immediately"

Paragraph 38 of the Agreement requires the City to make a good-faith effort to ensure proper filter installation "immediately after" service line replacement.

There is an important reason for the Paragraph's urgency: it protects Flint residents against the significant short-term spikes in lead levels that can occur after a service line is replaced. *See* Tallman Decl. Ex. A at 1-2, 6, 7. A filter verification that takes place weeks or months after pipe replacement does not protect Flint residents from exposure to elevated lead levels that may have occurred in the interim.

The City's own documents show that it routinely delays for weeks, and even months, before attempting to verify proper filter installation. For the 103 households included in Tables 1 and 2, the City waited an average of 21 days after service line replacement before visiting the home to verify proper filter installation. *See* Fort Decl. ¶¶ 4, 10 & Ex. A. For 14 households, the City first attempted to visit the home 35 days or more after service line replacement; in four instances, the first attempt took more than 50 days. *Id.* Ex. A.

In Paragraph 38, as in everyday usage, “immediately” means immediately. The City’s delay in attempting to verify filter installation at these households is a flagrant violation of the Settlement Agreement.

B. The City still has not made the three required attempts to ensure faucet filter verification at dozens of homes

The City has not only failed to comply with Paragraph 38’s urgent timeline; it has also failed to perform the actions required by that Paragraph. In signing the Agreement, the City committed to “make a good faith effort to ensure” that a filter was properly installed at each household where a service line was replaced. Agmt. ¶ 38. The Agreement is clear as to what that means: such an effort “shall include three attempts to obtain access to a household.” *Id.*

By the City’s own records, there are at least 35 homes where new service lines were installed between April 1 and June 1, but at which the City still has not made three attempts to obtain access to the household to ensure proper filter installation. *See* Fort Decl. ¶ 8 & Ex. A. Instead, City representatives conducted an unsuccessful first attempt, then never returned. For instance, pipe replacement occurred at Household 081 on May 16, 2018. *See* Tallman Decl. Ex. G tbl. 1, line 81. Nearly two weeks later, on May 29, the City made its first attempt to access the home to verify proper filter installation. *See id.* tbl. 2, line 81. Though the City did not verify that a filter was installed on that visit, as of June 22—well over a month after the service line had been replaced—no one from the City had

made a second attempt to contact the residents. *See id.* Tables 1 and 2 tell similar stories for dozens of other households. *Compare, e.g.*, tbl. 1, line 81 (service line replaced on May 16, 2018), *with* tbl. 2, line 81 (“First Visit” recorded as May 29, 2018, no second or third visit recorded); tbl. 1, line 10 (service line replaced on May 22), *with* tbl. 2, line 10 (“First Visit” recorded as June 4; no second or third visit recorded); tbl. 1, line 14 (service line replaced on April 26), *with* tbl. 2, line 14 (“First Visit” recorded as May 29; no second or third visit recorded).

Again, the City’s continued failure to verify proper filter installation is not simply a breach of the Agreement’s terms. It is a broken promise to the City’s residents to protect against both long-term and short-term lead exposure. And it is not a mere oversight. These violations have persisted even after Plaintiffs brought them to the City’s attention and allowed ample time for the City to come into compliance. Notably, Plaintiffs notified the City on June 1 that it had failed to complete a good-faith effort to verify filter installation at the households included in the City’s May 25 status report. *See* Tallman Decl. Ex. F. On July 3, Plaintiffs presented the City with a list of households at which the City had not fulfilled its Paragraph 38 obligations. *See id.* Ex. H. As that letter made clear, nearly two dozen of these homes were included in the City’s May dataset and mentioned in Plaintiffs’ June 1 Notice of Violation. *Id.* at 1-2. Plaintiffs asked the City to “immediately fulfill” its Paragraph 38 obligations at these homes. *Id.* at 2.

Nonetheless, as of the date of this filing, the City has not produced any evidence of further attempts to contact these households.

By continuing service line replacements without providing the protections required by Paragraph 38, the City has manufactured an avoidable risk to human health. This failure to implement the Agreement's public health protections, like the unresponsiveness described in Plaintiffs' prior motions to enforce, "raises larger questions about [the City's] competency." Pls.' Dec. 27 Mot. to Enforce Settlement Agmt. 19.

C. The City has failed to adequately document and report filter verification efforts

In addition to requiring the City to verify filter installation, the Agreement mandates that the City document "whether proper installation of a Faucet Filter after replacement was verified," and provide Plaintiffs with "any underlying documentation or records." Agmt. ¶ 117.

The City's May 25 status report and subsequent correspondence reveal troubling, persistent gaps and inconsistencies in the City's tracking and reporting systems. Most obviously, the May 25 and June 22 datasets are produced in entirely different formats and capture different information, suggesting a lack of uniformity in data collection efforts and frustrating Plaintiffs' attempts to track, on a household-by-household basis, filter verification efforts. *Compare* Tallman Decl. Ex. E *with id.* Ex. G. Beyond these problems, the information provided by the two

datasets is incomplete or inconsistent. For instance, the May 25 status report purports to document all homes where service line replacement occurred between February 15 and May 14, but the City's June 22 documentation lists at least two additional homes that do not appear in the May dataset as having received service line replacements in that time frame. *See* Fort Decl. ¶ 11. For two households, the June 22 data indicates that filter verification was “complete[d]” on a date for which no visit was recorded. *See id.* ¶ 15. For all 61 households that are included in both the May 25 report and June 22 data, the June 22 table lists a date for service line replacement that is one day later than the day recorded in the May 25 report. *Id.* ¶ 12. And in many instances, the “[s]chedule date” for filter installation set out in the May 25 status report differs from the “First Visit” date in the June 22 memorandum. *Compare, e.g.,* Tallman Decl. Ex. E (May dataset) at “Filter Installation Tracking” tab, line 31 (showing scheduled date of filter installation for household as May 17); *with id.* Ex. G (June 22 memorandum) at tbl. 2, line 22 (showing first visit for same household as May 30).

These violations are serious, and part of a larger pattern of inadequate recordkeeping and reporting by the City. *See, e.g.,* Pls.’ Dec. 27 Mot. to Enforce Settlement Agmt. Inadequate, inconsistent, and confusing documentation makes it nearly impossible for Plaintiffs to verify that the City is complying with the Agreement and protecting public health.

II. The Court should order the City to comply with Paragraphs 38 and 117 and provide additional reporting

This is Plaintiffs' third motion to enforce to date. Plaintiffs' first motion detailed the City's repeated failure "to provide timely, complete, and accurate status reports" and to respond to requests for information necessary to monitor compliance. Pls.' Dec. 27 Mot. to Enforce Settlement Agmt. 5. Plaintiffs' second motion detailed "the City's refusal to conduct the required evaluation" necessary to accurately estimate the remaining number of lead and galvanized service lines in Flint. Pls.' Mot. to Enforce Pars. 29 and 30 of Settlement Agmt. 3, ECF No. 166. And these motions do not reflect the full scope of the City's noncompliance: Plaintiffs have sought relief from the Court only as a last resort. The briefs on these motions document only a fraction of the phone calls, correspondence, and other efforts through which Plaintiffs have sought to bring the City into compliance with its obligations. *See, e.g.*, Pls.' Dec. 27 Mot. to Enforce Settlement Agmt. 20.

Despite the City's pattern of noncompliance, Plaintiffs do not yet seek contempt sanctions, civil penalties, or the appointment of a master or monitor to oversee compliance. *See, e.g., United States v. Apple Inc.*, 992 F. Supp. 2d 263, 280 (S.D.N.Y. 2014), *aff'd*, 787 F.3d 131 (2d Cir. 2015) (concluding that "external monitors have been found to be appropriate where consensual methods of implementation of remedial orders are unreliable or where a party has proved resistant or intransigent to complying with the remedial purpose of the injunction

in question” (internal quotation marks omitted)). But the current situation cannot stand.

Accordingly, Plaintiffs seek the following relief to compel the City’s immediate compliance with its filter verification obligations:

Specification of a timeline for the City’s compliance with Paragraphs 38 and 117. Plaintiffs request that the Court order the City to fulfill its commitments under Paragraphs 38 and 117 of the Settlement Agreement by specifying deadlines the City must meet for its first, second, and third attempts to verify filter installation after service line replacement. Specifically, Plaintiffs ask the Court to order the City to:

- (1) Conduct a first attempt to verify faucet filter installation on the same day a service line replacement is completed at a household (i.e., “immediately”).
- (2) Conduct a second attempt, if necessary, within 24 hours of the first attempt.
- (3) Conduct a third attempt, if necessary, within 24 hours of the second attempt, so that all three attempts are completed within three days of the service line replacement.
- (4) Document and report, at all service line replacement households, (a) the date and time of the first attempt at filter verification; (b) the result of the

first attempt at filter verification; and, if applicable, (c) the date and time of the second attempt at filter verification; (d) the result of the second attempt at filter verification; (e) the date and time of the third attempt at filter verification; and (f) the result of the third attempt at filter verification. This relief is consistent with the reporting required by this Court's March 27, 2018 Order. *See* ECF No. 164.

- (5) Conduct three in-person attempts to verify filter installation (in addition to any telephone outreach).

Additional reporting on filter verification. In light of the City's pattern of noncompliance with Paragraphs 38 and 117's filter verification requirements, Plaintiffs ask the Court to order a period of more frequent and detailed reporting by the City on filter verification efforts. For the next three months, Plaintiffs ask the Court to require the City to produce weekly status reports to Plaintiffs documenting all filter installation verification efforts that have occurred during the weekly reporting period. At the conclusion of three months, if the parties agree that the City has adequately demonstrated compliance, the prior reporting schedule will resume.

Expedited briefing and consolidated hearing. This Court has noticed a hearing on Plaintiffs' prior motion to enforce, ECF No. 166, for August 1, 2018. Plaintiffs respectfully ask this Court to set a modified briefing schedule to allow

this motion to be heard at the scheduled August 1 hearing. Such relief is appropriate given the serious public health concerns at issue.

That the City has purportedly begun implementing new procedures for filter verification, *see supra* pp. 8-9, does not obviate the need for this Court's intervention. Those procedures do not reflect a clear, specific plan to comply with Paragraph 38. Plaintiffs' requested relief is necessary to protect public health, and well within the "broad equitable remedial powers" of the Court to enforce the Agreement. *Shy*, 701 F.3d at 533 (internal quotation marks omitted).

CONCLUSION

For the foregoing reasons, Plaintiffs' motion to enforce the Court-ordered Settlement Agreement should be granted.

Dated: July 13, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2018, I electronically filed Plaintiffs' Motion to Enforce Paragraphs 38 and 117 of Settlement Agreement and for Consolidated Hearing and accompanying Brief and exhibits with the Clerk of the Court using the ECF system.

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