

BUFFALO WATER BOARD MINUTES
November 13, 2019

MEMBERS PRESENT:

Oluwole A. McFoy
Gerald Kelly
Steven Stepniak
William Sunderlin

OTHERS PRESENT:

Peter Merlo
Jack McMahon
Allison Lack
Ken Maving
Stephen Waldvogel
Damon Sykes
William Appenheimer
Doug Fultz
Charles Martorana
Cassandra Barrett
Lisa Woodring

The regular monthly meeting of the Buffalo Water Board was called to order at 8:00 a.m.

1. Motion by Mr. Sunderlin, seconded by Mr. Stepniak to approve the agenda. Approved.

Motion by Mr. Sunderlin, seconded by Mr. Stepniak to approve the minutes from the October 16, 2019 meeting. Approved.
2. There were no public comments at this meeting.
3. Staff Update: Mr. Fultz with Veolia Water provided a staffing update to the Buffalo Water Board.
4. Cassandra Barrett and Lisa Woodring with Feed More WNY spoke to the Buffalo Water Board about the possibility of hosting a fund raising event at the Colonel Ward Water Treatment Facility at the end of March 2020. They plan to tour the facility to determine whether the facility is suitable for the proposed event. The Buffalo Water Board will await the report on their visit and inspection.
5. Mr. McFoy provided an update on the Residential Affordable Water Program.
6. Upon the recommendation of the Ms. Lack and Mr. Martorana, attorneys for the Buffalo Water Board, motion made by Mr. Stepniak, seconded by Mr. Sunderlin to authorize a Resolution for the Buffalo Water Board on Revisions to Regulations to Protect Residents with Lead Service Pipes and Make Other Updates. Approved. A copy of the resolution is attached.
7. Upon the recommendation of the Principal Engineer of the Division of Water and DiDonato Engineering & Architectural Professionals, motion made by Mr. Sunderlin, seconded by Mr. Stepniak to authorize funding a Water Betterment in connection with a contract between the City of Buffalo and Mark Cerrone Inc. on the Lower Main Street project for Rehabilitation of 48-inch Waterline Joint Seals, in an amount not to exceed \$379,722.00. The project and contract will be administered by the City of Buffalo, Division of Engineering. Approved
8. Upon the recommendation of the Principal Engineer of the Division of Water, motion made by Mr. Sunderlin, seconded by Mr. Stepniak to authorize an increase in funding for an existing contract with the University of Buffalo Water Distribution Research. (Contract Number

93002046). The project and contract will be administered by the City of Buffalo, Division of Water in an amount not-to-exceed \$150,000.00. Approved

9. Upon the recommendation of the Principal Engineer of the Division of Water and Erdman Anthony and Associates, Inc., motion made by Mr. Stepniak, seconded by Mr. Sunderlin to authorize funding for a contract with 4th Generation Construction, Inc. for the Large Valve Replacement Project- Various Locations Project. The project and contract will be administered by the City of Buffalo, Division of Water in an amount not-to-exceed \$1,185,800.00. Approved. The following Bids were received:

<u>Bidder</u>	<u>Bid</u>
4 th Generation Construction, Inc.	\$1,185,800.00
Destro & Bros. Concrete Co., Inc.	\$1,270,000.00
Kandey Co., Inc.	\$1,496,600.00
E & R General Construction., Inc.	\$2,238,110.00

10. Upon the recommendation of the Principal Engineer of the Division of Water, motion made by Mr. Kelly, seconded by Mr. Stepniak to authorize Veolia Water to contract for Uninterrupted Power Source (UPS) at the Colonel Ward Water Treatment Facility. The project and contract will be administered by Veolia Water in an amount not-to-exceed \$250,000.00 inclusive of Veolia Water's 10% administrative fee for services. Approved

11. Mr. Maving of GHD Consulting Services, Inc. presented a summary of the invoices to be paid to Veolia Water and recommended payment to Veolia Water for services rendered as follows:
- a) Motion by Mr. Sunderlin, seconded by Mr. Kelly to approve payment of \$127,519.31, inclusive of Veolia Water's 10% administrative fee for services by Destro & Brothers Concrete Co. for Emergency Watermain Repair. Approved
 - b) Motion by Mr. Sunderlin, seconded by Mr. Kelly to approve payment of \$61,269.87, inclusive of Veolia Water's 10% administrative fee for services by Great Lakes Plumbing for Emergency Service Repair. Approved

12. Mr. Waldvogel of GHD Consulting Services, Inc. delivered a report of GHD's on-going professional services to assist the Buffalo Water Board on a number of projects, including: the new screen project is on-going with both screens installed and operational, review of the Filter Upgrade Project contract documents, and GHD is continuing to progress the Buffalo Water Board's Request For Proposals for Professional Management Services.

13. Mr. Fultz of Veolia Water presented Veolia Water's monthly management report with the Buffalo Water Board. He reported that on October 17, 2019, a full-scale trial operation using the on-site generators to run the Colonel Ward Water Treatment Facility was successfully completed. Testing of water for blue green algae was completed and results should be available in a couple weeks, the American Water Infrastructure Act is a new Federal requirement requiring updating of our vulnerability evaluation.

Motion by Mr. Sunderlin, seconded by Mr. Stepniak to adjourn at 9:04 A.M. Approved.

Next meeting, Wednesday, December 4, 2019 at 8:00 A.M. This meeting will be in the Room 502 City Hall.

BUFFALO WATER BOARD
502 City Hall
Buffalo, New York 14202

November 13, 2019

TO ALL PERSONS ON THE ATTACHED
DISTRIBUTION LIST

Re: Buffalo Water Board Lead Service Pipe Regulation
SEQRA Negative Declaration.

Ladies and Gentlemen:

By resolution and letter dated July 10, 2019, the Buffalo Water Board (the "Water Board") notified you that it would be the Lead Agency with respect to the revision of the Water Board's regulations to protect residents with existing lead service pipes (the "Action"). The Water Board has not received any objection to such Lead Agency designation or to the regulatory changes.

The Water Board has determined that the Action constitutes an "unlisted action," as defined by 6 NYCRR § 617.2, and the SEQRA, and that the Action will not have a significant adverse impact on the environment.

Enclosed is the Water Board resolution together with the SEQRA Environmental Assessment Form and Determination of Significance adopted on November 13, 2019.

Very truly yours,
Buffalo Water Board



Peter J. Merlo, P.E.
Secretary

Enclosure

City of Buffalo
Att: Hon. Byron W. Brown, Mayor
201 City Hall
Buffalo, New York 14202

Buffalo Urban Renewal Agency
Att: Executive Director
920 City Hall
Buffalo, New York 14202

City of Buffalo
Department of Permit and Inspection Services
Att: Commissioner James Comerford, Jr.
324 City Hall
Buffalo, NY 14202

City of Buffalo Comptroller
Att: Barbara Miller-Williams
1225 City Hall
Buffalo, New York 14202

Buffalo Common Council
Att: City Clerk Gerald Chwalinski
1308 City Hall
Buffalo, New York 14202

City of Buffalo School District
Att: Superintendent
712 City Hall
Buffalo, New York 14202

New York State Department of Environmental
Conservation, Region 9
Att: Abby Snyder, Esq. Regional Director
270 Michigan Avenue
Buffalo, New York 14203-2915

Buffalo Sewer Authority
Att: General Manager
1038 City Hall
Buffalo, New York 14202

Erie County Department of Health
Commissioner of Health
Att: Gale R. Burstein, MD, MPH, FAAP
Room 903, Rath Building
95 Franklin Street
Buffalo, New York 14202

Buffalo Municipal Water Finance Authority
Att: Chairman
502 City Hall
Buffalo, New York 14202

**RESOLUTION OF THE BUFFALO WATER BOARD
ON REVISIONS TO REGULATIONS TO PROTECT
RESIDENTS WITH LEAD SERVICE PIPES
AND MAKE OTHER UPDATES**

WHEREAS, the Buffalo Water Board (the "Board") was created by the New York State Public Authorities Law (the "Public Authorities Law") Section 1049, and is authorized and empowered under Section 1048-g of the Public Authorities Law to make and amend rules and regulations governing the exercise of its power and duties and the fulfillment of its purposes; and

WHEREAS, on July 10, 2019, the Board designated itself as the lead agency pursuant to the State Environmental Quality Review Act ("SEQRA"), with respect to the action to revise the regulations of the Board to protect residents with lead service water pipes, and a notice of such lead agency designation was sent to various involved and interested agencies; and

WHEREAS, the Board has determined that such action will not result in any significant adverse environmental impacts pursuant to SEQRA, and that a negative declaration in connection with such determination will be issued to all involved and interested agencies as stated in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, the Board has determined to revise the Board Regulations codified at 21 NYCRR §§ 10085.1 and 10085.7 to prohibit the repair of lead pipes and require that when such pipes are in need of repair, they shall be replaced, to require that when a lead service pipe is replaced between the water main and curb stop, then any connected lead or galvanized service pipe shall also be replaced, and to require that if any service pipe is repaired or replaced, then any connected lead service pipe shall be replaced with a service pipe that is lead free; and

WHEREAS, the Board has determined to revise the definitions of "Board" and "Commissioner" in the Board Regulations codified at 21 NYCRR § 10085.1 to clarify that the Board is the owner of the water system and may appoint the Commissioner, or any other person as its authorized representative, and that the Commissioner, or other appointee shall act as the authorized representative of the Board, when appointed by the Board, in implementing the policies and procedures set forth by the Board.

WHEREAS, the Board has determined to further revise the Board Regulations codified at 21 NYCRR § 10085.7 to provide that after consideration of certain factors, the Board, on its own initiative, or as it deems appropriate, with the City and/or any other person, may replace or repair service pipes, valves, or appurtenances when doing so may benefit public health, safety, welfare or the public water supply.

WHEREAS, the Board has determined to revise the Board Regulations codified at 21 NYCRR § 10085.12, which currently provide that persons with delinquent accounts shall be liable and shall pay an additional charge of twenty-one (21) percent of the amount of each such delinquent account, to reflect that such persons may, rather than shall, be liable for this payment; and

WHEREAS, the revisions to the Board Regulations as set forth in Exhibit B shall be effective as of January 1, 2020 and all persons and properties served by the Board will be subject to the Board Regulations as revised and adopted hereby.

NOW, THEREFORE, be it resolved as follows:

1. The Board has determined, based upon its review of the SEQRA Short Environmental Assessment form parts 1, 2 and 3, which is attached hereto and made a part hereof as Exhibit A that the proposed action will not result in any significant adverse environmental impacts, and that a negative declaration is hereby issued pursuant to SEQRA.

2. The Board does hereby approve and adopt the revisions to the Board Regulations as set forth in Exhibit B attached hereto and made a part hereof, which shall be applicable to all persons and properties served by the Board on and after January 1, 2020.

3. The Board Chairperson, or such other person as he may designate, is authorized to publish such notices and other documents and to execute and deliver all instruments and documents as required by applicable law for the completion of all requirements prescribed by New York State Public Authorities Law and other applicable law with respect to compliance with SEQRA and the adoption of the revisions to 21 NYCRR part 10085.

At a meeting of the Buffalo Water Board, convened in public session at 502 City Hall, Buffalo, New York on November 13, 2019 the foregoing resolution was offered by Mr. Stepniak and seconded by Mr. Sunderlin, and with a quorum present throughout such resolution was duly adopted by unanimous vote of the Buffalo Water Board.

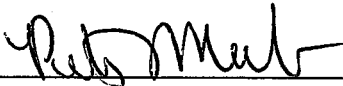
STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

I, the undersigned Secretary of the Buffalo Water Board (the "Board"), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the meeting of the Board, including the resolution contained therein, held the 13th day of November, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Board and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of said Board had due notice of said meeting, (B) said meeting was duly held, (C) pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was duly given in accordance with such Article 7 and (D) there was a quorum of the members of the Board present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November, 2019.



Peter J. Merlo, P. E.
Secretary of the Board

EXHIBIT A
SEQRA ENVIRONMENTAL ASSESSMENT FORM
AND DETERMINATION OF SIGNIFICANCE

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Protecting residents with lead service pipes.			
Project Location (describe, and attach a location map): City of Buffalo and users of the Water Board's water facilities.			
Brief Description of Proposed Action: In order to protect residents who have lead service pipes, this action would revise the Buffalo Water Board Regulations, codified at 21 NYCRR part 10085, to: 1) prohibit the repair of lead pipes and require that when such pipes are in need of repair, they must be replaced; 2) require that when a lead service pipe is replaced between the water main and the curb stop, then any connected lead or galvanized service pipe must also be replaced; and 3) require that if any service pipe is repaired or replaced, then any connected lead service pipe must be replaced.			
Name of Applicant or Sponsor: Buffalo Water Board		Telephone: 716-851-4771	
Address: 65 Niagara Square Room 502		E-Mail: pmerlo@city-buffalo.com	
City/PO: Buffalo		State: NY	Zip Code: 14202
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			NO <input type="checkbox"/>
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

Shoreline Forest Agricultural/grasslands Early mid-successional
 Wetland Urban Suburban

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input type="checkbox"/>	YES <input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input type="checkbox"/>	YES <input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input type="checkbox"/>	YES <input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Buffalo Water Board Date: 7/16/19

Signature: *[Handwritten Signature]* Title: Secretary

PRINT FORM

Addendum to Short Environmental Assessment Form Part I

Narrative Description for "Protecting residents with lead service pipes"

The proposed action titled "Protecting residents with lead service pipes" would revise the Buffalo Water Board Regulations to prohibit the repair of lead service water pipes and require the replacement of certain water service pipes to prevent elevated lead levels.

Reason for the proposed action

When a lead service pipe is disturbed because it is repaired, part of it is replaced, or a pipe connected to it is repaired or replaced, particles of lead can break off and enter the drinking water. This can cause substantial lead elevations in water that may last for several months. Disturbed pipes made out of galvanized steel or galvanized iron can also spike lead levels in drinking water if water flows through a lead pipe before flowing through the galvanized pipe. This is because lead particles attach to the surface of galvanized pipes and build up over time, and disturbance of the pipe increases the chance that the lead particles will become dislodged. As a result, the partial replacement or repair of lead pipes and certain galvanized pipes can increase blood lead levels in children and adults.

Lead is a cumulative toxicant that can cause serious and permanent adverse physical and mental health effects. While lead poisoning is dangerous at any age, it is particularly harmful for young children. Recent data from the New York State Department of Health show that in Erie County, over one-quarter of children under the age of 6 who were tested between 2013 and 2015 had high blood lead levels. While childhood lead poisoning has been most commonly attributed to lead paint, lead in drinking water can also raise blood lead levels.

Lead can be released into drinking water due to corrosion of various household plumbing materials, but lead service pipes are a large part of the problem. The Buffalo Water Board has taken actions to ensure Buffalo's water system uses optimal corrosion controls, but lead service pipes remain a long-term problem that must be addressed.

Description of the proposed action

This action would revise the Buffalo Water Board Regulations to reduce the possibility of spikes in drinking water lead levels. Specifically, this action would revise the regulation at 21 NYCRR 10085.1 to include a definition of "lead service pipe," which would be one with more than a weighted average of 0.25% lead, in accordance with the Safe Drinking Water Act. This action would revise the regulation at 21 NYCRR 10085.7 to include a paragraph to protect residents whose lead pipes are disturbed from experiencing lead spikes in their drinking water. This paragraph would read as follows:

(z) Protecting residents with lead service pipes.

- (1) A lead service pipe may not be repaired, and where repairs are required, such a pipe must be replaced with a service pipe that meets the requirements of paragraph (n) of this section.

- (2) If a lead service pipe is replaced between the water main and the curb stop, then any connected lead service pipe, or connected service pipe made from galvanized steel or galvanized iron, must also be replaced with a service pipe that meets the requirements of paragraph (n) of this section.

- (3) If any service pipe is repaired or replaced, then any connected lead service pipe must be replaced with a service pipe that meets the requirements of paragraph (n) of this section.

Paragraph (n) of § 10085.7 describes requirements for the size and makeup of service pipes, which cannot be lead or galvanized. This action would not modify paragraph (n).

Anticipated effects of the proposed action

This action is intended to provide an additional level of protection by removing water service lines of concern and reducing the potential for spikes in the water's lead levels.

Project:	Lead Service Pipe Regulation
Date:	November 13, 2019

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

This action seeks to provide an additional level of protection by removing water service lines of concern and reducing the potential for lead in water. In the course of reviewing the Water Board regulations, the Water Board has identified additional changes that will align the regulations with the goals of this action. Specifically:

1. In 21 NYCRR 10085.1- The new definition for "lead service pipe" will be a service pipe beyond the water main that is not lead free, and the Water Board is adding a definition of "lead free" that has the meaning provided under the Federal Safe Drinking Water Act. Additionally, the definition for Water Board will be revised to clarify that the Water Board is the owner of the water system and may appoint the Commissioner of Public Works, Parks and Streets, or other persons as its authorized representative for the purpose of executing the Water Board's policies and procedures. Further, the definition for Commissioner will be revised to clarify that the Commissioner, upon appointment by the Water Board, shall act as the authorized representative of the Water Board in executing the Water Board's policies and procedures.

2. In 21 NYCRR 10085.7 - In addition to adding the subdivision on protecting residents with lead service pipes as discussed in Part 1 of this Environmental Assessment Form, subdivision (n) of this section will be revised to specifically provide that all service pipe shall be made of materials that are lead free, and subdivision (o) will be revised to specifically provide that all fitting, taps, and joints shall be made of materials that are lead free. Additionally, the existing reference to lead in subdivision (o) will be removed. Further, a new subdivision will be added to this section that provides that, after consideration of certain factors, the Water Board may replace or repair service pipes, valves, or appurtenances when doing so will benefit public health, safety, welfare or the public water supply.

The regulations in 21 NYCRR 10085.12 will also be revised in order to provide that persons with delinquent accounts may, rather than shall, be liable for an additional payment.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Buffalo Water Board

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Signature of Responsible Officer in Lead Agency

Date

Title of Responsible Officer

Signature of Preparer (if different from Responsible Officer)

EXHIBIT B

REVISIONS TO THE BUFFALO WATER BOARD REGULATIONS
AT 21 NYCRR part 10085

1. Subdivisions (a)(9) and (a)(18) of section 10085.1(a) are amended, subdivisions (a)(27) – (a)(43), inclusive, of section 10085.1(a) are renumbered to be subdivisions (a)(29) – (a)(45), respectively, and new subdivisions (a)(27) and (a)(28) are added to provide as follows:

(9) *Board or water board* means the Buffalo Water Board established pursuant to section 1049 of the Water Board Act, and its directors, employees, agents, together with any authorized contractor or any other person acting with written authority on behalf of the board. The board is the owner of the water system and may appoint the commissioner as its authorized representative, or such other person as the board may appoint from time to time, for the purpose of implementing the policies and procedures set forth by the board.

(18) *Commissioner and department* mean, without other designation, the Commissioner of Public Works, Parks and Streets of the [City of Buffalo] city, or other public officer or persons designated by the commissioner or the city to act in his or her stead, and the Department of Public Works, Parks and Streets of the [City of Buffalo] city, and any divisions thereof, established by the city, respectively. Upon appointment by the board, the commissioner shall act as the authorized representative of the board and shall implement the policies and procedures adopted by the board, as directed by the board, and act consistently with such policies and procedures.

(27) Lead free has the meaning provided in the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., as amended.

(28) Lead service pipe means a service pipe at any point beyond the water main that is not lead free.

2. New subdivision (4) is added to section 10085.7(n) to read as follows: (4) All service pipes shall be made of materials that are lead free.

3. New subdivision (4) is added to section 10085.7(o), and subdivision (o)(1)(ii) is amended to read as follows:

(1) Fittings.

(ii) Threaded-type fittings shall be of cast brass or bronze of heavy-beaded steam pattern free from defects and containing the following materials:

Material	Minimum (percent)	Maximum (percent)
[Cooper] <u>Copper</u>	80	86
Zinc	4	15
[Lead]	[2]	[6]
Tin	3	6

(4) All fittings, taps, and joints shall be made of materials that are lead free.

4. A new subdivision (z) is added to section 10085.7 to read as follows:

(z) Protecting residents with lead service pipes.

(1) A lead service pipe shall not be repaired, and where repairs are required, such a pipe shall be replaced with a service pipe that is lead free and otherwise complies with the requirements of paragraph (n) of this section.

(2) If a lead service pipe is replaced between the water main and the curb stop, then any connected lead service pipe, or connected service pipe made from galvanized steel or galvanized iron, shall also be replaced with a service pipe that meets the requirements of paragraph (n) of this section.

(3) If any service pipe is repaired or replaced, then any connected lead service pipe shall be replaced with a service pipe that meets the requirements of paragraph (n) of this section.

5. A new subdivision (aa) is added to section 10085.7 to read as follows:

(aa) Replacement or remediation of service pipes, valves and appurtenances.

(1) The board, on its own initiative, or as it deems appropriate, acting with the city and/or any other person, may use public funds and it may utilize public employees to replace or remediate any service pipe, valve, or appurtenance, including but not limited to, lead and/or galvanized steel or iron service pipes, at the discretion of the commissioner, when the commissioner determines that such replacement or remediation may benefit the public health, safety, welfare, or the public water supply system.

(2) Before using public funds or utilizing public employees to replace or remediate a service pipe, valve, or appurtenance, the commissioner shall consider and act consistently with any applicable board policy and procedures, the availability of public funds, equipment, personnel and facilities and other resources.

6. Subdivision (f) of section 10085.12 is amended to read as follows:

(f) Fees for collection of delinquent accounts.

All persons shall be subject to paying reasonable costs and expenses, including attorney fees, incurred in the collection of water board rates and charges that remain unpaid, as may be determined by the water board, in addition to any other remedy or provision hereof, the water

board reserves the right to engage in such collection activities, as it deems appropriate, for all accounts that remain unpaid after the due date, in consideration of such collection activities and to defray the cost thereof, all persons with delinquent accounts [shall] may be liable and [shall] may pay an additional charge of twenty-one (21) percent of the amount of each such delinquent account, together with interest as provided herein, that remains unpaid for more than:

(1) One hundred twenty (120) days from the due date for metered accounts; and

(2) Two hundred ten (210) days from the due date for non-metered flat rate accounts. In the event the water board refers any delinquent account to a collection agency, the user shall pay the actual amount such collection agency charges the water board, in lieu of such twenty-one (21) percent surcharge.