
Sent: Monday, October 19, 2015 12:21 PM
To: McDonald, Paul (DEQ)
Cc: Shaler, Karen (DEQ)
Subject: RE: Flint wire transfer
Attachments: Fwd: Final Executed Flint Water Service Contract

From: McDonald, Paul (DEQ)
Sent: Monday, October 19, 2015 10:10 AM
To: Sygo, Jim (DEQ)
Subject: Flint wire transfer

Jim,

As a reminder, we must comply with the boilerplate language prior to payment that requires "a legally executable agreement... and a successful reconnection has occurred." If you could forward any information you have on either of those items so that I can retain for our audit records, I would appreciate it.

Here is the information that I need by 1:00 p.m. from Flint in order to process the payment today:

1. Name of Bank-
2. Receiving Bank Routing Number-
3. Account Number-
4. Account Name-
5. Contact-
6. Amount-

Here is the paragraph you request, please feel free to edit at will:

To provide audit support for the outgoing payment to the City of Flint, the DEQ requires a complete electronic copy of the monthly invoice/statement it receives from the Detroit Water and Sewage Department (DWSD) or its successor. That invoice/statement must be verified by a City of Flint employee confirming the quantity of water used (against the cities own metering devices), rate being applied with regards to the agreed upon contract with DWSD and total amount of invoice/statement. Any challenges to the invoice received from the DWSD, either by a City of Flint or DEQ employee, shall be the responsibility of the City of Flint.

Please let me know if you need anything else. I'll be monitoring my e-mail and can be reached on my work cell (PPI) or personal cell after hours (PPI).

Paul

From: achubb@cityofflint.com
Sent: Saturday, October 17, 2015 8:39 AM
To: Sygo, Jim (DEQ)
Subject: Fwd: Final Executed Flint Water Service Contract
Attachments: Flint Water Contract FINAL EXECUTED 101615.pdf; ATT00001.htm

Jim, please see attached.

Anthony Chubb
Interim Director of Human Resources and Labor Relations
Deputy City Attorney
City of Flint

Sent from my iPhone

Begin forwarded message:

From: Laurie Koester <koester@dwsd.org>
Date: October 16, 2015 at 4:02:47 PM EDT
To: Anthony Chubb <achubb@cityofflint.com>
Cc: Sue McCormick <mccormick@dwsd.org>, wolfson <wolfson@dwsd.org>, Cheryl Porter <cporter@dwsd.org>, Jim Fausone <jfausone@fb-firm.com>, Terry Daniel <tdaniel@dwsd.org>, Grant Gartrell <gartrell@dwsd.org>, Biren Saparia <saparia@dwsd.org>, Mathew Kannanthanam <mgeorge@dwsd.org>, Nicolette Bateson <bateson@dwsd.org>, Jonathan Wheatley <wheatley@dwsd.org>, bfoster <bfoster@fostergroupllc.com>, Gregory Eno <eno@dwsd.org>, smegen <smegen@dwsd.org>, Laurie Koester <koester@dwsd.org>
Subject: Final Executed Flint Water Service Contract

Anthony,

Attached for your records please find a fully executed water contract between the City of Detroit and the City of Flint. Please congratulate your team for the hard work and coordination in getting this accomplished so quickly.

Sincerely,

Laurie A. Koester
Associate General Counsel
Detroit Water and Sewerage Department
735 Randolph, Room 701
Detroit, Michigan 48226
Office: (313) 964-9620
Cell: PPI

WATER SERVICE CONTRACT

BETWEEN

CITY OF DETROIT

AND

CITY OF FLINT

TABLE OF CONTENTS

Article 1: Definitions	3
Article 2: Contract Term	5
Article 3: Early Termination Costs	6
Article 4: Service Area	7
Article 5: Pressure; Maximum Flow Rate; Minimum Annual Volume	8
Article 6: Technical Advisory Committee	13
Article 7: Rates	14
Article 8: Meters and Meter Facilities	14
Article 9: Reserved	15
Article 10: Reserved	15
Article 11: Force Majeure and Other Events	16
Article 12: Timely Payment	16
Article 13: Assignment	17
Article 14: Reserved	17
Article 15: Amendment	17
Article 16: Notices	17
Article 17: Water Quality	18
Article 18: Rights-of-Way	18
Article 19: Access to Towers and Antennas	19
Article 20: Relationship to Wastewater Services	19
Article 21: Construction Standards	20
Article 22: Operation of Storage	20
Article 23: Miscellaneous	20
Signature Page	22
Exhibit A: Customer's Water Distribution Points	23
Exhibit B: Projected Annual Volume, Minimum Annual Volume, Pressure Range, Maximum Flow Rate, Flow Split Assumptions, and Addresses for Notice	24
Exhibit C: Metering Agreement	28

**WATER SERVICE CONTRACT
BETWEEN
CITY OF DETROIT
AND
CITY OF FLINT**

This Water Service Contract ("Contract") is made between the City of Detroit, a municipal corporation, by its Water and Sewerage Department and Board of Water Commissioners (the "Board"), and the City of Flint, a municipal corporation ("Customer"). The Board and Customer may be referred to individually as "Party" or collectively as the "Parties."

Whereas, the City of Detroit owns a public water supply system ("System") operated by the Board; and

Whereas, the Board supplies water service to numerous governmental entities in the Board's water service area; and

Whereas, Customer is experiencing a public health emergency and desires to obtain water service from the Board in order to abate this emergency; and

Whereas, the purpose of this Contract is to provide potable water to Customer on an emergency basis; and

Whereas, because Customer shall receive water through a Board-owned master meter that also meters water usage by the Genesee County Drain Commissioner ("GCDC"), Customer has entered into a metering agreement with GCDC whereby GCDC agrees to report to the Board the volume of water attributable to Customer; and

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

**Article 1.
Definitions**

1.01 The following words and expressions, or pronouns used in their stead, shall be construed as follows:

"Adjusted Prevailing Water Rate" shall have the meaning ascribed in Article 3 herein.

"Allocation Flow Rate" shall mean the value that is established as a result of a breach of Section 5.03 herein and which value shall replace the contractual Maximum Flow Rate in the rate calculation process in the event that Section 5.04(C) herein is applied by the Board.

"Annual Volume" shall mean the actual volume of water used by Customer for the period of July 1st to June 30th as measured on bills issued from August 1st through July 31st.

"Board" shall mean the City of Detroit Board of Water Commissioners.

"City" shall mean the City of Detroit, a municipal corporation, acting through its Board of Water Commissioners.

"Contract" shall mean each of the various provisions and parts of this document, including all attached Exhibits and any amendments thereto, as may be executed and approved by Customer's governing body and the Board of Water Commissioners.

"Contract Term" shall have the meaning ascribed in Article 2 herein.

"Customer" shall mean the Party that enters into a contract with the City of Detroit by way of this Contract, whether an authority, city, township, village or other municipal corporation recognized by the State of Michigan.

"Customer Maximum Day Demand" shall mean the Customer's recorded water usage on the DWSD Maximum Day. Customer Maximum Day Demand shall, in conjunction with Customer Peak Hour Demand, be a component of its Maximum Flow Rate.

"Customer Peak Hour Demand" shall mean the Customer's recorded water usage during the DWSD Peak Hour. Customer Peak Hour Demand, in conjunction with Customer Maximum Day Demand, shall be a component of its Maximum Flow Rate.

"DWSD" shall mean the City of Detroit Water and Sewerage Department.

"DWSD Maximum Day" shall mean the maximum reported water production day for the System during any twenty-four hour period as measured from 12:00 a.m. Eastern Standard Time in any given calendar year, as determined by DWSD in reviewing water production and storage reports.

"DWSD Peak Hour" shall mean the hour during the DWSD Maximum Day in which the most water is delivered to the System, measured from top-of-the-hour to top-of-the-hour (e.g. 7:00 a.m. to 8:00 a.m.), and as determined by DWSD in reviewing water production and pumping reports. In calculating the DWSD Peak Hour, the time period from 11:00 PM to 5:00 AM Eastern Standard Time (EST) shall not be considered provided, however, that if Customer has an approved Filling Schedule, the time period specified in the Filling Schedule shall supersede the time period of 11:00 PM to 5:00 AM EST.

"Early Termination Costs" shall have the meaning ascribed in Article 3 herein.

"Filling Schedule" shall have the meaning ascribed in Article 22 herein.

"Maximum Flow Rate" shall mean the aggregate amount of water usage that Customer commits not to exceed, as determined by the Customer Maximum Day Demand and the Customer Peak Hour Demand, collectively.

"Meter Facilities" shall mean a location in which a water meter is housed including, without limitation, meter pits and meter vaults.

"Minimum Annual Volume" shall mean fifty percent of Customer's Projected Annual Volume.

"Notices" shall mean all notices, consents, approvals, requests and other communications required to be given under the terms of this Contract.

"Pressure Problem" shall have the meaning ascribed in Article 5 herein.

"Pressure Range" shall have the meaning ascribed in Article 5 herein.

"Projected Annual Volume" shall mean the projected annual water sales to Customer as set forth in Exhibit B.

"Service Area" shall mean the mutually agreed upon area where Customer is permitted to distribute water received from the Board under the terms of this Contract which (a) may be entirely within the corporate limits of Customer or may exceed the corporate limits of Customer and (b) which may or may not include the entire geographical area within the Customer's corporate limits.

"System" shall mean the public water works system owned and operated by the City of Detroit, acting through its Board of Water Commissioners and its Water and Sewerage Department.

"Technical Advisory Committee" shall mean the committee consisting of representatives of the Detroit Water and Sewerage Department, wholesale water customers of the Detroit Water and Sewerage Department and their respective representatives, and shall include its successor or replacement if altered or discontinued. The Technical Advisory Committee or its successor shall remain in existence for a minimum term of January 1, 2008 until December 31, 2038 unless the committee determines otherwise.

"Water Distribution Points" shall have the meaning ascribed in Article 4 herein.

Article 2. Contract Term

- 2.01 Term. The Board shall sell and supply water to Customer from the System in accordance with the terms of this Contract for a period of nine months from the effective date of this Contract (the "Contract Term"), subject to Article 3 herein. The effective date of this Contract shall be the date that this Contract is approved by the Customer's governing body or the Board whichever is later.
- 2.02 Extension of Term. Should the concern for public health continue beyond the initial Contract Term and a reasonable alternative to the temporary service provided by the Board does not readily exist, the Contract Term may be extended for any mutually agreeable period through a letter which sets forth the emergent circumstances signed by the Parties.
- 2.03 Reserved.

Article 3. Early Termination Costs

- 3.01 Early Termination Costs. In addition to any other remedies provided for by law or by the terms of this Contract, Customer shall be liable to the Board for the payment of any costs incurred by the Board related to providing water to Customer in the event Customer terminates this Contract before the conclusion of a Contract Term ("Early Termination Costs"), unless Customer terminates this Contract for cause in accordance with Article 10; provided, however, that payment of such Early Termination Costs by Customer shall not entitle Customer to receive water service from the Board.
- 3.02 Calculation of Costs. Payment of Early Termination Costs will be calculated by applying the Adjusted Prevailing Water Rate to the Minimum Annual Volume requirements for the remainder of the Contract Term. The Adjusted Prevailing Water Rate shall be the rate charged by the Board to Customer as of Customer's effective termination date, adjusted annually to reflect projected inflationary increases utilizing a locally based wholesale price index. The Parties may agree upon another standardized price index. The Board may seek a recommendation from the Technical Advisory Committee on the amount of the Early Termination Costs.
- 3.03 Specifically Constructed Facilities. If the Board has constructed facilities specifically for the benefit of Customer, additional costs may be included in the calculation of the Early Termination Costs, provided that any such facilities shall be identified in a written agreement between the Board and Customer at or near the time of construction.
- 3.04 Formation of Water Authority. Customer may join with another authority, city, township, village or other municipal corporation recognized by the State of Michigan to form a water authority for the sole purpose of collectively contracting for water service from the Board. The exercise of this right shall not be construed as an early termination of this Contract and this Contract shall be voided upon the approval of a new water service contract by Customer's governing body and the Board.
- 3.05 Customer Annexation or Consolidation. In the event the territory of Customer is annexed or consolidated with another Michigan municipal corporation and if said municipal corporation is a current customer of the Board, then such an annexation or consolidation shall not be construed as an early termination of this Contract and this Contract shall be voided upon the approval of a new or amended water service contract with the annexing or consolidating municipal corporation.

Article 4. Service Area

- 4.01 Delivery Location. Water shall be delivered by the Board to Customer at the location(s) identified in Exhibit A (collectively, the "Water Distribution Points"), and at other locations as may be mutually agreed upon in writing by the Board and Customer. The Board shall not require Customer to pay any fee to reconnect to the System. The Customer shall bear any and all actual costs, including without limitation capital and labor costs, associated with any work required to reconnect Customer to the System.

- 4.02 Limit of Responsibility. The Board shall have no responsibility for distributing, operating, repairing, replacing and maintaining any portions of the Customer's water supply system downstream of the Water Distribution Points shown in Exhibit A, provided, however, that this Section 4.02 does not prevent the application of the provisions of Section 11.02 herein.
- 4.03 Board Responsibility. The Board owns and is responsible for operating and maintaining all parts of its System upstream from Customer's Water Distribution Points. Should the Board fail to maintain its Meter Facilities and/or any Board owned and maintained equipment within the Meter Facilities, Customer shall provide written notice to the Board which describes the objectionable condition of the Meter Facility and/or the equipment within, and its intent to take reasonable steps to maintain the condition and charge the reasonable cost of doing so to the Board. Upon receipt of the notice and subject to Section 11.01, the Board shall have thirty calendar days to repair the condition specified in the notice, unless a force majeure event prevents the repair within the thirty-day period. If the Board has not repaired the condition at the conclusion of the thirty-day period and has not provided a written explanation to Customer explaining the reason for the delay (e.g. necessary parts are on order or occurrence of a force majeure event specified in Section 11.01), then Customer may take reasonable steps to maintain the specified condition and charge the reasonable cost of doing so to the Board.
- 4.04 Extension of Service Area. Customer's distribution of water supplied by the Board shall be limited to the Service Area stated in Exhibit A. The Parties agree that situations may arise in which Customer desires to extend its Service Area, either temporarily or permanently, beyond its corporate limits. Should such a situation arise, Customer shall provide written notice to the Board explaining the nature, duration and extent of the requested Service Area extension. The Board shall have the option, which it may exercise at any time, of requiring a written amendment to this Contract to accommodate the change in Service Area. Should the Board determine that an immediate amendment is required, the Parties shall, within thirty calendar days of Customer's request, meet to negotiate mutually agreeable terms for the extension of the Service Area. The Board shall not unreasonably deny a request to extend the Service Area.
- 4.05 Change or Addition of Water Distribution Points. Water Distribution Points may be added or changed only by the express written agreement of the Board and Customer and shall be embodied in a written amendment to this Contract.
- 4.06 Sole Supplier. Except as provided in Article 17 herein, the Board shall be the sole supplier of public potable water to Customer's Service Area.

Article 5.

Pressure; Maximum Flow Rate; Minimum Annual Volume

- 5.01 Pressure Range. The Board shall use its best efforts to deliver water at the Water Distribution Points at a pressure range ("Pressure Range") adequate to meet the reasonable requirements of Customer. For purposes of evaluating this effort, water pressure shall be determined by reviewing the average hourly pressure measured from top-of-the-hour to top-of-the-hour (e.g. 7:00 a.m. to 8:00 a.m.). The Pressure Range to be provided by the Board to Customer's Water Distribution Points is specified in Exhibit B. The location at

which the water pressure will be measured shall be specified in Exhibit A and identified as point "P". A Pressure Range will not be established for water meters that are not located on a DWSD transmission main, or which are located on a DWSD transmission main and are downstream of and subject to the flow demands of a water meter for another Board customer.

5.02 Remedy for Non-Compliance with Pressure Range. If the water pressure at Customer's Water Distribution Points is above or below the Pressure Range, at Customer's request the Parties shall meet within thirty calendar days to discuss the reasons for the non-compliance and, if agreed necessary, develop and implement a mutually agreeable written corrective action plan within sixty calendar days of the meeting, or as otherwise agreed. The corrective action plan shall include a timetable for resolution of the non-compliance issue(s).

- A. If it is determined that another customer's exceedance of the rates of flow established by that customer's Maximum Flow Rate caused or contributed to the Board's inability to meet its Pressure Range agreement with Customer, then the corrective action plan shall provide for the resolution of the issue.
- B. If Customer is exceeding the rates of flow established by its Maximum Flow Rate on a day other than the DWSD Maximum Day at the time Customer experiences a variation from the Pressure Range, then the Board shall be relieved from its obligation to provide water to Customer within the Pressure Range for that period of time during which Customer is exceeding the rates of flow established by its Maximum Flow Rate.

5.03 Maximum Flow Rate. Customer's Maximum Flow Rate is specified in Exhibit B. Customer shall not exceed the Maximum Flow Rate specified in Exhibit B, as measured in million gallons on the DWSD Maximum Day and during the DWSD Peak Hour.

- A. The Board shall notify all customers in writing on or before October 1 of each calendar year if Customer or any other wholesale customer is alleged to have exceeded its Maximum Flow Rate in a given calendar year. The notice shall state the day and/or hour that Customer or any other wholesale water customer is alleged to have exceeded its Maximum Flow Rate.
- B. If Customer is alleged to be in breach of its obligations under this Section 5.03, the Board and Customer shall endeavor to meet before November 1 of the current calendar year, or as soon as practicable, for the purposes of validating the breach, reviewing and analyzing the causes, and to negotiate a possible remedy pursuant to Sections 5.04 and 5.05 herein.
- C. The Technical Advisory Committee's Analytical Work Group, or its successor shall review any alleged breach of this Section 5.03.
 - I. The Analytical Work Group shall meet once, at a minimum, on or before November 1 of each calendar year to review the alleged breaches, if any,

and may thereafter schedule subsequent meetings as necessary to conclude its review.

- ii. The Board will seek a recommendation from the Analytical Work Group on (1) an Allocation Flow Rate, if any, and/or (2) concurrence with the remedy tentatively negotiated between Customer and the Board, if any. Customer and the Board shall have the right to present any information related to the alleged breach a Party deems necessary to the deliberations.
- iii. Any recommendation submitted by the Analytical Work Group shall be received by the Board on or before December 1 of each calendar year.

5.04 Remedy for Non-Compliance with Maximum Flow Rate. The Board has no obligation to supply to Customer more than the Maximum Flow Rate. If Customer exceeds its Maximum Flow Rate on the DWSD Maximum Day or during the DWSD Peak Hour, the Board and Customer may, as needed, take one or more of the following actions set forth in this Section 5.04. The applicability of any particular action shall be evaluated by the Board on a case-by-case basis.

- A. The Board may require that Customer take all reasonable steps to reduce its consumption to the Maximum Flow Rate. Such steps may include water conservation measures, outdoor water use restrictions, water loss studies and remediation, and an internal system operation evaluation.
- B. The Parties may meet to negotiate a new Maximum Flow Rate. If so negotiated, Customer shall pay the rate associated with the new Maximum Flow Rate in the subsequent rate year.
- C. For ratemaking and cost allocation purposes only, the Board may recalculate Customer's rate for the current and/or subsequent fiscal years utilizing a revised cost allocation formula as follows:
 - i. The Board shall, as set forth below, establish an Allocation Flow Rate to replace the contractual Maximum Flow Rate in the rate calculation process.
 - ii. The Allocation Flow Rate shall be applied from no earlier than the first exceedance date forward.
 - iii. The Allocation Flow Rate will be at least equal to the flow rate demonstrated by Customer on the DWSD Maximum Day, and may be higher than the actual flow rate demonstrated by Customer.
 - iv. Pursuant to Section 5.03(C), if the Board receives a recommendation on the Allocation Flow Rate to be applied from the Analytical Work Group and the recommendation is higher than twice the amount by which the demonstrated flow rate exceeded the original Maximum Flow Rate, then the Board shall be limited to establishing an Allocation Flow Rate that is at least equal to the flow rate demonstrated by Customer on the DWSD Maximum

Day and no higher than the recommendation provided by the Analytical Work Group.

- v. If no recommendation on the Allocation Flow Rate to be applied is received by the Board, or if the Board receives a recommendation and the recommendation is less than twice the amount by which the demonstrated flow rate exceeded the original Maximum Flow Rate, then the Board shall be limited to establishing an Allocation Flow Rate that is at least equal to the flow rate demonstrated by Customer on the DWSD Maximum Day and no higher than twice the amount by which the demonstrated flow rate exceeded the original Maximum Flow Rate.
- vi. The Allocation Flow Rate will continue to be applied to each subsequent year's rate calculation process until the Maximum Flow Rate is renegotiated.
- vii. If a rate has been approved for the subsequent fiscal year (July 1st to June 30th) but the rate has not yet been applied, the Board may modify Customer's rate for that subsequent fiscal year to account for an exceedance of its Maximum Flow Rate.
- viii. If the Board has built capital facilities based upon Customer's negotiated Maximum Flow Rate and Customer consistently exceeds its Maximum Flow Rate, then the Board may re-calculate the amount of Customer's percentage of the capital cost of such facilities

5.05 Procedure for Non-Compliance with Maximum Flow Rate. In addition to the remedies specified in Section 5.04, if Customer has failed in its obligations under Section 5.03, the Parties shall meet to discuss the reasons for the non-compliance and if agreed necessary, develop a mutually agreeable written corrective action plan by December 31 of the year in which the non-compliance occurred, or as otherwise agreed. Any corrective action plan required under this Section 5.05 shall include a timetable for resolution of the non-compliance issue(s).

- A. If the Parties determine that a corrective action plan is not required and an incident of non-compliance occurs in the subsequent calendar year, the Parties shall meet to develop a mutually agreeable written corrective action plan by December 31 of the year in which the non-compliance occurred, or as otherwise agreed.
- B. In the event the reason for Customer's non-compliance under Section 5.03 is due to a Customer water main break, fire or meter calibration performed by DWSD, these events will be taken into consideration in determining (1) whether a corrective action plan is warranted and (2) the extent to which, if any, the steps specified in Section 5.04 should apply.

5.06 Minimum Annual Volume. Customer shall purchase from the Board not less than the Minimum Annual Volume of water specified in Exhibit B. If Customer's Annual Volume is less than the Minimum Annual Volume, Customer shall pay to the Board an amount

computed by applying the current rate to the Minimum Annual Volume less any amounts already billed to the Customer by the Board.

5.07 Periodic Review. For Customer and System planning purposes and, with regard to the Minimum Annual Volume, enforcement of the provisions of Article 3, a Maximum Flow Rate, Pressure Range, Projected Annual Volume and Minimum Annual Volume shall be established by mutual agreement for the Contract Term. If the Contract Term exceeds two years, a contractually binding Maximum Flow Rate, Pressure Range, Projected Annual Volume and Minimum Annual Volume shall be established by mutual agreement for first two years of the Contract Term. If the Contract Term exceeds two years, not later than the second year of the Contract Term, the Board and Customer shall negotiate a contractually binding Maximum Flow Rate, Pressure Range, Projected Annual Volume and Minimum Annual Volume for the succeeding three years of the Contract Term. If the Contract Term exceeds five years, not later than the fifth year of the Contract Term, and every five years thereafter, the Board and Customer shall negotiate a contractually binding Maximum Flow Rate, Pressure Range, Projected Annual Volume and Minimum Annual Volume for the succeeding five years of the Contract Term. If the Parties do not negotiate new or revised Maximum Flow Rates, Pressure Ranges, Projected Annual Volumes and Minimum Annual Volumes according to the aforementioned schedule, then the figures established for planning purposes (as shown in italicized type in Exhibit B) shall become contractually binding for the then-current three or five year term.

5.08 Remedy for Excessive Rate(s) of Flow Causing Pressure Problem(s). Customer acknowledges that Customer's rates of flow may cause and/or contribute to the Board's inability to meet its Pressure Range agreements with Customer and/or the Board's other customers (hereinafter, "Pressure Problem"). The Board may review or monitor Customer's daily rates of flow if a Pressure Problem occurs and the Board's Pressure Range agreement with Customer and/or another customer of the Board is alleged to have been breached. The approximate rate of flow by individual meter location used to establish the Pressure Range and Maximum Flow Rate is specified in Exhibit B. If a Pressure Problem occurs, the Parties shall meet to discuss the reasons for the Pressure Problem and develop and implement a mutually agreeable written corrective action plan within sixty calendar days of the Pressure Problem, or as otherwise agreed. The corrective action plan may require one or both of the following steps:

- A. The Board may require that Customer take all reasonable steps to reduce its consumption to the rate of flow established by the Maximum Flow Rate. Such steps may include water conservation measures, outdoor water use restrictions, water loss studies and remediation, and an internal system operation evaluation. In addition, the Board may require that Customer adjust its rate of flow at individual meters, including the establishment of a not-to-exceed flow rate for individual meters.
- B. The Parties may meet to negotiate a new Maximum Flow Rate. If so negotiated, Customer shall pay the rate associated with the new Maximum Flow Rate in the subsequent rate year.

If the Parties determine that a corrective action plan is not required and a subsequent Pressure Problem occurs, the Parties shall meet to develop and implement a mutually agreeable written corrective action plan within sixty calendar days of the subsequent Pressure Problem, or as otherwise agreed. Any corrective action plan required under this Section 5.08 shall include a timetable for resolution of the Pressure Problem. In the event the reason for the Pressure Problem is due to a Customer water main break, fire or meter calibration performed by DWSD, these events will be taken into consideration in determining (1) whether a corrective action plan is warranted and (2) the extent to which, if any, the steps specified above in this Section 5.08 should apply.

- 5.09 Board Costs for Corrective Action Plan. If at any time the Board is required under the terms of this Article 5 to develop and implement a corrective action plan and the plan involves incurring capital costs, the Board will determine whether the costs will be charged as a System cost or whether the cost will be borne by a specific customer or customers. If the Board determines that all or part of the costs should be borne by a specific customer or customers, the Board will seek a recommendation from the Technical Advisory Committee on the assessment of the costs.
- 5.10 Customer Costs for Corrective Action Plan. If at any time Customer is required under the terms of this Article 5 to develop and implement a corrective action plan, Customer shall be so informed in writing and Customer will pay all costs related to the corrective action plan.

Article 6. Technical Advisory Committee

- 6.01 Establishment. The Technical Advisory Committee is formed to facilitate a cooperative working partnership between the Board and its wholesale water customers by facilitating the development of recommendations regarding System planning and supply to DWSD management and the Board. The Technical Advisory Committee shall maintain bylaws that govern the way it conducts its business. In the event of a conflict between the terms of the bylaws adopted by the Technical Advisory Committee and the terms of this Contract, the terms of this Contract shall control.
- 6.02 General Responsibilities. The Technical Advisory Committee shall periodically review and evaluate the rates, rate methodology, and performance of the System. The Technical Advisory Committee shall review and evaluate flow rates, pressures and Annual Volumes for the System at a minimum of every five years to assist the Board in its System planning effort. The Technical Advisory Committee shall have the opportunity each year to review the Capital Improvement Program as prepared by DWSD, prior to its adoption by the Board. The Technical Advisory Committee may consider Customer proposals for improving the operation of Customer's water system and/or the System. The Board will supply the Technical Advisory Committee with information the Board deems reasonably necessary to accomplish the general responsibilities defined in this Section 6.02.
- 6.03 Annual Report by Board. The Board will present an annual report to the Technical Advisory Committee which shall consist of (1) all instances of non-compliance with the Parties' obligations contained in Article 5 herein, including Customer and Board responses

thereto; (2) a general report on System operation and maintenance; and (3) a report that lists those contracts, if any, that have been entered into by the Board and another customer(s) where the terms of the contract(s) invoke the application of Article 14 herein.

- 6.04 Notification of Rates. The Board shall provide Customer and the Technical Advisory Committee with notice of the proposed rates for each fiscal year as early as possible before the implementation of the rates.
- 6.05 Disclosure of Rate Information by Board. Each year, the Board will disclose to Customer and the Technical Advisory Committee information related to wholesale rates.
- 6.06 Disclosure of Rate Information by Customer. Each year, Customer will disclose to its customers information related to its retail rates and other charges, and information regarding what portion of those costs is related to charges from DWSD and/or other major service providers.
- 6.07 Work Groups. The Technical Advisory Committee may create work groups to address specific issues facing the System. The work groups in existence as of January 1, 2008 are the Analytical Work Group, the Best Practices Work Group, the Contract Work Group, the Customer Service Work Group, the Emergency Preparedness Work Group, and the Rates Work Group. Any reference to a particular work group in this Contract shall include its successor or replacement if altered or discontinued.

Article 7. Rates

- 7.01 Rates. Customer agrees to pay for all water supplied by the Board at such rates as the Board may establish. Rates shall be reasonable in relation to the costs incurred by the Board for the supply of water and shall conform to Public Act 34 of 1917, Michigan Compiled Laws, Sec. 123.141, et seq., as amended. The Board shall give written notice of any changes in the rates. Notice shall be made in accordance with Section 5e of Public Act 279 of 1909, Michigan Compiled Laws, Sec. 117.5e, as amended, ("Act 279").
- 7.02 Notification of Rates. As soon as possible in the ratemaking process, the Board shall provide information on proposed rates and the draft data and information used in the calculation of proposed rates in a format that will enable Customer to assist in the ratemaking process. Not less than thirty calendar days prior to the hearing required by Act 279, the Board shall provide Customer with written notice of a proposed rate and the underlying data used to calculate the rate. The Board shall meet with Customer to review the rate and the data.
- 7.03 Estimate of Usage. In the event that the Board-owned master meter known as GN-01 fails to correctly measure the quantity of water supplied to Customer for any period of time, the Board shall provide a reasonable estimate of the quantity of water supplied to Customer for such period provided that there is a reasonable basis for the estimate. Customer and the Board shall, either through their respective technical representatives and/or the Technical Advisory Committee, seek agreement upon a method to estimate such quantities. In the event the Parties are unable to agree upon a method to estimate such quantities, the

Board's determination of a method shall be conclusive and the Customer agrees to accept the estimate established by the Board.

- 7.04 Rate Methodology. The Board agrees to provide to Customer a description of the current methodology for rate making in the form of the "Rates 101" document produced by the Technical Advisory Committee, as may be periodically updated. The "Rates 101" document, entitled *DWSD Rates: Understanding DWSD Wholesale Water Rates*, and any updates thereto shall be provided to Customer via posting on the DWSD website.

Article 8. Meters and Meter Facilities

- 8.01 Metering Requirement. All water furnished by the Board to Customer shall be measured by water meters installed in Meter Facilities at Customer's Water Distribution Points unless, in the Board's determination, it is not feasible to install water meters due to the configuration of Customer's water system. Customer's water usage shall be measured by the Board-owned master meter known as GN-01. Because GN-01 also measures the water usage of GCDC, Customer has a separate metering agreement with GCDC (attached as Exhibit C) whereby GCDC will report to Customer and the Board on a monthly basis the volume of water attributable to Customer through the GN-01 master meter. Customer shall ensure that GCDC provides the monthly meter information, specifying the unit of measurement used, on or before the 5th day of each calendar month. Customer shall ensure that the Board has the right at any time to audit the metering information provided by GCDC.
- 8.02 Existing Distribution Points. As of the effective date of this Contract, the Board shall own, operate and maintain all water meters and Meter Facilities for all existing Water Distribution Points, unless specifically indicated otherwise in Exhibit A.
- 8.03 Customer Maintenance Responsibilities. Customer shall be responsible for maintaining at its Water Distribution Points any and all appurtenances as may be designated as Customer's responsibility in Exhibit A. Should Customer fail to maintain the appurtenances shown in Exhibit A, the Board may take reasonable steps to maintain the appurtenances and charge the reasonable cost of doing so to Customer. Prior to the Board taking action to maintain the appurtenances, the Board shall give Customer thirty days written notice to complete the required maintenance. Notice to the Customer shall not be required if, in the Board's determination, there exists an emergency condition affecting the operation of the System or if the health, safety and welfare of the general public may be jeopardized.
- 8.04 New Distribution Points. For any new Water Distribution Points that may be constructed or installed after the effective date of this Contract, Customer shall furnish at Customer's expense, a water meter and Meter Facility that meets the Board's specifications. Thereafter, the Board shall furnish any replacement water meters for new Water Distribution Points and the expense shall be recovered through the Board's rates as a System cost. The Board shall own, operate and maintain all water meters and Meter Facilities after construction, installation or replacement, unless specifically indicated otherwise in Exhibit A.

- 8.05 Meter Repair and Replacement. If the Board initiates a meter repair or meter replacement, the cost shall be recovered through the Board's rates as a System cost. If Customer requests a meter replacement for reasons other than malfunction or disrepair, Customer shall pay the cost of the replacement.
- 8.06 Pressure Regulating Facilities. After the effective date of this Contract, all newly installed Customer-owned pressure regulating facilities shall be installed in a facility that is separate from the Board's Meter Facility.

**Article 9.
Reserved**

**Article 10.
Reserved**

**Article 11.
Force Majeure, Hold Harmless and Other Events**

- 11.01 Force Majeure. No failure or delay in performance of this Contract, by either Party, shall be deemed to be a breach thereof when such failure or delay is caused by a force majeure event including, but not limited to, any Act of God, strikes, lockouts, wars, acts of terrorism, riots, epidemics, explosions, sabotage, breakage or accident to machinery or lines of pipe, the binding order of any court or governmental authority, or any other cause, whether of the kind herein enumerated or otherwise, not within the control of a Party, except that no cause or contingency shall relieve Customer of its obligation to make payment for water delivered by the Board.
- 11.02 Board Held Harmless. Customer is experiencing a public health emergency which has resulted in the necessity of entering into this Contract. The Parties do not know the extent of the claims and/or damages which may result from the emergency, nor if the provision of water services by the Board will abate, improve or otherwise alleviate this emergency. As such, the Board shall not be held liable or accountable for any alleged water source or supply issues, or bursting, leakage, breakage, damage or accident of any kind that may occur to Customer's water works system, or any alleged damages of any kind or nature, including, but not limited to, injury to persons or damage to property, resulting from or alleged to result from such water source or supply issues, or bursting, leakage, breakage, damage or accident that may occur to water mains or pipes located downstream of the Water Distribution Points specified herein, or located within Customer's distribution system. Furthermore, to the extent permitted by law, Customer shall indemnify, defend and hold harmless the City of Detroit and the Great Lakes Water Authority from and against any and all alleged liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses (including, without limitation, fees and expenses for attorneys, expert witnesses and other consultants) that may be imposed upon, incurred by or asserted against the City of Detroit or the Great Lakes Water Authority and their respective departments, officers, employees or agents by reason of any of the following alleged to be attributable to the provision of water services under the terms of this Contract:

- A. Any and all alleged injury to persons or damage to property; and
 - B. Any alleged failure by Customer or its agents to perform its obligations, either express or implied, under this Contract; and
 - C. Any alleged act, error or omission of Customer or its agents with regard to (i) Customer's distribution of water supplied by the Board downstream of the Water Distribution Point, and (ii) any alteration by Customer or its agents to the water supplied by the Board downstream of the Water Distribution Point, including without limitation any chemical additions to the water as set forth in Section 17.05.
- 11.03 Discontinuance of Service. In the event the public health, safety and welfare requires the Board to discontinue temporarily all or part of the supply of water to Customer, no claims for damages of any kind or nature for such discontinuance shall be made by Customer against the Board. The Board will provide notice to Customer of any temporary discontinuance of the water supply.

Article 12. Timely Payment

- 12.01 Billing and Payment. Bills for water service shall be rendered to Customer on a monthly basis. Notwithstanding the provisions of this Article 12, all such bills shall be due and payable within forty-five calendar days from the date shown on the bill. Any portion of the charges that are not paid by the due date shall be subject to a finance charge at a rate of 1.5% per month for each month that they remain unpaid. Any portion of the total bill, plus any finance charges applied to the bill which are not paid by the next billing date, shall be shown on the next bill as arrears.
- 12.02 Dispute. The Board may disconnect water service in accordance with the terms of this Contract, including without limitation Sections 12.03 and 12.04. The Board shall not terminate water service if there is a good faith dispute concerning the accuracy of billings. If the accuracy of a bill is in dispute, Customer shall have ten (10) business days in which to provide written notice to the Board of its dispute with the bill and shall place the disputed amount in an escrow account pending resolution of the dispute. Accrued interest on the escrow account shall belong to the Party that prevails in the resolution of the dispute.
- 12.03 Estimated Prepayment for Services. Customer shall deposit with the Board as an estimated prepayment for services for the term of this Contract certain funds as follows: (a) on or before October 16, 2015, an amount equal to Two Million and 00/100 Dollars (\$2,000,000.00), and (b) on or before October 19, 2015, an amount equal to Eight Million and 00/100 Dollars (\$8,000,000.00). Collectively, the Ten Million and 00/100 Dollars (\$10,000,000.00) shall be referred to as the "Estimated Prepayment". The Estimated Prepayment will be credited to Customer's suburban billing account with the Board. Each month, the Board shall be entitled to draw down from the Estimated Prepayment a sum equal to the amount of the then-current billing. If at any time the Board determines in its sole and reasonable discretion that the remaining amount of the Estimated Prepayment will be insufficient to cover the next monthly billing and/or the remainder of the Contract Term,

Customer shall be required to replenish within thirty (30) days the estimated prepaid funds in the amount required by the Board provided, however, that the Parties shall endeavor to mutually agree upon the amount. Failure to so replenish the estimated prepaid funds shall permit the Board to terminate services to Customer. At the conclusion of the Contract Term, if Customer is in good standing with the Board and there are funds remaining from the Estimated Prepayment, Customer shall be entitled to the prompt return of all such funds. The Estimated Prepayment made by Customer shall not relieve Customer of its obligation to make payment in full for all water delivered by the Board to Customer.

- 12.04 Account Stated. Notwithstanding the provisions of this Article 12, if Customer fails to make timely payment on invoices due as set forth in this Contract, in addition to terminating services to Customer, the Board shall be entitled to have a judgment entered against Customer for the entire unpaid balance, together with late fees, finance charges, interest, and the costs and reasonable attorney fees required to obtain that judgment. The Board shall be entitled to file this Contract in a court of proper jurisdiction as evidence of Customer's agreement to the existence of the debt stated and Customer's agreement to its liability for that debt.

Article 13. Assignment

- 13.01 The Board shall be permitted to assign this Contract to any successor in interest without the prior consent of Customer. Thereafter, and as soon as practicable, the Board shall provide written notice to Customer of the assignment.

Article 14. Reserved

Article 15. Amendment

- 15.01 The Parties may periodically consider it in their best interests to change, modify or extend a term, condition or covenant of this Contract for reasons which may include, but are not limited to, the creation, expansion or closing of industry or other business. Any change, addition, deletion, extension or modification that is mutually agreed upon by the Board and Customer shall be incorporated in a written amendment to this Contract. Such amendments shall not invalidate this Contract nor relieve or release either Party of any of its respective obligations under this Contract unless so stated in the amendment.
- 15.02 No amendment to this Contract shall be effective and binding upon the Parties unless it expressly makes reference to this Contract, is in writing, is signed and acknowledged by duly authorized representatives of both Parties.

Article 16. Notices

- 16.01 Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (collectively, "Notices") required or permitted under this Contract shall be given in writing and mailed by first class mail to the Parties and at the addresses identified in Exhibit B.
- 16.02 All Notices shall be deemed given on the day of post-marked mailing. Any Notice given by a Party hereunder must be signed by an authorized representative of such Party.
- 16.03 Notwithstanding the requirement above as to the use of first-class mail, change of address notices, termination notices, and other Notices of a legal nature, shall be sent by certified first-class mail, postage prepaid, return receipt requested.

Article 17. Water Quality

- 17.01 Contamination. For the protection of the health of all consumers supplied with water from the System, Customer agrees to guard carefully against all forms of contamination. Should contamination occur, the area or areas affected shall immediately be shut off and isolated, and shall remain so until such conditions shall have been abated, and the water declared safe and fit for human consumption by the properly constituted governmental health agencies having jurisdiction of the area affected. Customer shall immediately notify the Board, and the Board shall immediately notify Customer, of any emergency or condition that may affect the quality of water in either Party's system.
- 17.02 Co-mingling of Water Sources. Except in cases of emergency other than the specific public health emergency addressed by this Contract, Customer will not permit water from any other source of supply to be mixed or mingled with water from the System without prior written approval from the Board. In cases of emergency, only such water from sources other than the Board shall be used as shall meet the requirements of the Michigan Department of Environmental Quality, and then only in such quantities as shall be necessary to relieve the emergency.
- 17.03 Emergency Connections. During emergencies other than the specific public health emergency addressed by this Contract, Customer's water facilities may be used and connected, at the discretion of the Board, to water facilities serving other communities for flow in either direction to provide an adequate water supply from the System to Customer and to other areas and other units of government. Customer shall be permitted to immediately make an emergency connection when the connection point to be used has been previously approved for emergency use by the Board in writing, provided that Customer shall, after making the connection, promptly notify the Board of such event. When the emergency has been abated, the emergency connection must be severed as soon as practicable. The Board, or its designee, must approve, in writing, the continuation of any emergency connection that is required for longer than seven calendar days. If an approved emergency connection continues for more than seven calendar days, Customer must

provide the Board with weekly updates on the emergency and a schedule for abatement of the emergency that must be approved by the Board in writing.

- 17.04 Water Quality. The Board shall endeavor to remain in compliance with all applicable Michigan and Federal laws, rules and regulations regarding drinking water quality.
- 17.05 Chemical Additions, Public Relations. Customer has advised the Board that in order to more effectively address its public health emergency, it may inject additional chemical treatments into the water it receives from the Board. Customer shall prevent the backflow of any water containing additional chemical treatments by Customer from entering into the System and any other water systems utilizing water provided by the System. Customer acknowledges that such additional chemical treatments may result in chemical, biological and/or physical changes to the water provided by the Board. In order that the public be kept fully informed as to the explanation for any chemical, biological and/or physical changes and to ensure that the Board's long established and award winning brand is not diminished in any way, Customer agrees to coordinate with and seek the approval of the Board regarding its public relations communications on these issues.

Article 18. Rights-of-Way

- 18.01 Use of Rights-of-Way. The Customer shall assist the Board to obtain permission to use streets, highways, alleys, and/or easements in the local governmental units within the Customer's jurisdiction for the purpose of constructing, maintaining, and operating water facilities to adequately service the Customer's jurisdiction and other areas. This assistance shall include obtaining the consent of the local governmental units, as provided in Article 7, Section 29, Michigan Constitution of 1963. In the event of such construction, the Board shall request the Customer and local governmental units within the Customer's jurisdiction to execute such separate instruments granting rights-of-way in its streets, highways, and alleys as may be reasonably required by the Board. The Board shall give the Customer notice of any construction work in the Customer's jurisdiction. The Board shall comply with any of Customer's ordinances that apply to the construction. Customer shall inform the Board of the applicable ordinances. The Board and Customer shall meet to review the construction and its impact on their respective operations. The Board shall restore all existing structures and/or improvements laying in the right-of-way of construction to as good a condition as before the construction took place. Any such facilities constructed, maintained and operated under this section shall remain the property of the Board and shall not be operated or maintained by any entity other than the Board or its authorized representatives.
- 18.02 Relocation of Facilities. Should future construction by any city, township, village, or county require relocation of a water transmission main, Meter Facility or other Board facility, the cost incurred by the Board for such relocation, if not reimbursed by the entity requiring the relocation, will be charged in future rates as a common-to-all cost to all System users.
- 18.03 Easements. Subject to the provisions of Section 18.01 herein and to the extent that Customer has jurisdiction, the Board shall be granted temporary and permanent easements,

and shall be permitted to use the streets, alleys and highways within Customer's legal jurisdiction for the purpose of constructing, operating and maintaining the System, including the relocation of water transmission mains, Meter Facilities or other Board facilities. This consent by Customer is given in compliance with Article 7, Sec. 29 of the Michigan Constitution of 1963, provided that the Board shall provide Customer with a written explanation of the type of easement required and the duration thereof.

Article 19.

Access to Towers and Antennas

- 19.01 Where possible, each Party shall give to the other Party access to towers and antennas under its respective jurisdiction for the purpose of transmitting information recorded in the Meter Facilities. Access shall not be unreasonably denied by either Party.

Article 20.

Relationship to Wastewater Services

- 20.01 Customer and the Board acknowledge that future growth in the System may place additional burdens on their respective wastewater systems. Customer, if it is also a wastewater disposal services customer of the Board, understands that any increase in the volume of water it receives from the System is not a guarantee of increased capacity in the Board's wastewater disposal system.

Article 21.

Construction Standards

- 21.01 The Board shall have the right to review and approve Customer's construction plans for Meter Facilities at new Water Distribution Points, water mains sized twenty-four inches and larger, pump stations, reservoirs, water towers, and any other construction that will cross, or be within close proximity to, or have influence upon the Board's infrastructure. The Board's approval of construction plans shall be timely and shall not be unreasonably withheld.

Article 22.

Operation of Storage

- 22.01 Prior to Customer's operation of any new or existing water storage facility, Customer shall seek the Board's written approval of the filling schedule ("Filling Schedule") of the storage facility. The Board may periodically require Customer to change or adjust a previously approved Filling Schedule. The Parties shall collaborate on devising a mutually beneficial Filling Schedule. If the Parties are unable to agree upon a Filling Schedule, the Board's determination of a Filling Schedule shall be final. All Filling Schedules shall be for a period of six consecutive hours. Customer shall at all times abide by the then-current Board approved Filling Schedule. The Board shall act promptly in approving Filling Schedule requests. Nothing in this Article 22 shall prevent Customer from operating its storage facility at any time, provided that any storage operation that falls outside of the approved Filling Schedule shall not be exempt from the terms of Article 5 herein.

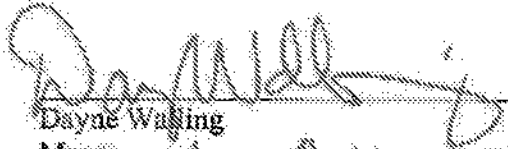
**Article 23.
Miscellaneous**

- 23.01 If any provision of this Contract or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Contract shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.
- 23.02 This Contract contains the entire agreement between the Parties and all prior negotiations and agreements are merged into this Contract. Neither Party has made any representations except those expressly set forth in this Contract, and no rights or remedies are, or shall be, acquired by either Party by implication or otherwise unless expressly set forth in this Contract.
- 23.03 Unless the context otherwise expressly requires, the words "herein," "hereof," and "hereunder," and other words of similar import, refer to this Contract as a whole and not to any particular section or subdivision.
- 23.04 The headings of the sections of this Contract are for convenience only and shall not be used to construe or interpret the scope or intent of this Contract or in any way affect the same.
- 23.05 The rights and remedies set forth in this Contract are not exclusive and are in addition to any of the rights or remedies provided by law or equity. This Contract and all actions arising under it shall be governed by, subject to, and construed according to the law of the State of Michigan.
- 23.06 The Great Lakes Water Authority is an acknowledged third party beneficiary to this Contract and this Contract shall not be construed to benefit any persons other than the Board, the Great Lakes Water Authority and Customer.
- 23.07 This Contract may be executed in any number of originals, any one of which shall be deemed an accurate representation of this Contract. Promptly after the execution of this Contract, the Board shall provide a copy to the Customer.
- 23.08 The rights and benefits under this Contract shall inure to the benefit of and be binding upon the respective Parties hereto, their agents, successors, and assigns.
- 23.09 Any and all documents, memoranda, reports, exhibits or other written material referred to in this Contract are and shall be incorporated by reference herein.
- 23.10 This Contract shall be deemed to be mutually drafted.

(Signatures appear on next page)

In Witness Whereof, the City and Customer, by and through their duly authorized officers and representatives, have executed this Contract.

City of Flint:

By: 

Dayne Walling

Its: Mayor

By: 

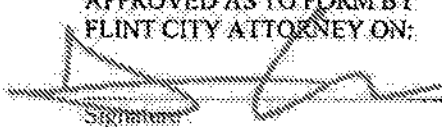
Natasha L. Henderson

Its: City Administrator

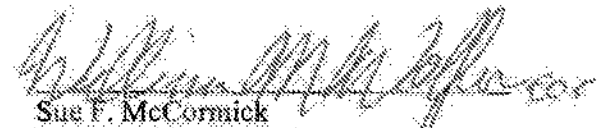
APPROVED BY
FLINT CITY COUNCIL ON:

Authority Granted 10/12/2015
Date

APPROVED AS TO FORM BY
FLINT CITY ATTORNEY ON:

 *10/16/15*
Signature Date

City of Detroit:

By: 

Sue F. McCormick

Its: Director, Water and Sewerage Department

APPROVED BY DETROIT
BOARD OF WATER COMMISSIONERS ON:

10-14-15
Date

APPROVED AS TO FORM BY
DWSD GENERAL COUNSEL ON:

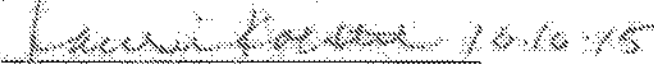
 *10.16.15*
Signature Date

EXHIBIT A

Customer's Water Distribution Points

This Exhibit contains the following information:

1. The corporate limits of Customer;
2. The agreed upon water Service Area of Customer which (a) may or may not be entirely within the corporate limits of Customer and (b) which may or may not include the entire area within the Customer's corporate limits;
3. The specific location of the Water Distribution Points, including any Board approved emergency connections;
4. The designation of appurtenances to be maintained by Customer and those to be maintained by the Board; and
5. A list of any closed meter locations.

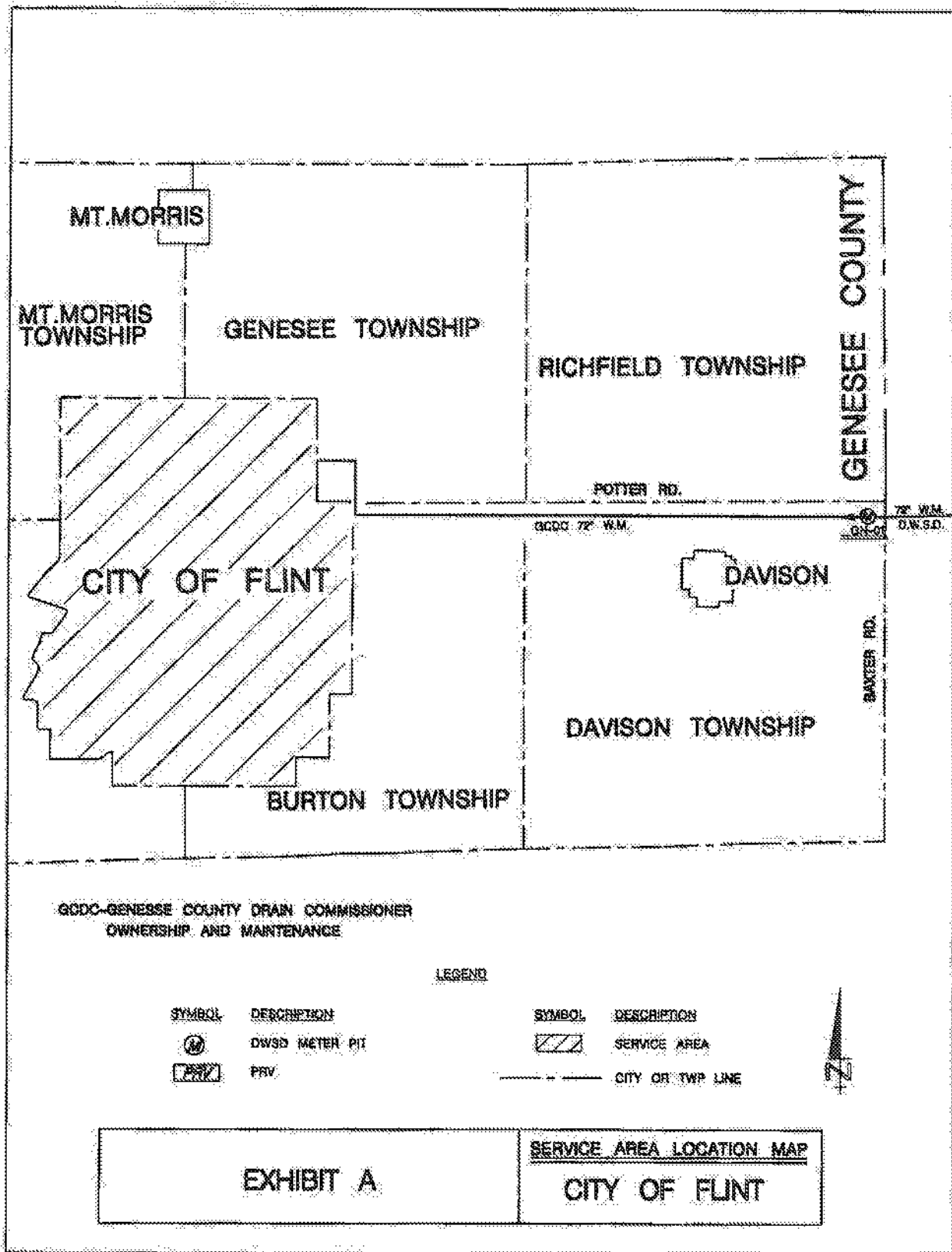


EXHIBIT A**City of Flint Emergency Connections:****City of Flint Water Customers Outside Municipal Limits:**

3148	Augusta St	2509	Flushing Rd
3149	Augusta St	3037	Flushing Rd
1274	N Ballenger Hwy	3039	Flushing Rd
3180	Branch Rd	3047	Flushing Rd
3186	Branch Rd	3061	Flushing Rd
3376	Branch Rd	2122	E Hemphill Rd
3418	Branch Rd	2130	E Hemphill Rd
3450	Branch Rd	2278	E Hemphill Rd
3492	Branch Rd	2288	E Hemphill Rd
2296	W Carpenter Rd	2306	E Hemphill Rd
2340	W Carpenter Rd	2350	E Hemphill Rd
2432	W Carpenter Rd	2414	E Hemphill Rd
2474	W Carpenter Rd	1047	W Hemphill Rd
3014	N Center Rd	3141	Herrick St
3022	N Center Rd	3308	Hull Ave
3030	N Center Rd	3314	Hull Ave
3062	N Center Rd	3319	Hull Ave
3070	N Center Rd	3320	Hull Ave
3080	N Center Rd 1	3342	Hull Ave
3080	N Center Rd 2	3351	Hull Ave
3094	N Center Rd	3272	Menominee Ave
3098	N Center Rd	3276	Menominee Ave
3100	N Center Rd	3281	Menominee Ave
3102	N Center Rd	3289	Menominee Ave
3106	N Center Rd	3295	Menominee Ave
3112	N Center Rd	3299	Menominee Ave
3268	Cheyenne Ave	3300	Menominee Ave
3275	Cheyenne Ave	3303	Menominee Ave
3280	Cheyenne Ave	3304	Menominee Ave
3281	Cheyenne Ave	3309	Menominee Ave
3285	Cheyenne Ave	3312	Menominee Ave
3290	Cheyenne Ave	3313	Menominee Ave
3295	Cheyenne Ave	3316	Menominee Ave
3298	Cheyenne Ave	3317	Menominee Ave
3299	Cheyenne Ave	3326	Menominee Ave
3302	Cheyenne Ave	3330	Menominee Ave
3307	Cheyenne Ave	3335	Menominee Ave

3308	Cheyenne Ave	3343	Menominee Ave
3311	Cheyenne Ave	3344	Menominee Ave
3312	Cheyenne Ave	3348	Menominee Ave
3325	Cheyenne Ave	3349	Menominee Ave
3334	Cheyenne Ave	2036	Nedra
3338	Cheyenne Ave	2052	Nedra
3339	Cheyenne Ave	2058	Nedra
3340	Cheyenne Ave	2070	Nedra
3347	Cheyenne Ave	2110	Nedra
3272	Cheyenne Ave	2126	Nedra
4113	Clio Rd	3024	W Pierson Rd
4243	Clio Rd	2178	Red Arrow Rd
3176	W Court St	3157	Richfield Rd
3189	W Court St	3175	Richfield Rd
4028	W Court St	3217	Richfield Rd
1026	Decamp	1046	Ronlad St
3009	S Dort Hwy	1066	Ronlad St
3043	S Dort Hwy	1069	Ronlad St
3111	S Dort Hwy	3275	Van Slyke Rd
3281	S Dort Hwy	3339	Van Slyke Rd
3342	Fenton Rd	3150	Whitney Ave
		3155	Whitney Ave

City of Flint Master Meters Not In Service:

None.

EXHIBIT-A GN-01 POTTER AND BAXTER CITY OF FLINT

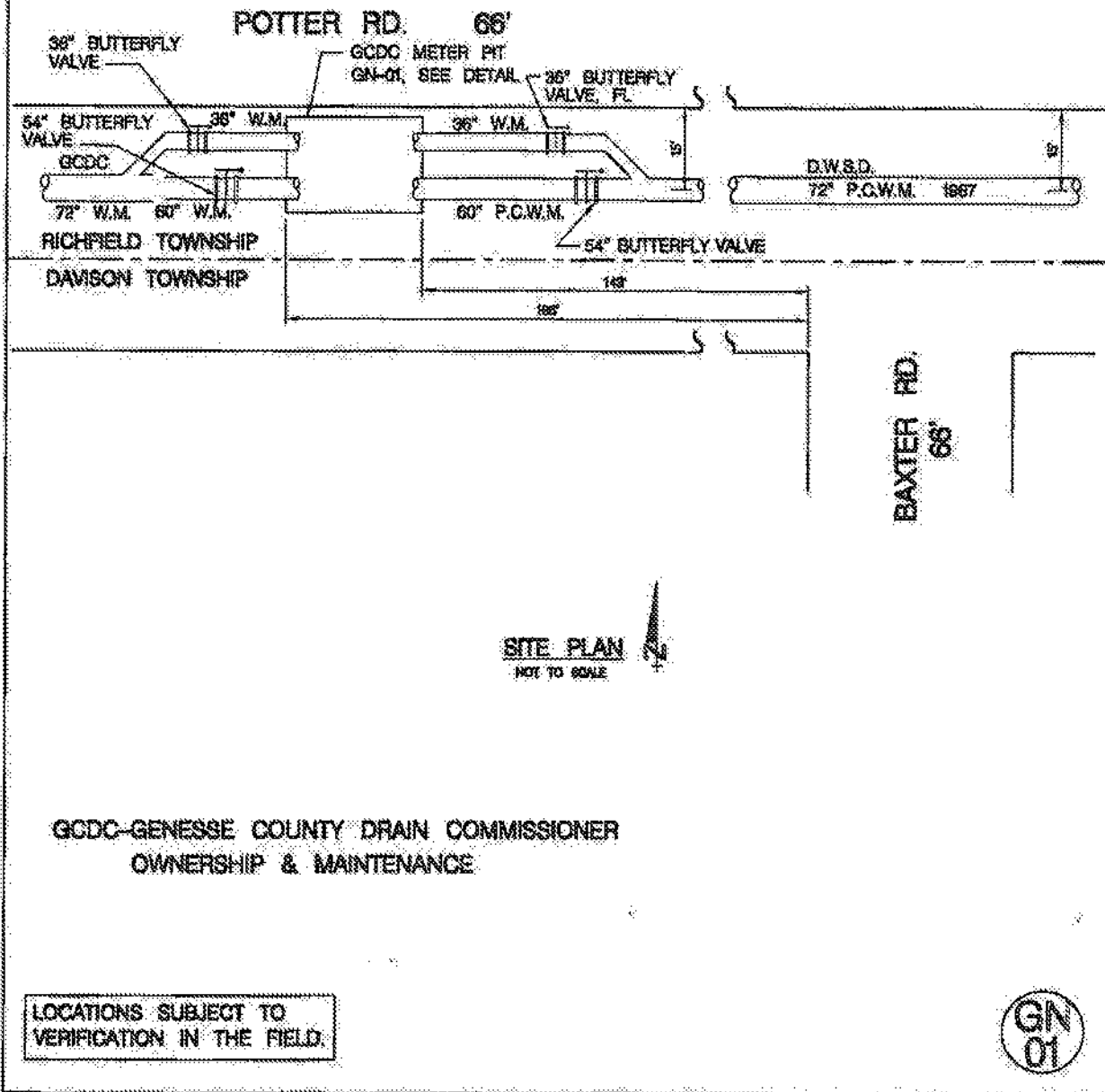
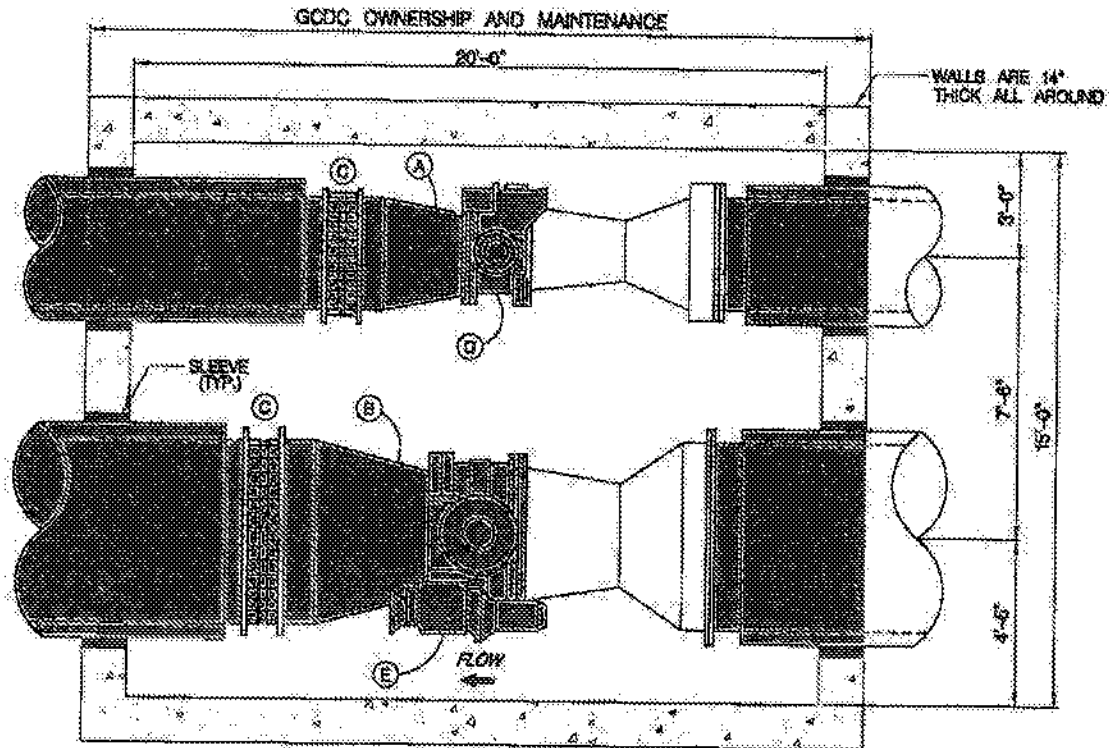


EXHIBIT-A
GN-01
POTTER AND BAXTER
CITY OF FLINT



METER PIT DETAIL

NOT TO SCALE

GENESEE COUNTY DRAIN COMMISSIONER (GDCO)
OWNERSHIP & MAINTENANCE

LEGEND			
TAG	QTY	DESCRIPTION	SIZE
A	1	PENN. FLOW TUBE	36" X 22" X 30"
B	1	PENN. FLOW TUBE	5' X 37.408" X 42"
C	2	COUPLING	
D	1	MOTOR OPERATED BUTTERFLY VALVE	30"
E	1	MOTOR OPERATED BUTTERFLY VALVE	42"

TYPICAL PRESSURE LOSS THRU METER	
METER TYPE	P.S.I. LOSS
VENTURI	1 - 2
MAG	0
TURBINE	4 - 8

(P) UPSTREAM PRESSURE TRANSMITTER,
 DWSO OWNERSHIP AND MAINTENANCE
 LOCATION OUTSIDE VAULT

(Q) DOWNSTREAM PRESSURE TRANSMITTER,
 DWSO OWNERSHIP AND MAINTENANCE
 LOCATION OUTSIDE VAULT

ADDRESS _____ 12261 POTTER
 FEED TO _____ CITY OF FLINT AND GDCO
 FEED FROM _____ D.W.S.D. TRANS. MAIN
 TYPE OF METER _____ TWO - PENN FLOW TUBES
 SIZE OF METER _____ 30" X 37.408" X 42" 36" X 22" X 30"
 TUBE NUMBER _____ 80"828141 38"628142
 DATE METER SET _____ DECEMBER 14, 1967
 METER PIT CONST. & SIZE _____ 20'-0" X 15'-0" I.D. REINF. CONC
 REMARKS _____ MANUAL SWITCHOVER

GN
01

EXHIBIT B

Projected Annual Volume and Minimum Annual Volume (Table 1)
Pressure Range and Maximum Flow Rate (Table 2)
Flow Split Assumptions (Table 3)
Addresses for Notice (Table 4)

Table 1 and Table 2 set forth the agreed upon Projected Annual Volumes, Minimum Annual Volumes, Pressure Ranges and Maximum Flow Rates for the term of this Contract provided that figures in bold type face are immediately enforceable pursuant to the terms of Section 5.07 and italicized figures are contained for planning purposes only but will become effective absent the negotiated replacements anticipated in Section 5.07.

The approximate rate of flow by individual meter set forth in Table 3 is the assumption upon which the Pressure Range commitments established in Table 2 have been devised. Should Customer deviate from these assumptions at any meter(s), the Board may be unable to meet the stated Pressure Range commitments in this Contract or in the contract of another customer of the Board and Section 5.08 of this Contract may be invoked.

EXHIBIT B

Table 1
Projected Annual Volume and Minimum Annual Volume

Fiscal Year Ending June 30	Projected Annual Volume (Mcf)	Minimum Annual Volume (Mcf)
2016	593,000	296,500
2017	593,000	296,500
2018	TBD	TBD
2019	TBD	TBD
2020	TBD	TBD
2021	TBD	TBD
2022	TBD	TBD
2023	TBD	TBD
2024	TBD	TBD
2025	TBD	TBD
2026	TBD	TBD
2027	TBD	TBD
2028	TBD	TBD
2029	TBD	TBD
2030	TBD	TBD
2031	TBD	TBD
2032	TBD	TBD
2033	TBD	TBD
2034	TBD	TBD
2035	TBD	TBD
2036	TBD	TBD
2037	TBD	TBD
2038	TBD	TBD
2039	TBD	TBD
2040	TBD	TBD
2041	TBD	TBD
2042	TBD	TBD
2043	TBD	TBD
2044	TBD	TBD
2045	TBD	TBD

EXHIBIT B

Table 2
Pressure Range and Maximum Flow Rate

Calendar Year	Pressure Range (psi)		Maximum Flow Rate (mgd)	
	Meter GN-01		Max Day	Peak Hour
	Min	Max		
2015	40	60	21.40	22.40
2016	40	60	21.40	22.40
2017	40	60	TBD	TBD
2018	40	60	TBD	TBD
2019	40	60	TBD	TBD
2020	40	60	TBD	TBD
2021	40	60	TBD	TBD
2022	40	60	TBD	TBD
2023	40	60	TBD	TBD
2024	40	60	TBD	TBD
2025	40	60	TBD	TBD
2026	40	60	TBD	TBD
2027	40	60	TBD	TBD
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2031	40	60	TBD	TBD
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2036	40	60	TBD	TBD
2037	40	60	TBD	TBD
2038	40	60	TBD	TBD
2039	40	60	TBD	TBD
2040	40	60	TBD	TBD
2041	40	60	TBD	TBD
2042	40	60	TBD	TBD
2043	40	60	TBD	TBD
2044	40	60	TBD	TBD

EXHIBIT B

Table 3
Flow Split Assumptions

Meter	Assumed Flow Split (2015-2016)
GN-01	100%

Table 4
Addresses for Notice

If to the Board:	If to Customer:
Director Detroit Water and Sewerage Department 735 Randolph Street Detroit, Michigan 48226 Attention: General Counsel	Mayor City of Flint 1101 S. Saginaw Street Flint, Michigan, 48502 Attention: City Attorney

EXHIBIT C

Metering Agreement Between City of Flint and Genesee County Drain Commissioner

LICENSE TO TRANSMIT WATER

This License to Transmit Water ("License") entered into on October 14, 2015, (the "License Date" and "Effective Date") is made between the City of Flint, a Home Rule City (the "City"), and the Genesee County Drain Commissioner, as County Agency, a county agency pursuant to the County Public Improvement Act 342 of 1939, as amended, ("GCDC"). The City and GCDC may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the City has requested the Detroit Water and Sewerage Department ("DWSD") to provide the City with potable water; and

WHEREAS, DWSD water distribution system has no physical connection to the City water distribution system; and

WHEREAS, GCDC is currently purchasing potable water from DWSD and GCDC is receiving DWSD water at the water meter GN-01 near Baxter and Potter Roads, located in Genesee County and more fully set forth in Exhibit 1 (hereinafter known as "GCDC/DWSD Connection"); and

WHEREAS, GCDC has a physical connection to the City water distribution system near Center Road and Pierson Road in Genesee Township, Genesee County, Michigan, which is more fully set forth in Exhibit 2 (hereinafter known as "GCDC/City Connection"); and

WHEREAS, GCDC owns nine (9) miles of water transmission pipeline ("Pipeline") that connects the GCDC/DWSD Connection to the GCDC/City Connection; and

WHEREAS, GCDC has the ability to allow Flint to transmit water through the Pipeline from the GCDC/DWSD Connection to the GCDC/City Connection so DWSD may service the City with DWSD treated potable water; and

WHEREAS, this License shall govern the terms and conditions of Flint transmitting water through the Pipeline from the DWSD/GCDC Connection to the GCDC/City Connection; and

WHEREAS, the Parties hereto acknowledge and agree that DWSD may assign its contract to provide potable water to the City to another entity, including, but not limited to, the Great Lakes Water Authority, and, if DWSD assigns its contract to provide water to the City, all reference to DWSD in this License shall be replaced by the party to whom DWSD assigns its contract.

NOW, THEREFORE, THIS LICENSE is hereby made and mutually entered into by the City and GCDC for the mutual consideration stated herein and the Parties agree to the following:

1. Adoption of Recitals. All of the matters stated in the Recitals of this License are true and correct and are hereby incorporated into the body of this License as though fully set forth in their entirety herein. However, in cases of conflict, provisions of this License shall prevail over the matters stated in the Recitals.

2. **Contract for Water.** As a condition precedent to this License being effective, the City shall enter into a contract with DWSD for DWSD to supply the City with water and said contract shall require the City to pay DWSD directly for all water consumed by the City and any applicable charges, fees, or other amounts charged by DWSD. The City shall hold GCDC harmless from any and all debts the City incurs from receiving water from DWSD and any and all costs that DWSD may impose on GCDC as a result of the City receiving water from DWSD.

3. **Term.** The Parties hereto understand and acknowledge that GCDC needs the Pipeline to transmit its potable water to its customers once GCDC starts receiving raw water from KWA. The Parties agree and acknowledge that this License shall expire sixty (60) days after the City has received notice from KWA that raw water is available for the City for treatment; however, the City may request GCDC to extend this License until GCDC starts receiving raw water from KWA. The City shall not transmit water through the Pipeline after GCDC begins to transmit its potable water to its customers. The City acknowledges and consents to GCDC terminating any water transmission in the Pipeline for the benefit of the City once GCDC begins to produce and sell its potable water to its customers. The City may terminate this License by providing GCDC with thirty (30) days written notice of termination.

4. **Consideration.** In exchange for GCDC allowing the City to transmit water through the Pipeline, the City shall pay GCDC one dollar (\$1.00) per month for the term of this License. The City is allowed to pay the first nine (9) months in a lump sum payment.

5. **Meters and Billing.** The City hereby grants GCDC complete access to and upon verbal request by GCDC complete control of Station 2, including, but not limited to, all meters, valves, structures, and appurtenances until the Karegnondi Water Authority ("KWA") has notified the City that water is available to the City for treatment or GCDC has provided the City with thirty (30) days notice that GCDC no longer requires access to Station 2. GCDC shall have the meter calibrated within fifteen (15) days of the execution of this License and all costs for the calibration shall be the responsibility of the City. The City shall be entitled to all data, meter reads, and other information that is collected by GCDC at Station 2. The City shall be responsible for all utility costs associated with the operation of Station 2. The City shall be responsible for all repairs to the meter and meter pit. GCDC shall notify DWSD of the monthly meter read for Station 2.

6. **Transmission of Water.** GCDC shall use reasonable diligence to allow the City regular and uninterrupted transmission of water through the Pipeline from the GCDC/DWSD Connection to the GCDC/City Connection; however, Flint shall hold harmless and indemnify GCDC for any damages, breach of contract, or otherwise for interruption of service or curtailment of supply for any cause beyond the control of GCDC. These could include, but are not limited to, Acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or failure of the Pipeline or appurtenances. The City shall further hold GCDC harmless from any claim for damages related to continuity of service by third parties, including DWSD, for GCDC's inability to allow the transmission of water due to any cause beyond the control of GCDC.

7. **Water Quality.** The City shall hold GCDC harmless from any water quality related claim for damages by third parties, including DWSD, served by the City, which are asserted against, or are imposed upon or incurred by GCDC and which result from, relate to, or arise out of a claim regarding the treatment of water or the quality of water.

8. **Volume Available.** The City shall hold GCDC harmless in the event that DWSD cannot meet the volume demands of both GCDC and the City. GCDC shall be entitled to receive the quantity of water requested by GCDC and the City shall be entitled to any remaining volume of water. The City shall notify GCDC daily of its anticipated water volume for that day and GCDC shall be responsible for notifying DWSD of the water volume demands for both GCDC and the City.

9. Pipeline Malfunction. If the Pipeline shall malfunction for any reason while the City is transmitting water through the Pipeline, GCDC shall notify the City within two (2) hours of verifying the Pipeline malfunction. Thereafter, the malfunction shall be promptly repaired by GCDC and a detailed invoice for one-half (1/2) of the total cost of the repair shall be submitted to the City. The City shall have thirty (30) calendar days to process and authorize the payment for the repair to GCDC. Payment shall be made to GCDC within thirty-two (32) calendar days by either check or wire transfer. Wire transfer instructions are available from the GCDC Chief Financial Officer. The City shall indemnify and hold GCDC harmless for any and all claims from the City or third parties that relate to the City not being able to supply water to its customers due to the malfunction.

10. Severability. The Parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses or words of this License or the application of such sections, subsections, provisions, clauses or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality or contravention shall not affect any other sections, subsections, provisions, clauses or words of this License or the application of such sections, subsections, provisions, clauses or words to any other situation or circumstance, and it is intended that this License shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause or word had not been included herein, and the rights and obligations of the Parties hereto shall be construed and remain in force accordingly.

11. Governing Law and Venue. It is specifically agreed among the Parties to this License that Genesee County, State of Michigan is the place of performance of this License. In the event that any legal proceeding is brought to enforce this License or any provision hereof, the same shall be brought in the Genesee County Circuit Court.

12. Interpretation and Construction. For purposes of interpretation and construction of this License, both the City and GCDC shall be deemed to have been the drafter of this License and this License shall not be construed against any Party to this License.

13. Modification. This License shall not be modified, altered, or amended except through a written amendment signed by the Parties.

14. No Third Party Beneficiaries. This License is not intended to confer upon any person or entity, other than the Parties hereto, any rights or remedies of any kind or nature whatsoever.

15. Notices. Other than invoices and payments, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by any Party to any other Party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the Party to be notified, with return receipt requested, or by delivering the same to an officer of such Party, or by prepaid telegram when appropriate, addressed to the Party to be notified. Notice deposited in the mail in the manner described above shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

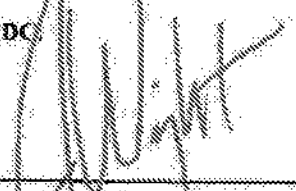
To GCDC: Genesee County Drain Commissioner's Office, Division of Water and Waste Services, G-4610 Beecher Road, Flint, Michigan 48532.

To the City: City of Flint, 1101 South Saginaw Street, Flint, Michigan 48502.

The Parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other Party hereto.

IN WITNESS WHEREOF, the Parties hereto acting under authority of their respective governing bodies have caused this License to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the License and Effective Date.

GCDC:

By:  _____
 Jeff Wright

Its: Drain Commissioner

CITY:

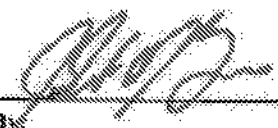
By:  _____
 Natasha Henderson

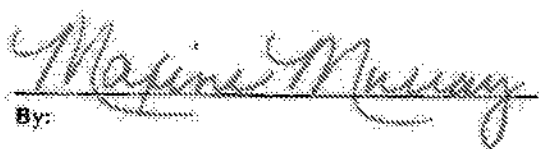
Its: City Administrator

By:  _____
 Dayne Welling

Its: Mayor

Attest:

By:  _____
 Notary

By:  _____
 Maxine Murray

This License was prepared by:
 Attorney Kevin Kilby (P68599)
 McGraw Morris P.C.
 2075 West Big Beaver Road
 Suite 750
 Troy, Michigan 48064
 Phone: (248) 502-4000
 Facsimile: (248) 502-4001
 Email: kilby@mcgrawmorris.com

Approved as to form by:

 _____
 Peter M. Bode (P17536)

Chief Legal Officer

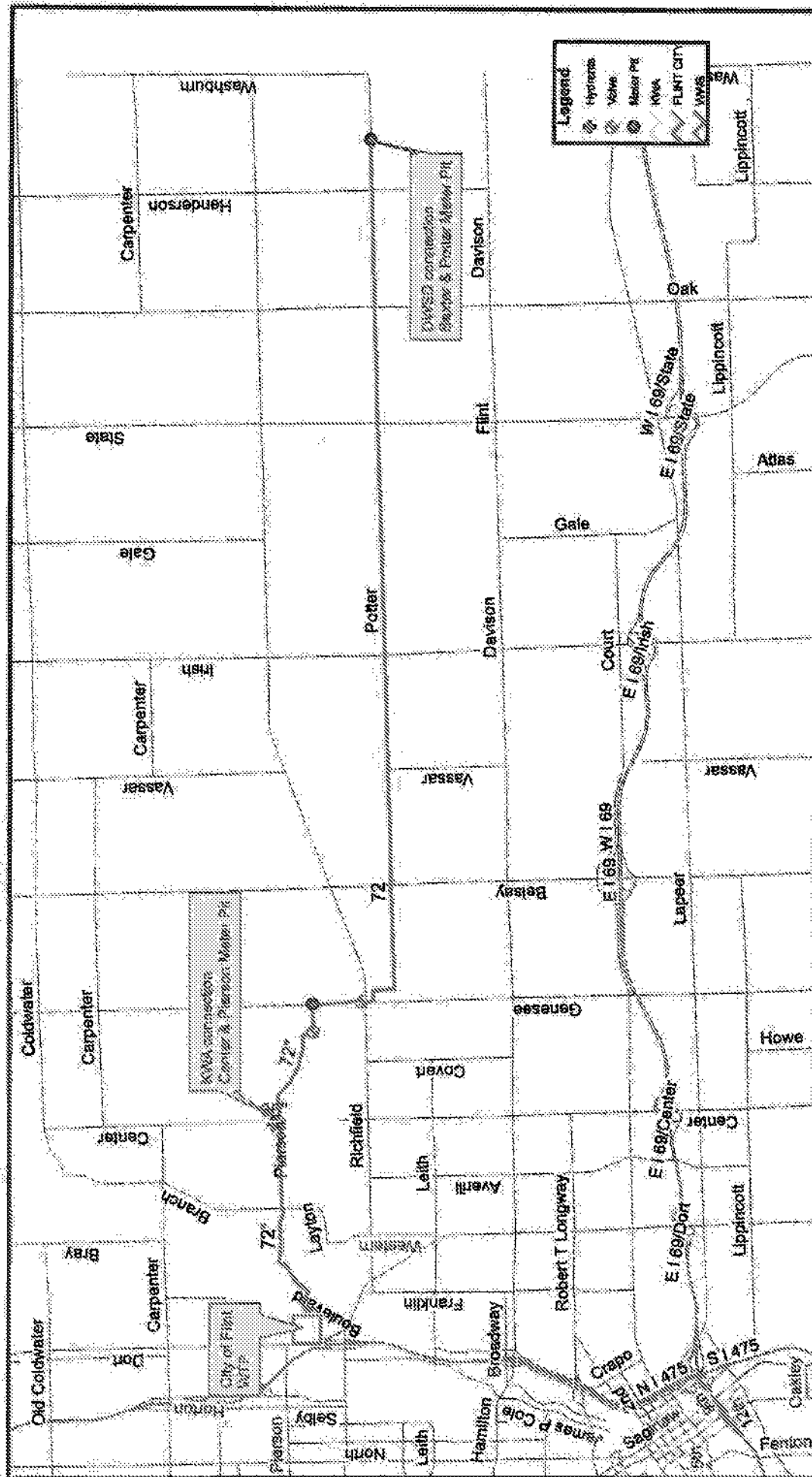
City of Flint

1101 South Saginaw Street, Room 307

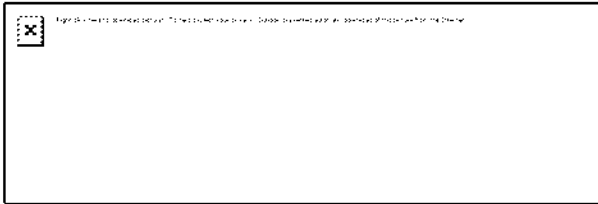
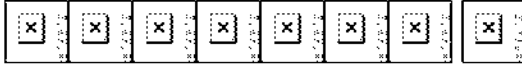
Flint Michigan 48502

Exhibit 1
Location of GCDC/DWSD Connection

Exhibit 2
Location of GCDC/Flint



From: Bridge Magazine <ajones@thecenterformichigan.ccsend.com> on behalf of Bridge Magazine <info@thecenterformichigan.net>
Sent: Thursday, January 29, 2015 9:36 AM
To: Sygo, Jim (DEQ)
Subject: What is the state's role in Flint's water fiasco?

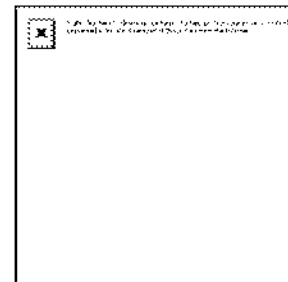


News & Analysis from The Center for Michigan

Cringe over troubled water - Flint's smelly dilemma

Flint calls on the state to clear up the city's low-quality drinking water. Who is responsible for the city's water problems?

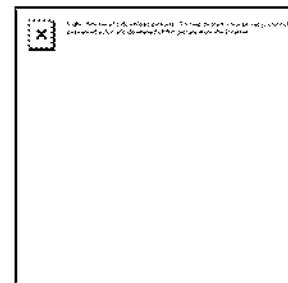
[READ FULL STORY](#)



MSU Dean: Obama's free college plan is not best path to a degree

Where will the money come from? Why would Republicans embrace it? Wouldn't aid be better spent on only those students truly need help? Too many questions for now.

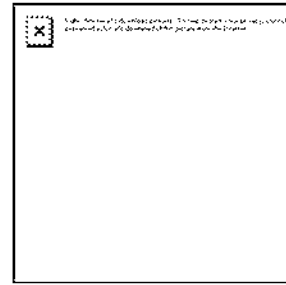
[READ FULL STORY](#)



Commentary: Michigan criminal code encroaching on civil liberties

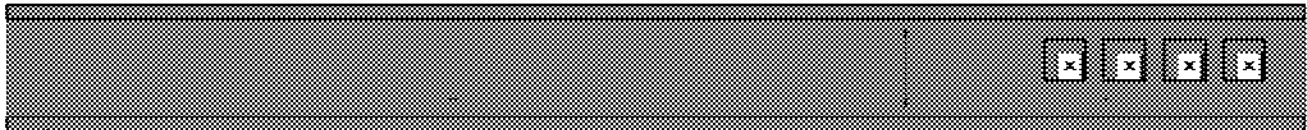
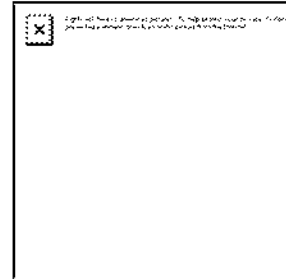
New, get-tough laws requiring DNA swabs or field sobriety tests from people who have not yet been convicted stretch the limits of government power.

[READ FULL STORY](#)



Coming Next Week: 2014 Academic State Champs

Bridge ranks every district, school and charter in the state by how much their students overachieve or underachieve academically, based on their socioeconomic status. The results may surprise you.



[Forward this email](#)



This email was sent to sygoj@michigan.gov by info@thecenterformichigan.net :
[Update Profile/Email Address](#) | [Rapid removal with SafeUnsubscribe™](#) | [Privacy Policy](#).



The Center for Michigan | 4100 N Dixboro Rd | Ann Arbor | MI | 48105

From: Thelen, Mary Beth (DEQ)
Sent: Wednesday, April 15, 2015 1:39 PM
To: Sygo, Jim (DEQ); Wagner, Robert (DEQ)
Cc: Shaler, Karen (DEQ); Sackrider, Sarah (DEQ); Anderson, Madhu (DEQ); Datema, Maggie (DEQ); Copen, Leigh (DEQ); Tommasulo, Karen (DEQ)
Subject: FW: R5 Regional Administrator to visit Flint area this Friday

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

FYI as well.

From: Busch, Stephen (DEQ)
Sent: Wednesday, April 15, 2015 1:25 PM
To: Thelen, Mary Beth (DEQ); Wurfel, Brad (DEQ)
Cc: Shekter Smith, Liane (DEQ)
Subject: FW: R5 Regional Administrator to visit Flint area this Friday
Importance: High

Mary Beth and Brad,

Please see the note below. I assume but wasn't sure who from the executive office will be participating in this visit by EPA to Flint, but as noted drinking water is likely to come up and while the Administrator has been briefed by regional EPA staff they likely don't have all the details that we do.

Stephen Busch, P.E.
 Lansing and Jackson District Supervisor
 Office of Drinking Water and Municipal Assistance
 MDEQ
 517-643-2314

From: Crooks, Jennifer [<mailto:crooks.jennifer@epa.gov>]
Sent: Wednesday, April 15, 2015 1:10 PM
To: Shekter Smith, Liane (DEQ); Benzie, Richard (DEQ); Philip, Kris (DEQ); Busch, Stephen (DEQ); Prysby, Mike (DEQ)
Cc: Poy, Thomas; Kuefler, Janet
Subject: R5 Regional Administrator to visit Flint area this Friday

Our Regional Administrator, Susan Hedman, will be traveling to Flint this Friday to discuss Brownfields. Of course, we think the discussion will more likely be about the drinking water. Tom Poy and I briefed the RA yesterday on the pertinent issues. I will forward the briefing when it is final. Please don't hesitate to contact Tom Poy (312-886-5991; poy.thomas@epa.gov) or myself if you have questions.

Jennifer
 (312.886.0244)

From: DEQ-LogLetter
Sent: Monday, October 12, 2015 10:21 AM
To: Shaler, Karen (DEQ)
Cc: Thelen, Mary Beth (DEQ); Sygo, Jim (DEQ); Shekter Smith, Liane (DEQ); Devereaux, Tracy Jo (DEQ); Manning, Peter (AG); Hart, Nancy (AG)
Subject: DIR00177 Tallman / Petition for Emergency Action under the Safe Drinking Water Act to Abate the Imminent and Substantial Endangerment to Flint, Michigan Residents
Attachments: EXE 15 DIR00177I Tallman.pdf
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Assigned to EXE (Jim Sygo)

Note: Jim Sygo to discuss with AG's office and ODWMA. Disc w/exhibits went to Sygo.

From: Shaler, Karen (DEQ)
Sent: Tuesday, October 13, 2015 9:24 AM
To: Sygo, Jim (DEQ)
Subject: FW: Comment sought on Rep. Phelps Files Suit Against State of Michigan, City of Flint
Attachments: Phelps_Verified FOIA Complaint.pdf; ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Flagged

FYI, attached is the Complaint.

From: Pallone, Maggie (DEQ)
Sent: Tuesday, October 13, 2015 7:38 AM
To: Shaler, Karen (DEQ)
Cc: Thelen, Mary Beth (DEQ); Wurfel, Brad (DEQ)
Subject: FW: Comment sought on Rep. Phelps Files Suit Against State of Michigan, City of Flint

Karen-
 Can you help Brad and Dan on what documents were provided to Phelps? From both ODWMA and EXE?
 Thanks,
 Maggie

From: Wurfel, Brad (DEQ)
Sent: Monday, October 12, 2015 9:35 PM
To: Pallone, Maggie (DEQ) <PalloneM@michigan.gov>
Subject: Fwd: Comment sought on Rep. Phelps Files Suit Against State of Michigan, City of Flint

Need you on this. Probably will help to have copies of whatever we shared and I want to be sure I know what I know. Thanks.
 b

Sent from my iPhone

Begin forwarded message:

From: "Wurfel, Sara (GOV)" <Wurfels@michigan.gov>
To: "Wyant, Dan (DEQ)" <WyantD@michigan.gov>, "Pallone, Maggie (DEQ)" <PalloneM@michigan.gov>, "Wurfel, Brad (DEQ)" <WurfelB@michigan.gov>, "Tommasulo, Karen (DEQ)" <TommasuloK@michigan.gov>
Subject: FW: Comment sought on Rep. Phelps Files Suit Against State of Michigan, City of Flint

Need to make sure I understand the full background and story on this.

From: Gary Ridley [<mailto:GRIDLEY@mlive.com>]
 Sent: Monday, October 12, 2015 1:39 PM
 To: Bitely, Andrea (AG) <BitelyA@michigan.gov>; Wurfel, Sara (GOV)

<Wurfels@michigan.gov>

Subject: Comment sought on Rep. Phelps Files Suit Against State of Michigan, City of Flint

Hi,

I wanted to see if the state had any comment in response to this lawsuit.

Thanks.

--

Gary Ridley | The Flint Journal-MLive Media Group | 810-280-9516 | gridley@mlive.com<<mailto:gridley@mlive.com>>

From: Rosemary Jones [<mailto:RJones@house.mi.gov>]

Sent: Monday, October 12, 2015 1:33 PM

To: Rosemary Jones

Subject: Rep. Phelps Files Suit Against State of Michigan, City of Flint

FOR IMMEDIATE RELEASE

Monday, Oct. 12, 2015

Contact: Rep. Phil Phelps

Phone: (517) 373-7515

Rep. Phelps Files Suit Against State of Michigan, City of Flint

State, city failed to release documents sought in FOIA request

LANSING — State Representative Phil Phelps (D-Flushing) announced earlier today that he is filing suit against the state of Michigan and the city of Flint to force them to release public documents he requested last month under the Freedom of Information Act (FOIA).

“It’s an absolute shame that I have to file suit to force our government to comply with the law,” Phelps said. “I was shocked at their response, because prior to receiving the denials, officials from both the city and state had told me that not only did documents exist, but they would be happy to share them with me.”

On Sept. 4 of this year, Phelps requested that the city and state turn over all documents and emails regarding the permit and application process that Flint’s emergency manager was required to complete before the Michigan Department of Environmental Quality gave the go ahead to the city to start using the Flint River as its source of drinking water. Late last month, the state and the city both denied Phelps’ request, saying that no such documents exist.

In March and April of 2014, officials from both the city and state were also quoted in several articles on [Mlive.com](http://mlive.com), making comments about the permit application process for Flint to switch its source of drinking water from Detroit’s system to the Flint River.

“I want to know what these officials knew about the safety and quality of the river water before the switch was made. Judging by their response and recent actions, it almost seems they knew a lot more than they are letting on to,” Phelps said. “Flint residents deserve better than this, they deserve to know the truth about the decisions that were made, and if I have to fight this in court to get the truth, so be it.”

###

Rosie Jones
Deputy Press Secretary
Michigan House Democrats
O: 517.373.3731
C: PPI
housedems.com

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY GENESEE**

PHIL PHELPS,

Plaintiff,

v

Case No.

Hon.

CITY OF FLINT,

Defendant.

MILLER COHEN, P.L.C.

Keith D. Flynn (P74192)

Attorneys for Plaintiff

600 W. Lafayette, 4th Fl.

Detroit, MI 48226

(313) 964-4454 Phone

kflynn@millercohen.com

VERIFIED FREEDOM OF INFORMATION ACT COMPLAINT

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint against Defendant.

Keith D. Flynn

Plaintiff **PHIL PHELPS**, ("Plaintiff"), by and through his attorneys, **MILLER COHEN, P.L.C.**, for his Freedom of Information Act Complaint, states as follows:

Since Spring 2014, families in the City of Flint have been exposed to a significant threat to their health and well-being caused by the decision to switch the City's water supply from Lake Huron water to Flint River water. This decision was made by the State's appointed Emergency Manager in the name of saving money. In the process, the health and welfare of Flint residents has been carelessly jeopardized with thousands of residents being exposed to contaminants, including E.coli, disinfectant byproduct, and, most recently, lead.

This threat is the very reason why the Michigan Department of Environmental Quality (DEQ) exists—to protect the public by insisting upon compliance with federal and state environmental regulations. The DEQ is supposed to work with suppliers of water, such as the City of Flint, and approve or reject applications for permits to alter existing water systems, including changes that are made to the source of water. MCL § 325.1004(6). Part of this process requires localities to provide the DEQ with detailed technical information evaluating any impact that proposed alterations might have on the quality of water provided to the public. *Id.*

State Representative Phil Phelps issued information requests under the Freedom of Information Act (FOIA) to the Department of Environmental Quality (DEQ), the Michigan Department of Treasury, and the City of Flint. Representative Phelps wants to see if the State and City knew in advance about the potential hazards now faced by Flint residents. He wants to see what had been done to avoid this disaster. He requests documents concerning evaluations of the quality of water in the Flint River, documents specifically pertaining to the application and permit process, and other documents relating to the change in the City's water source.

In public statements, State and City officials have discussed documents addressing the change from Detroit to Flint River water as Flint's primary source of water. However, in response to Representative Phelps' FOIA requests, they now deny that such documents exist. The cleanliness of the water is a critical health and safety issue, which must be revealed to the public. The Defendants cannot make public assurances of the existence of documents, only to refuse to turn those documents over.

As a result, Representative Phelps is now forced to file this action, along with another action in the Michigan Court of Claims, seeking to disclose information that the public has the right to know. For those reasons, Plaintiff Phelps seeks an Order from this Court requiring the City to respond to Plaintiff's FOIA requests and seeking costs and attorney fees for having to file this action.

PARTIES, JURISDICTION, AND VENUE

1. This matter arises under the Michigan Freedom of Information Act, MCL § 15.231, *et seq.* (“FOIA”).
2. Plaintiff Phil Phelps is the elected State Representative for the 49th State House District. His District includes part of the City of Flint.
3. Defendant City of Flint is a public body as defined in MCL §15.232(d) having custody and control of public records. The City of Flint constitutes a supplier of water for the purposes of the Michigan Safe Drinking Water Act, MCL §325.1001 *et seq.*
4. This Court has jurisdiction over the subject matter of this complaint and venue is proper in this county, pursuant to MCL §15.240(4).

GENERAL ALLEGATIONS

5. Plaintiff incorporates herein by reference each of the preceding paragraphs.
6. Pursuant to MCL § 15.233, Plaintiff, as a member of the public, has the right to inspect, copy, or receive copies of public records of a public body, including records of the City of Flint.
7. For almost fifty years, the City of Flint purchased Lake Huron water from the Detroit Water and Sewerage Department (“DWSD”).
8. On June 28, 2013, ground was broken by the Karegnondi Water Authority (“KWA”) to build a pipeline to distribute Lake Huron water throughout Genesee County without DWSD.
9. Construction of the pipeline is set to be completed in late 2016.
10. Every community in Genesee County remained with DWSD during the construction of the pipeline with the exception of the City of Flint.

11. Darnell Earley, the Emergency Manager appointed to the City of Flint by Governor Richard Snyder under the Local Financial Stability and Choice Act, MCL §141.1541 *et seq.*, implemented the switch from DWSD water to the Flint River that took place on April 25, 2014.

THE DECISION TO SWITCH FROM DWSD WATER TO FLINT RIVER WATER

12. Prior to switching from DWSD to Flint River water, the City of Flint, in conjunction with the Michigan Department of Environmental Quality and the Michigan Department of Treasury engaged in a process to evaluate the potential of using the Flint River as Flint's primary source of water. (*Exhibit A*, 91-95)

13. Gerald Ambrose, the financial advisor to the emergency manager for the City of Flint at the time, testified that: "There was brief evaluation of whether the City would be better off to simply use the Flint River as its primary source of water over the long term. That was determined not to be feasible." (*Id.* at 91)

14. Mr. Ambrose went on to testify that the determination that it was not feasible was made by "the emergency management team based on conversations with the MDEQ that indicated they would not be supportive of the use of the Flint River on a long-term basis as a primary source of water." (*Id.*)

15. Mr. Ambrose also testified in regards to an independent study that was conducted by the State Department of Treasury as to the feasibility of changing the source of water to the Flint River. (*Id.* at 93-94)

16. Notwithstanding this evaluation, the City of Flint decided to move forward with changing the source of its drinking water to the Flint River until the KWA pipeline was finished.

17. In order to do so, however, the City of Flint was required by the Safe Drinking Water Act to apply for a permit to change the source of water:

(6) Before commencing the construction of a waterworks system or an alteration, addition, or improvement to a system, a supplier of water shall submit the plans and specifications for the improvements to the department and secure from the department a permit for construction as provided by rule. Plans and specifications submitted to the department shall be prepared by a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder, or supplier of water shall not engage in or begin the construction of a waterworks system or an alteration, addition, or improvement to a waterworks system until a valid permit for the construction has been secured from the department. A contractor, builder, or supplier of water who permits or allows construction to proceed without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, violates this act. A supplier of water shall not issue a voucher or check or in any other way expend money or provide consideration for construction of a waterworks system unless a valid permit issued by the department is in effect. The department may issue a permit with conditions to correct minor design deficiencies. If eligible, a supplier may request an expedited review of an application for a permit under section 4a.

MCL § 325.1004(6).

18. The Safe Drinking Water Act provides that the DEQ administers the Act and promulgates administrative rules to enforce its requirements. One of those administrative rules defines “alteration” to include “modification of, or addition to, an existing waterworks system, or portion of the system, that affects . . . the source . . .” Admin. Rule 325.10102.

19. On the DEQ’s website, the DEQ provides the application discussed above.
(Exhibit B)

20. The application requires the submission of highly technical plans and analysis for the alteration of the Water System. *(Id.)*

21. Failure of a “supplier of water”—which include municipalities—to apply and receive a permit prior to alteration of a Water System violates the Act punishable by a fine of not more than \$5,000.00 for each day of violation, or by imprisonment for not more than 1 year, or both. MCL § 325.1021.

22. Prior to switching to the Flint River, it was reported that the City was in the process of applying for such a permit. *(Exhibit C)*

23. On March 28, 2014, it was reported that the Michigan Department of Environmental Quality halted the City's attempt to move forward with the switch in water source without receiving the permit. (Id.) Steve Busch, the Lansing and Jackson district supervisor for the DEQ, noted that the DEQ had only received "preliminary design plans and preliminary specifications" that the agency had commented on. (Id.)

24. Howard Croft, Flint's Director of Public Works, denied the inadequacy of the plans provided noting that the City had provided "A fully engineered construction package, including all the work to be performed." (Id.) He went on to note that, "The submittal package has been under review for more than 30 days. The city has had ongoing discussions with the DEQ regarding the process and we anticipate a favorable response soon." (Id.)

25. On April 5, 2014, Emergency Manager Earley stated that the final application for the permit was filed with the DEQ noting that "We expect to have the permit early next week." (*Exhibit D*)

26. Sure enough, the very next week, the spokesman for the Department of Environmental Quality (DEQ), Brad Wurfel, was reported on April 10, 2014 as saying that the DEQ issued "a series of construction permits" noting that "They are racing to get all this work done." (*Exhibit E*)

27. The switch to Flint River water took place on April 25, 2014. (*Exhibit F*)

**RESIDENTS OF FLINT ARE EXPOSED TO CONTAMINANTS
AFTER THE SWITCH TO FLINT RIVER WATER**

28. Since switching to Flint River water, Flint residents have been placed in jeopardy being exposed to substantial threats to their health and safety due to contaminants found in their drinking water.

29. On August 14, 2014, the water tested positive for fecal coliform bacteria, E.coli, leading the City to issue a boil water advisory. (*Exhibit G*)

30. The water once again tested positive on August 19, 2014 with boil water advisories extending into late September 2014. (*Exhibit H*)

31. On January 2, 2015, a new threat to public health and safety was identified. In an effort to eliminate the bacteria, the City increased the chlorine used in the System. Residents began complaining that the water was causing skin rashes and their hair falling out. (*Exhibit I*)

32. Then, on January 2, 2015, the City of Flint officially announced that the level of trihalomethanes (TTHMs)—a byproduct of disinfectant—was higher than the allowable amount provided for in federal law forcing the City to provide notice to residents. (*Exhibit J*)

33. Long term exposure to TTHMs can create liver, kidney, or central nervous system problems, and may increase the risk of cancer, especially amongst those who have severely compromised immune systems such as infants or the elderly. (*Id.*)

34. Over nine months later, the City was finally able to reduce TTHM levels to the federal limit. (*Exhibit K*)

35. Most recently, in July 2015, Virginia Tech University researchers released the results of their own independent study of Flint's water supply revealing incredibly high amounts of lead far exceeding the allowable limitations of lead content under federal law. (*Exhibit L*)

36. On September 2, 2015, the researchers at Virginia Tech released another study that compared the DWSD water to the Flint River water (*Exhibit L*). That study concluded that the natural corrosive properties of Flint River water is leaching lead from the City's aging infrastructure. (*Exhibit L*)

37. On September 24, 2015, the results of a subsequent study by Dr. Mona Hanna-Attisha, program director for the pediatric residency at the Hurley Children's Hospital at Hurley Medical Center in Flint were released finding an elevated level of lead in the blood samples of Flint children. (*Exhibit M*) Specifically, the study showed that the number of children in the City with elevated blood levels nearly doubled after the city started using the river. (Id.)

38. According to Dr. Hanna-Attisha: "What we found in our data is concerning." (Id.) Dr. Hanna-Attisha noted that "This is not something you mess around with." (Id.)

**REPRESENTATIVE PHELPS SEEKS DOCUMENTS RELATING TO
 CHANGING THE CITY'S SOURCE OF WATER TO
 THE FLINT RIVER AND THE CITY AND STATE FAILED TO COMPLY**

39. In response to this health crisis, Representative Phelps requested the following records from the Michigan Department of Environmental Quality, the Michigan Department of Treasury, and the City of Flint pursuant to FOIA on September 4, 2015:

1. All documents the [City of Flint/Michigan Department of Treasury/Michigan Department of Environmental Quality], or its agents, has in its possession, including correspondence, related to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.
2. All documents the [City of Flint/Michigan Department of Treasury/Michigan Department of Environmental Quality], or its agents, has in its possession, including correspondence, related to any communications between the Michigan Department of Environmental Quality, or its agents, and/or the Michigan Department of Treasury, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.

3. All documents the [City of Flint/Michigan Department of Treasury/Michigan Department of Environmental Quality] has in its possess, including correspondence, related to any communications between the [City of Flint of Treasury/Michigan Department of Treasury/Michigan Department of Environmental Quality], or its agents, and the Office of the Governor of the State of Michigan, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.

(Exhibit N)

40. On September 4th, Representative Phelps had a face-to-face conversation with Howard Croft, Flint's Director of Public Works, at the Flint City Hall beginning shortly after 3:00pm and ending around 4:20pm. Representative Sheldon Neeley was also present during the meeting.

41. Both Representative Phelps and Neeley asked several questions regarding the switch to Flint River water, the permits and applications surrounding the switch, potential hold ups/delays in the switch due to DEQ's approval process, and correspondence between the City of Flint and the DEQ regarding all of the previous items.

42. Howard Croft said that they did in fact have documents related to those topics and stated that it would be no problem to share them with both Representatives.

43. On September 14, 2015, the City of Flint changed its story. In the City of Flint's formal response to Representative Phelps' FOIA requests dated September 14, 2015, the City has refused to provide those documents. *(Exhibit O)*

44. Contradicting Mr. Croft's earlier assertions as well as statements made to the press in 2014, the City of Flint asserted that no such documents exist:

The records which you have requested do not exist under the name given by the requester or by another name reasonably known to this public body or are not retained by this public body in the performance of an official functions. This is a certification of their non-existence. No Records—Requested documents do not exist.

(Id.)

45. The DEQ responded on or about September 16th by telephone indicating that it was DEQ policy to provide copies of documents to members of the State Legislature free of charge and noting that there were several documents that would be sent over to Representative Phelps' office via email, but only if he withdrew his FOIA request.

46. Representative Phelps indicated that he had to contact his attorney to discuss whether he should withdraw the FOIA requests. Since that day, Representative has not received any verbal communication with the DEQ.

47. On September 28, 2015, after Representative Phelps refused to withdraw his FOIA request, the DEQ changed its tone like the City of Flint. (*Exhibit P*)

48. Brad Wurfel, the spokesman for the DEQ stated in an interview with Gongwer that "Flint did not have to file an application because the City has always listed the Flint River as its back-up should it need it for a water supply." (*Exhibit Q*)

49. Obviously, Mr. Wurfel's most recent statement ignores the statements that he, and others, made to the media prior to the switch. They all maintained that Flint was required to file an application for a permit with the DEQ and did in fact file an application that was ultimately approved by the DEQ on or about April 10, 2014.

50. Nonetheless, Mr. Wurfel indicated during that interview that "other documents . . . are available—to Mr. Phelps or anyone—dealing with the process the city and state took preparing for the switch." (*Id.*) To date, Representative Phelps has not received these other documents.

51. Similarly, the Michigan Department of Treasury denied Representative Phelps' FOIA request on the same grounds as the City of Flint and the DEQ on September 29, 2015. (*Exhibit R*)

52. To date, Representative Phelps' has not received the documents that he requested.

53. The public has a right to know the degree to which the State knew about or took any action to determine the potential hazards of making this switch, prior to the decision being implemented by the State-appointed Emergency Manager. It is for that reason that Representative Phil Phelps brings this suit to compel the City of Flint to provide the documents requested pursuant to FOIA.

COUNT I

VIOLATION OF THE FREEDOM OF INFORMATION ACT

54. Plaintiff incorporates herein by reference each of the preceding paragraphs.

55. Documents, such as correspondence and communications, relating to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity constitute public records subject to FOIA.

56. Plaintiff reasonably described the documents that he was seeking.

57. No exemption recognized under FOIA applies to Representative Phelps' requests.

58. The Defendant's denial is wholly without merit as acknowledged by the Defendant's own agents in the past. Defendant failed to perform a good faith effort to conduct a search for the requested records using methods reasonably expected to produce the requested information.

59. Hence, Defendant violated the FOIA, and for the violation, the Defendant should face all fines, costs and fees as pursuant to the FOIA statute, as well as be ordered to immediately tender the information.

60. Due to the Defendant's refusal to respond to the FOIA requests, the Defendant now bears the burden to sustain the reason for its denial. MCL §15.240(4).

MILLER COHEN, P.L.C.
 ATTORNEYS AND COUNSELORS AT LAW
 600 WEST LAFAYETTE BLVD.
 DETROIT, MICHIGAN 48226-0840
 (313) 964-4454

61. MCL § 15.240(5) provides that actions commenced pursuant to FOIA “shall be assigned for hearing and trial and for argument at the earliest practicable date and expedited in every way.

WHEREFORE, and for the above-stated reasons, Plaintiff requests that this Honorable Court grant the following relief:

- a. Order an expedited hearing as required by MCL § 15.240(5);
- b. Order that the Defendant to immediately respond to the FOIA requests of Plaintiff as found in the *Exhibit N* letters;
- c. Find that the Defendant made a final determination to deny the FOIA requests, and such determination was in violation of the FOIA and arbitrary and capricious. Thus, Order that the Defendant pay to Plaintiff reasonable attorney’s fees, costs and disbursements, and order punitive damages of \$5.00;
- d. Award all other relief as this Court deems appropriate.

Respectfully submitted,

MILLER COHEN, P.L.C.

By: _____
 Keith D. Flynn (P74192)
Attorneys for Plaintiff
 600 W. Lafayette, 4th Fl.
 Detroit, MI 48226
 (313) 964-4454

Dated: October 12, 2015

VERIFICATION OF THE COMPLAINT

I, Phil Phelps, being first duly sworn, deposes and says that he is authorized to verify this Complaint, that he has read the complaint and based on his knowledge it is true as to its facts and he believes it is true as to its conclusions, to the best of his knowledge and belief.

Dated: _____

PHIL PHELPS

Subscribed and sworn to before me on
this ____ day of October, 2015

_____, Notary Public

_____ County, MI

Acting in _____ County, MI

My Commission expires: _____

MILLER COHEN, P.L.C.

ATTORNEYS AND COUNSELORS AT LAW

600 WEST LAFAYETTE BLVD.

DETROIT, MICHIGAN 48226-0840

(313) 964-4454

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOHN WELCH, JUDITH WELCH, KENNETH
SPARKS, JR., CAROL SPARKS, SHERRY
MURPHY, AND MARK FULKS
ON BEHALF OF THEMSELVES AND
ALL OTHERS SIMILARLY SITUATED,
AND UNITED RETIRED GOVERNMENTAL
EMPLOYEES (URGE), A MICHIGAN
NONPROFIT CORPORATION,
Plaintiffs,

CASE NO: 2:12-cv-13808-AJT-MKM

vs

HON. ARTHUR J. TARNOW

MICHAEL BROWN, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS EMERGENCY
MANAGER OF THE CITY OF FLINT, EDWARD
KURTZ, INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS EMERGENCY MANAGER OF THE
CITY OF FLINT, ROBERT ERLÉNBECK,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS MANGER FOR THE CITY OF
FLINT RETIREMENT OFFICE, GERALD AMBROSE,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS CITY OF FLINT FINANCE
DIRECTOR, AND THE CITY OF FLINT,

Defendants.

The Deposition of GERALD AMBROSE,
taken before me, Claudia M. Weekly, CSR-2963, on Tuesday, May
20, 2014, at 1101 South Saginaw Street, 2nd Floor Conference
Room, Flint, Michigan, commencing at or about 10:17 A.M.

1 talking about, are you referring to the cost of the
2 City's participation in the pipeline?

3 Q Both.

4 A I had no direct involvement in any discussions relating
5 to the actual cost estimates for the construction of the
6 pipeline. I was, however, involved in doing the analysis
7 of the cost benefit to the City of participating in the
8 Karegnondi Water Authority as compared to continuing to
9 receive, to purchase water from the Detroit Water and
10 Sewer System.

11 Q Were any other options -- did you look at any other
12 options apart from those two or variations of those two?

13 A There was brief evaluation of whether the City would be
14 better off to simply use the Flint River as its primary
15 source of water over the long term. That was determined
16 not to be feasible.

17 Q Who determined that it wasn't feasible?

18 A It was a collective decision of the emergency management
19 team based on conversations with the MDEQ that indicated
20 they would not be supportive of the use of the Flint
21 River on a long-term basis as a primary source of water.

22 Q What was the reason that they gave?

23 A You'll have to ask them.

24 Q Okay. You don't recall?

25 A I do not recall.

1 Q Now, am I correct in that is actually what is happening
2 now, for at least a short-term --

3 A That's correct.

4 Q -- the City of Flint is using its own facilities and
5 supplying its own water through the Flint River?

6 A That is correct.

7 Q When was the possibility of using that as a long-term
8 solution abandoned?

9 MR. WARREN: Do you mean the Flint River?

10 MR. ALEC GIBBS: Yes.

11 THE WITNESS: Probably sometime in FY13. I
12 don't recall specifically.

13 MR. BADE: I'm just going to object to the form
14 of the question. Abandoned by whom?

15 Q (BY MR. ALEC GIBBS) By the collective body that was
16 responsible for making the ultimate decision by the City
17 of Flint, I assume. Sometime in fiscal year 2013?

18 A Sometime between -- I guess sometime probably during '13,
19 I believe, or perhaps even midway through '12.

20 Q Okay.

21 A I don't recall the specific dates.

22 Q But it was based on communications from the Michigan
23 Department of Environmental Quality.

24 MR. WARREN: Objection; asked and answered.
25 You can answer.

1 THE WITNESS: It was based on information that
2 we received from others within the City who said that
3 MDEQ was not supportive of a long-term use of the Flint
4 River.

5 Q (BY MR. ALEC GIBBS) Who are the City of Flint sources who
6 communicated the Michigan Department of Environmental
7 Quality's position?

8 MR. WARREN: Object to lack of foundation. You
9 can answer.

10 THE WITNESS: I believe it was our utilities
11 administrator, our public works director.

12 Q (BY MR. ALEC GIBBS) And who are those individuals?

13 A Howard Croft, Daugherty Johnson.

14 Q Are you aware of an independent study on the feasibility
15 of alternative plans for water supply for the City of
16 Flint that was commissioned by the Department of
17 Treasury?

18 MR. WARREN: I'm going to object to relevance.
19 We're getting really far afield here. I'm not directing
20 him not to answer, but hopefully this can be tied up very
21 quickly and we can all move on.

22 Q (BY MR. ALEC GIBBS) I'm just asking if you're aware of
23 the study.

24 A Tell me what the name of the study is.

25 Q I have it here. Mark this as Exhibit 5.

(Exhibit Number 5 was marked.)

Q (BY MR. ALEC GIBBS) Do you recognize this study?

A I do not recall seeing this actual document, but I am aware of the study.

Q Okay. Do you remember when this study was commissioned?

A I don't know. Apparently it was completed in February of 2013.

Q The study makes reference to a number of meetings between the City of Flint and the Department of Treasury concerning the investigation into water supply options for the City of Flint. Did you participate in any of those meetings?

A I did.

Q What meetings do you recall participating in?

A I recall one or two meetings in Lansing. I don't remember when.

Q Do you remember if one of those meetings took place in December of 2012?

A I do not recall the date.

Q Do you remember who participated in these meetings?

A I do not recall. I was in attendance with the emergency manager then Michael Brown, as I recall, or Ed Kurtz. I honestly do not recall the dates and the timing.

Q Okay. There is a reference to, if you look to Page 2 of the study, it says although it appeared that this was

1 a -- it references an option for the Flint water
2 treatment plant to supply the City of Flint without being
3 supplied from either DWSD or KWA was initially
4 considered. The preliminary investigation evaluated the
5 cost associated with the required improvements to the
6 plant and the Flint River dam system. And that although
7 it appeared that this was a viable option, Flint, in a
8 meeting on December 20th, 2012 with the treasury, stated
9 that the City did not want to pursue that option and it
10 is no longer being considered.

11 Do you recall that being discussed in one of
12 those meetings you referred to earlier?

13 A No. But that's consistent with the decision that we
14 reached.

15 Q You indicated that you did participate in some of the
16 evaluations of the cost projections at least as it
17 concerned Flint's contribution to the pipeline.

18 A Flint's participation in the pipeline, yes.

19 Q Okay. Well, what is your understanding of what Flint's
20 annual contributions will be over the term of years for
21 the loan bond amounts? In other words, what are Flint's
22 debt service payments relative to the pipeline
23 construction going to be on an annual basis?

24 A The debt service only?

25 Q And any payments associated with the pipeline

EXHIBIT B

PERMIT APPLICATION FOR WATER SUPPLY SYSTEMS
 (CONSTRUCTION - ALTERATION - ADDITION OR IMPROVEMENT) AS DESCRIBED HEREIN
Required under the Authority of 1976 PA 399, as amended

This application becomes an Act 399 Permit only when signed and issued by authorized Michigan Department of Environmental Quality (DEQ) Staff. See instructions below for completion of this application.

Municipality or Organization, Address and WSSN that will own or control the water facilities to be constructed. This permit is to be issued to: WSSN:	Permit Stamp Area (DEQ use only)	
Owner's Contact Person (provide name for questions): Contact: Title: Phone:		
Project Name (Provide phase number if project is segmented):	4. Project Location (City, Village, Township):	5. County (location of proje

ISSUED UNDER THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENT QUALITY

cc:

Issued by: _____

Reviewed by: _____

☐ **If this box is marked see attached special conditions.**

Instructions: Complete items 1 through 5 above and 6 through 21 on the following pages of this application. Print or type all information except for signatures. Mail completed application, plans and specifications, and any attachments to the DEQ District Office having jurisdiction in the area of the proposed construction.

Please Note:

- a. This **PERMIT** only authorizes the construction, alteration, addition or improvement of the water system described herein and is issued solely under the authority of 1976 PA 399, as amended.
- b. The issuance of this **PERMIT** does not authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other DEQ permits, or approvals from other units of government as may be required by law.
- c. This **PERMIT** expires two (2) years after the date of issuance in accordance with R 325.11306, 1976 PA 399, administrative rules, unless construction has been initiated prior to expiration.
- d. Noncompliance with the conditions of this permit and the requirements of the Act constitutes a violation of the Act.
- e. Applicant must give notice to public utilities in accordance with 1974 PA 53, (MISS DIG), being Section 460.701 to 460.718 of the Michigan Compiled Laws, and comply with each of the requirements of that Act.
- f. All earth changing activities must be conducted in accordance with the requirements of the Soil Erosion and Sedimentation Control Act, Part 91, 1994 PA 451, as amended.
- g. All construction activity impacting wetlands must be conducted in accordance with the Wetland Protection Act, Part 303, 1994 PA 451, as amended.
- h. Intentionally providing false information in this application constitutes fraud which is punishable by fine and/or imprisonment.
- i. Where applicable for water withdrawals, the issuance of this permit indicates compliance with the requirements of Part 327 of Act 451, Great Lakes Preservation Act.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit Application for Water Systems (Continued)

Facilities Description – In the space below provide a detailed description of the proposed project. Applications without adequate facilities descriptions will be returned. SEE EXAMPLES BELOW. Use additional sheets if needed.

EXAMPLES – EXAMPLES – EXAMPLES – EXAMPLES – EXAMPLES – EXAMPLES

Water Mains	500 feet of 8-inch water main in First Street from Main Street north to State Street. OR 250 feet of 12-inch water main in Clark Road from an existing 8-inch main in Third Avenue north to a hydrant.
Booster Stations	A booster station located at the southwest corner of Third Avenue and Main Street, and equipped with two, 15 Hp pumps each rated 150 gpm @ 200 feet TDH. Station includes backup power and all other equipment as required for proper operation.
Elevated Storage Tank	A 300,000 gallon elevated storage tank located in City Park. The proposed tank shall be spherical, all welded construction and supported on a single pedestal. The tank shall be 150 feet in height, 40 feet in diameter with a normal operating range of 130 – 145 feet. The interior coating system shall be ANSI/NSF Standard 61 approved or equivalent. The tank will be equipped with a cathodic protection system, and includes a tank level control system with telemetry.
Chemical Feed	A positive displacement chemical feed pump, rated at 24 gpd @ 110 psi to apply a chlorine solution for Well No. 1. Chlorine is 12.5% NaOCL, ANSI/NSF Standard 60 approved and will be applied at a rate of 1.0 mg/l of actual chlorine.
Water Supply Well	Well No. 3, a 200 foot deep well with 170 feet of 8-inch casing and 30 feet of 8-inch, 10 slot screen. The well will be equipped with a 20 Hp submersible pump and motor rated 200 gpm @ 225 feet TDH, set at 160 feet below land surface.
Treatment Facilities	A 5 million gpd water treatment plant located at the north end of Second Avenue. The facility will include 6 low service pumps, 2 rapid mix basins, 4 flocculation/sedimentation basins, 8 dual media filters, 3 million gallon water storage reservoir and 6 high service pumps. Also included are chemical feed pumps and related appurtenances for the addition of alum, fluoride, phosphate and chlorine.

Permit Application for Water Systems (Continued)

General Project Information – Complete all boxes below.

7. Design engineer's name, engineering firm, address, phone number, and email address:

8. Indicate who will provide project construction inspection:

- ☐ Organization listed in Box 1.
☐ Engineering firm listed in Box 7.
☐ Other - name, address, and phone number listed below.

9. Is a basis of design attached?

☐ YES ☐ NO

If no, briefly explain why a basis of design is not needed.

10. Are sealed and signed engineering plans attached?

☐ YES ☐ NO

If no, briefly explain why engineering plans are not needed.

11. Are sealed and signed construction specifications attached?

☐ YES ☐ NO

If specifications are not attached, they need to be on file at DEQ.

12. Were Recommended Standards for Water Works, Suggested Practice for Water Works, AWWA guidelines, and the requirements of Act 399 and its administrative rules followed?

☐ YES ☐ NO

If no, explain which deviations were made and why.

13. Are all coatings, chemical additives and construction materials ANSI/NSF or other adequate 3rd party approved?

☐ YES ☐ NO

If no, describe what coatings, additives or materials did not meet the applicable standard and why.

14. Are all water system facilities being installed in the public right-of-way or a dedicated utility easement?

(For projects not located in the public right-of-way, utility easements must be shown on the plans.)

☐ YES ☐ NO

If no, explain how access will be obtained.

15. Is the project construction activity within a wetland (as defined by Section 324.30301(d)) of Part 303, 1994 PA 451?

☐ YES ☐ NO

If yes, a wetland permit must be obtained.

16. Is the project construction activity within a 100-year floodplain (as defined by R 323.1311(e)) of Part 31, 1994 PA 451, administrative rules?

☐ YES ☐ NO

If yes, a flood plain permit must be obtained.

17. Is the project construction activity within 500 feet of a lake, reservoir, or stream?

☐ YES ☐ NO

If yes, a Soil and Erosion Control Permit must be obtained or indicate if the owner listed in box 2 of this application is an Authorized Public Agency (Section 10 of Part 91, 1994 PA 451) ☐ Owner is APA.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit Application for Water Systems (Continued)

18. Will the proposed construction activity be part of a project involving the disturbance of five (5) or more acres of land?
☐ YES ☐ NO

If yes, is this activity regulated by the National Pollutant Discharge Elimination System storm water regulations?

☐ YES: NPDES Authorization to discharge storm water from construction activities must be obtained.

☐ NO: Describe why activity is not regulated:

Please call 517-241-8993 with questions regarding the applicability of the storm water regulations.

19. Is the project in or adjacent to a site of suspected or known soil or groundwater contamination?

☐ YES ☐ NO

If yes, attach a copy of a plan acceptable to the DEQ for handling contaminated soils and/or groundwater disturbed during construction. Contact the local DEQ district office for listings of Michigan sites of environmental contamination.

20. IF YOU ARE A CUSTOMER/WHOLESALE/BULK PURCHASER, COMPLETE THE FOLLOWING

1) Name and WSSN of source water supply system (seller) _____

2) Does the water service contract require water producer/seller to review and approve customer/wholesale/bulk purchaser water system construction plans?

☐ YES ☐ NO

If yes to #2, the producer/seller approval letter must be attached when submitted to DEQ.

21. **Owner's Certification** The owner of the proposed facilities or the owner's authorized representative shall complete the owner's certification. It is anticipated that the owner will either be a governmental agency (city, village, township, county, etc.) or a private owner (individual, company, association, etc.) of a Type I public water supply.

OWNER'S CERTIFICATION

I, _____ (name), acting as the _____ (title/position) for
 _____ (print) _____ (print)

_____ (entity owning proposed facilities) certify that this project has

(print)

been reviewed and approved as detailed by the Plans and Specifications submitted under this application, and is in compliance with the requirements of 1976 PA 399, as amended, and its administrative rules.

Signature*

Date

Phone

*Original signature only, no photocopies will be accepted.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit Application for Water Systems (Continued)

PROJECT BASIS OF DESIGN – FOR WATER MAIN PROJECTS

PROJECT NAME: _____

For this PROJECT the following information must be provided per Act 399 unless waived by the Department. For projects other than water main installation, or if additional space is needed, attach separate sheet(s) with detailed Basis of Design calculations.

- A. A general map of the initial and ultimate service areas
☐ Included on engineering plans ☐ Attached separately
- B. Number of service connections served by this permit application _____
- C. Total number of service connections ultimately served by entire project _____
- D. Residential Equivalent Units (REUs) served by this permit application _____
- E. Total Residential Equivalent Units (REUs) ultimately served by entire project _____
- F. Water flow rates for proposed project based on REUs listed in "D" and "E" above
1. Initial design average day flow (mgd) _____
 2. Initial design maximum day flow (mgd) _____
 3. Total design average day flow (mgd) _____
 4. Total design maximum day flow (mgd) _____
 5. Required fire flows: ⁽¹⁾ _____ gpm for _____ hours
- G. Actual flows and pressures of existing system at the connection point(s) ⁽²⁾
- | |
|------------------------|
| _____ gpm at _____ psi |
| _____ gpm at _____ psi |
| _____ gpm at _____ psi |
| _____ gpm at _____ psi |
- H. Estimated minimum flows and pressures within the proposed water main system ⁽³⁾
- _____ gpm at _____ psi

(1) Every water system must decide what levels of fire fighting flows they wish to provide. Fire flow should be appropriate for the area (residential, commercial, industrial) being served by the project. Typical fire flow rates can be obtained from the water supply, local fire dept., ISO or AWWA. The water system must then be designed to be able to provide the required fire flows while maintaining at least 20 psi in all portions of the distribution system.

(2) Flows and pressures at the connection points must be given to determine if the existing water main(s) are able to deliver water to the new service area. These numbers can be obtained from a properly modeled and calibrated distribution system hydraulic analysis or hydrant flow tests performed in the field. If more than one connection is proposed, list as needed.

(3) List what the estimated minimum flows can be expected in the proposed water mains based on estimated water demands, head losses, elevation changes and other factors that may affect flows, such as dead end mains.

EXHIBIT C



State says Flint hasn't applied for permit to use river as drinking water source

A look at Flint water plant's facilities

The city plans to switch over to the Flint River as a primary drinking water source in April. (*MLive.com File Photo*)

Dominic Adams | dadams5@mlive.com By **Dominic Adams | dadams5@mlive.com**

Follow on Twitter

on March 28, 2014 at 6:30 AM, updated March 28, 2014 at 6:35 AM

FLINT, MI – Not so fast, state officials are telling Flint administrators charging toward an April 18 date to begin using the Flint River for all of the city's water needs.

The Michigan Department of Environmental Quality says it hasn't received the proper paperwork from the city. When the state does get it, a review of the application for state permission to use the river could take 30 to 45 days.

The city is switching over from buying treated water from Detroit to using the Flint River for drinking water temporarily. Once the Karegnondi Water Authority completes its pipeline from Lake Huron to Genesee County, Flint will switch to the KWA.

"In regards to the actual application, we haven't received one," said Steve Busch, Lansing and Jackson district supervisor in the DEQ's office of drinking water and municipal assistance. "We've received preliminary design plans and preliminary specifications and we've commented on those. They may be waiting until they have all the comments worked out before they submit the application."

Flint has bought treated Lake Huron water from Detroit, but that contract was terminated when Flint signed on to purchase 18 million gallons of raw water per day from the Karegnondi Water Authority. The contract termination goes into effect April 17.

The under-construction pipeline will bring raw Lake Huron water to Flint and Genesee County when it is complete by the end of 2016.

People in the city will drink Flint River water until the pipeline is complete. The Detroit Water and Sewerage

State says Flint hasn't applied for permit to use river as drinking water source

Page 2 of 2

Department said it would **stop selling water to Flint and Genesee County** on its current contract on April 17, 2014. Genesee County is negotiating with Detroit for water until the KWA pipeline is flowing.

Busch said state reviews generally take between 30 and 45 days, but would not comment on if Flint would be ready to transition to river water by the time Detroit terminates the contract with the city.

"A fully engineered construction package, including all the work to be performed, has been submitted to the DEQ by the city of Flint in preparation for the transition to use of the Flint River as a temporary primary water source," said Howard Croft, Flint's director of public works, in a statement. "The submittal package has been under review for more than 30 days. The city has had ongoing discussions with the DEQ regarding the process and we anticipate a favorable response soon."

If the state hasn't approved Flint's use of river water by April 18, Busch said, the city would just continue to buy water from Detroit on a non-contract price until Flint has state OK to begin using the river.

"I don't think there is any scenario that we will just willy-nilly cut off service for Flint," said Bill Johnson, a consultant and spokesman for Detroit Water and Sewerage Department. "Negotiations are continuing."

Croft said the DEQ has been reviewing the request and asking questions throughout.

"When both sides come to an agreement and all issues have been addressed, then the permit is granted," Croft said in the statement. "Flint has been in ongoing communication with Genesee County and the DWSD to ensure that there is no interruption of water service to Flint customers. As the Mayor (Dayne Walling) said in his State of the City address 'beginning this spring, we will be using treated water from the Flint River as our temporary primary water source.' We are still on target to meet this goal."

Croft said there will be a series of public forums where residents can ask questions about the city's water transition, what that will mean for rates and others. He did not have specifics about when and where those meetings will take place.

*Dominic Adams is a reporter for The Flint Journal. Contact him at dadams5@mlive.com or 810-241-8803. Follow him on **Twitter**, **Facebook** or **Google+**.*

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EXHIBIT D



Emergency manager says city could have permit to use Flint River water by next week

Ron Fonger | rfonger1@mlive.com By **Ron Fonger | rfonger1@mlive.com**

on April 05, 2014 at 6:00 AM, updated April 05, 2014 at 6:03 AM

FLINT, MI -- The city expects to have a state permit that will allow it to use the Flint River for drinking water by next week.

Emergency manager Darnell Earley said today, April 4, that the final application for the permit has been filed with the state Department of Environmental Quality after months of working with the state to ensure smooth sailing for the application.

"We expect to have the permit early next week," said Earley. "We are still on track to operate our treatment plant this spring."

The emergency manager's comments come after a **story in MLive-The Flint Journal** last week indicated the DEQ had not received the proper paperwork from the city for permission to use the river.

DEQ officials said in the story that the application process could take 30-45 days, but Earley challenged the idea that it will take that long and said city and state officials have been working closely in advance of submitting the final application.

The city is attempting to switch from buying treated water from the city of Detroit to using the Flint River for drinking water temporarily by mid-April.

Once the Karegnondi Water Authority completes its pipeline to Lake Huron, the city has committed to switching back to using water from Lake Huron and the KWA again.

Earley said he expects to transition from Detroit water to Flint River water by April 17, the date Detroit officials have set for terminating the existing arrangement between the two cities.

"We don't think there will be a lag" between those dates, he said.

Earley said he has a contingency plan if the switch to the Flint River isn't made by April 17. Detroit Water

Emergency manager says city could have permit to use Flint River water by next week Page 2 of 2
and Sewerage officials have said they don't intend to attempt to shut off the water supply to the city under any circumstances.

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EXHIBIT E



Flint gets final permit approvals from state to use Flint River for drinking water

Ron Fonger | rfonger1@mlive.com By Ron Fonger | rfonger1@mlive.com

on April 10, 2014 at 4:00 PM, updated April 10, 2014 at 4:10 PM

FLINT, MI -- Bottoms up, Flint.

The state of Michigan has issued the **permits needed** for the city to begin using the Flint River for drinking water, a major step toward ending water purchases from the city of Detroit as early as next week.

"They've got a series of construction permits" that were issued Wednesday, April 10, said Brad Wurfel, a spokesman for the state Department of Environmental Quality. "They are **racing** to get all this work done."

The permits have been on Flint's to-do list since the Detroit Water and Sewerage Department said it was terminating its contract to sell water here on April 17.

That deadline was issued one year ago, and city and state water officials have been working and consulting on required upgrades at Flint's water treatment plant since.

Flint spokesman Jason Lorenz said today, April 10, that the city is still targeting April 17 as the day to shut off Lake Huron water -- treated and pumped here by DWSD -- and to turn on the intakes into the river.

Because work is still going on inside and outside the city's treatment plant, the exact time and date for the switch hasn't been set yet, Lorenz said.

Earlier this week, Flint emergency manager Darnell Earley called the city's ability to cut out the cost of water purchases from Detroit a "monumental change" for the city.

"The city of Flint will be able to control water costs," Earley said. "I'm kind of glad we're not a part of that discussion (about the future of the Detroit water system) anymore."

A consultant hired by Earley is expected to recommend new water rates during a City Council committee meeting at 5 p.m. today. The emergency manager has already said **rates will not be reduced** because of upgrades that are needed in Flint's water distribution system.

Flint officials will need that infrastructure upgrade whether they use river or lake water. City officials have signed an agreement to use Lake Huron water supplied by the Karegnondi Water Authority once the pipeline it is building is completed -- something that's expected to happen in 2016.

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EXHIBIT F



Watch Mayor Dayne Walling, EM Darnell Earley drink Flint River water before turning Detroit connection



Mayor Dayne Walling turns off water supply from Detroit, drinks Flint River water

Mayor Dayne Walling turns off the flow of water from Detroit as the Flint transitions to using the Flint River

Dominic Adams | dadams5@mlive.com By **Dominic Adams | dadams5@mlive.com**

Follow on Twitter

on April 25, 2014 at 1:00 PM, updated April 28, 2014 at 10:30 AM

FLINT, MI – Mayor Dayne Walling asked for a countdown from the group of about a dozen people huddled inside a small building on Friday, April 25.

"Three, two, one," they counted, then Walling pushed a small black button.

Seconds later, a green light winked out, and that was it.

Watch the video to see Flint effectively cut its water ties with Detroit when the mayor pushes the button.

Flint will use the river until the Karegnondi Water Authority builds its pipeline to Genesee County. The \$274 million project is expected to be complete sometime in 2016.

Friday's event at the Flint water treatment plant also featured Walling and other elected officials drinking Flint River water.

"It tastes like...water," said Fourth Ward Councilman Joshua Freeman after drinking a cup.

It should take about two days for the residual Detroit water to clear the city's water system before all Flint customers will be drinking treated river water.

"Water is an absolute vital service that most everyone takes for granted," Walling said. "It's a historic moment for the city of Flint to return to its roots and use our own river as our drinking water supply."

*Dominic Adams is a reporter for The Flint Journal. Contact him at **dadams5@mlive.com** or 810-241-8803. Follow him on **Twitter**, **Facebook** or **Google+**.*

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EXHIBIT G



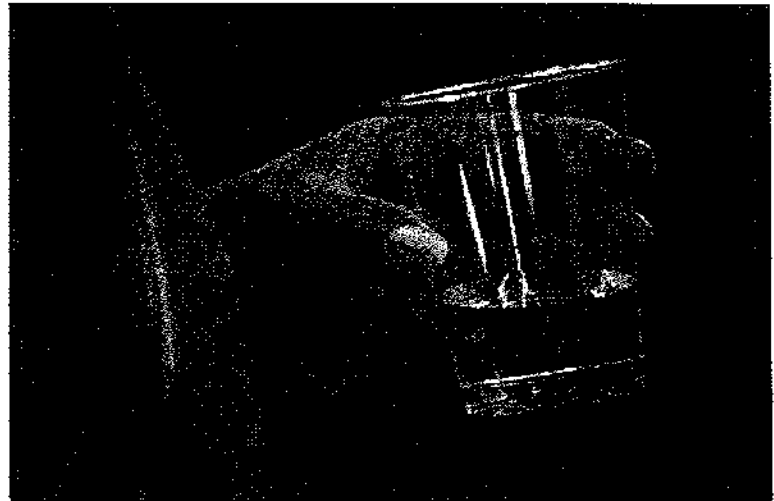
Second positive coliform bacteria test means Flint's west side water boil notice still in effect

Ron Fonger | rfonger1@mlive.com By Ron Fonger | rfonger1@mlive.com

on August 18, 2014 at 4:00 PM, updated January 17, 2015 at 10:28 AM

(This story has been updated to correct information about water test results in the boil water advisory area.)

FLINT, MI -- A second water sample in an area where residents have been told to boil their drinking water has tested positive for total coliform, meaning owners of businesses and residents there should continue to boil water until further notice - at least until Wednesday, Aug. 19.



Flint Journal file photo

"We don't know yet what caused this. We don't have a smoking pistol," said Mike Prysby, an engineer with the Michigan Department of Environmental Quality.

Update: Flint officials say 'abnormal' test to blame in E. coli scare

Flint officials have ramped up testing in the boil-water area, a half-mile square area on the city's west side, since a positive test for fecal coliform bacteria on Thursday, Aug. 14.

Fecal coliform bacteria -- also known as E.coli -- can make people sick, and are a particular concern for those with weakened immune systems.

Prysby called fecal coliform bacteria in drinking water unusual, something that typically happens fewer than a half-dozen times in any given year statewide. Sometimes, doesn't happen anywhere in Michigan over a full calendar year, he said.

The second positive test for total coliform came from samples taken Saturday, Aug. 16, according to Prysby.

The U.S. Environmental Protection Agency says positive total coliform tests suggest there may be a pathway
http://blog.mlive.com/newsnow_impact/print.html?entry=/2014/08/second_postivie_ecoli_... 10/1/2015

Second positive coliform bacteria test means Flint's west side water boil notice still in effect Page 2 of 3
for pathogens and/or fecal contamination to enter the drinking water distribution system.

For drinking water, total coliforms are used to determine the adequacy of water treatment and the integrity of the distribution system, according to EPA.

"The absence of total coliforms in the distribution system minimizes the likelihood that fecal pathogens are present," the agency Web site says. "Thus, total coliforms are used to determine the vulnerability of a system to fecal contamination."

Fecal coliform and E. coli are bacteria that indicate water may be contaminated with human or animal feces.

This is the area in which a boil water advisory is in effect on the west side of the city of Flint.

Microbes in these wastes can cause diarrhea, cramps, nausea, headaches, or other symptoms, and may also pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems, according to a news release from the city.

Flint's boil advisory is in an area bordered by Mann Hall Avenue on the north and east, Whitney Avenue on the south, and the city limits on the west.

The contamination is a concern for Sandi Blackmon, owner of Sandi's Elegant Catering on South Ballenger Highway, who said she's scrambling to keep up with her work with a boil advisory in effect.

Not only does the advisory say water for drinking should be boiled, but also water for washing dishes -- even brushing teeth.

"I'm concerned, because I'm a former culinary arts student. I know about what food-born bacteria can do ... E.coli can be deadly," Blackmon said.

Representatives of other restaurants in the busy commercial area of Balleneger and Corunna Road said they were boiling water Monday and will be until they receive an all-clear message from City Hall.

"It's inconvenient but we do it -- we do the best we can," said David Todorovsky, an owner of Atlas Coney Island.

Flint Councilwoman Vicki VanBuren, who represents the area, has another reason for concern about the boil water advisory.

"My mother lives in that area," VanBuren said. "She has a lot of health concerns (so) I took her over some bottled water and told her not to use (tap water) to drink or cook with it.

Second positive coliform bacteria test means Flint's west side water boil notice still in effect Page 3 of 3

"This would concern me no matter what part of the city it was in," she said.

Council members could get more information on the water contamination and what may have caused it at committee meetings this week.

In the meantime, Prysby said there are multiple possible explanations for the contamination, including water main breaks in the area, chlorine levels that are off-kilter or a poor sample location or collection technique.

Prysby said water coming out of Flint's water treatment plant continues to meet all drinking water standards, meaning the problem is within the water distribution system.

"We haven't confirmed a reason," he said of the results, "We're still investigating further. In some situations, we never find out why."

The city is warning the people in the localized area to not drink the water without boiling it first for one minute, and letting it cool before using.

Boiled or bottled water should be used for not just drinking, but for making ice, brushing teeth, washing dishes and preparing food.

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EXHIBIT H



Tests positive for total coliform again in water-boil area on Flint's west side

Ron Fonger | rfonger1@mlive.com By **Ron Fonger | rfonger1@mlive.com**

on August 19, 2014 at 4:00 PM, updated January 17, 2015 at 10:25 AM

FLINT, MI -- Water in a small area on Flint's west side has **tested positive** again for total coliform, and the city's boil water advisory there is continuing until at least Wednesday, Aug. 20.

MLive file photo

Mike Prysby, district engineer for the Michigan Department of Environmental Quality, said water in the half-square-mile area tested positive for total coliform on Saturday, Aug. 16, and Sunday, Aug. 17.

Flint officials have ramped up testing in the boil-water area since a **positive test for fecal coliform bacteria** on Thursday, Aug. 14.

The boil-water area is Mann Hall Avenue on the north and east, Whitney Avenue on the south, and the city limits on the west.

Fecal coliform bacteria -- also known as E.coli -- can make people sick, and are a particular concern for those with weakened immune systems.

The U.S. Environmental Protection Agency says positive total coliform tests suggest there may be a pathway for pathogens and/or fecal contamination to enter the drinking water distribution system.

Total coliforms are used to determine the adequacy of water treatment and the integrity of the distribution system, according to EPA.

"The absence of total coliforms in the distribution system minimizes the likelihood that fecal pathogens are present," the agency Web site says. "Thus, total coliforms are used to determine the vulnerability of a system to fecal contamination."

The city of Flint **issued a statement** Monday, Aug. 18, saying "testing over the last 48 hours has shown no signs of E. coli or fecal coliform bacteria in the water," but makes no mention of the total coliform test results.

The city's statement says a sampling error is believed to be to blame for the initial abnormal test.

Prysby said the back-to-back positive total coliform tests are a "general indicator there could be more pathogenic organisms present" in water but is "not a direct indicator."

"We haven't narrowed it down to any one possibility (but) we don't play Russian roulette with public health," Prysby said of the abnormal samples and the need to continue testing.

Prysby said test results are "moving in the right direction" because there have been no additional discoveries of *E. coli* or fecal coliform bacteria in water.

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Flint issues boil water advisory for section of the city after positive test for total coliform bacteria

Ron Fonger | rfonger1@mlive.com By Ron Fonger | rfonger1@mlive.com

on September 05, 2014 at 6:56 PM, updated January 17, 2015 at 10:20 AM

FLINT, MI -- The city has issued a boil advisory for a portion of Flint, saying water in the area has tested positive for total coliform bacteria.

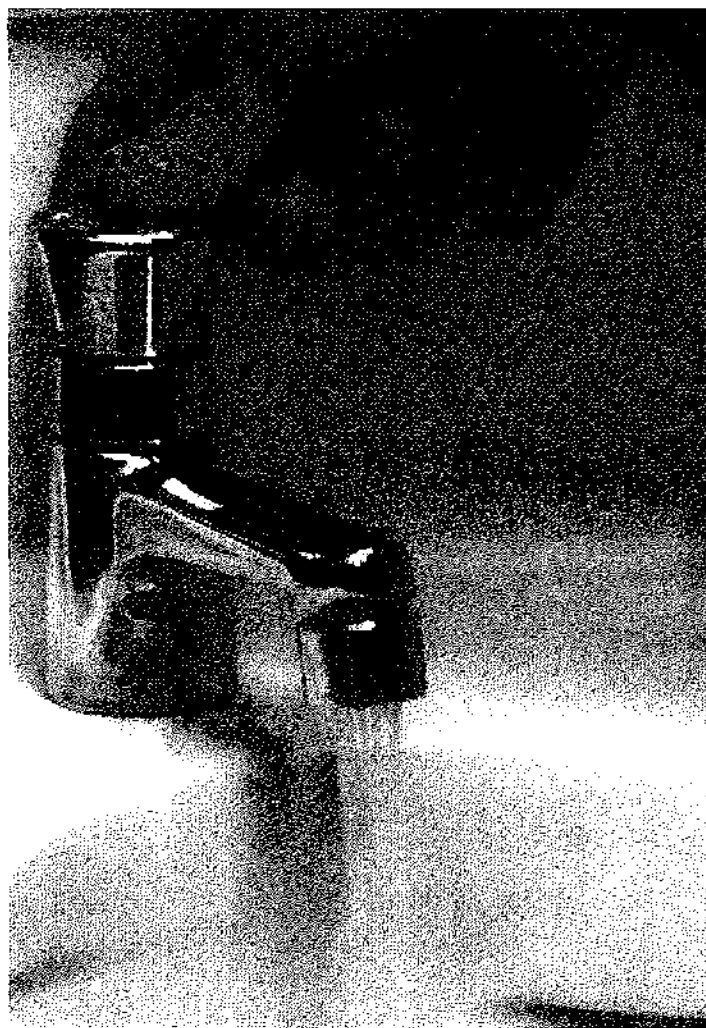
The area of the advisory is bordered by Dayton Street on the north, DuPont Street on the east, the Flint River on the south, and by Lavelle Road to the Flint River on the west, the city said in a news released issued today, Sept. 5.

The latest advisory marks the **second time in less than 30 days** that residents and businesses in a part of the city have been told to boil or use bottled water for drinking, bathing, making ice, brushing teeth, washing dishes, and preparing food.

The U.S. Environmental Protection Agency says positive total coliform tests suggest there may be a pathway for pathogens and fecal contamination to enter a drinking water system.

Total coliforms are used to determine the adequacy of water treatment and the integrity of the distribution system, according to EPA.

"The absence of total coliforms in the distribution system minimizes the likelihood that fecal pathogens are present," the agency Web site says. "Thus, total coliforms are used to determine the vulnerability of a



MLive file photo

Flint issues boil water advisory for section of the city after positive test for total coliform ... Page 2 of 2
system to fecal contamination."

Boiling water kills bacteria or other harmful organisms, according to the city's advisory.

"Total coliform bacteria are generally not harmful themselves. Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present," the city's statement says.

"Usually, coliforms are a sign that there could be a problem with the treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or E. coli, are present. We did not find any of these bacteria in our subsequent testing," the statement says.

The city says it will flush the system in the boil advisory area and increase chlorine added to water.

All water testing results at the city's Water Treatment Plant have shown Flint's water, which is drawn from the Flint River, meets all Safe Water Drinking Standards when it leaves the facility.

The city says anyone with questions about the advisory or any other water issues should call 810-787-6537.

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Important Information About Your Drinking Water

Tests showed coliform bacteria in the City of Flint water

Our water system recently violated a drinking water standard. Although this incident was not an emergency, as our customers, you have a right to know what happened and what we did to correct the situation.

We routinely monitor for drinking water contaminants. We took 150 samples to test for the presence of coliform bacteria during September 2014. 15 of those samples (10%) showed the presence of coliform bacteria. The standard is that no more than 5 percent of our samples may do so.

What should I do?

You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor. People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their healthcare providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. A portion of the City was notified to boil their water at the time of the incident until it was resolved. Coliform bacteria are generally not harmful themselves.

Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than were allowed and this was a warning of potential problems.

Usually, coliforms are a sign that there could be a problem with the system's treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or E. coli, are present. We did not find any of these bacteria in our subsequent testing, and further testing shows that this problem has been resolved.

What happened? What was done? On September 5, 2014, after routine and repeat samples showed the presence of total coliform, a boil water order was issued to the affected area. That area was flushed and resampled until samples were non-detect for total coliform. The boil order was lifted on September 9, 2014. Samples collected since then show that all results met acceptable limits.

For more information, please contact Mr. Brent Wright, Water Plant Supervisor, City Of Flint - DPW at 810.787.6537 ext. 3510 or Flint Water Plant - 4500 North Dort Highway, Flint, MI 48505.

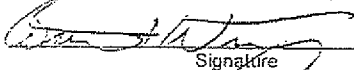
Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by the City of Flint.

CERTIFICATION: F2, S3

WSSN: 02310

I certify that this water supply has fully complied with the public notification requirements in the Michigan Safe Drinking Water Act, 1976 PA 399, as amended, and the administrative rules.



Signature

PLANT SUPERVISOR

Title

10-23-14

Date Distributed

Reminder to water supplier: This notice / certification must be sent to the DNRE.

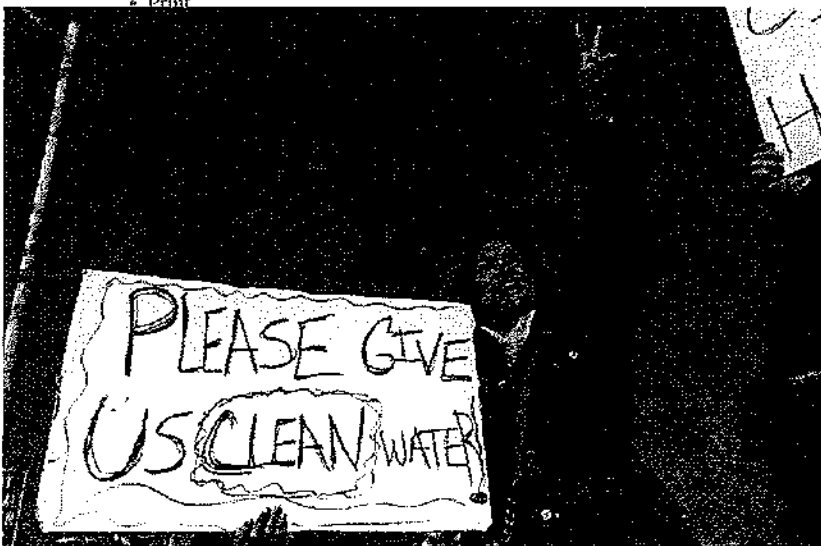
EXHIBIT I

Some Flint residents complain of skin problems from water

Page 2 of 7

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Some Flint residents complain of skin problems from water



In this photo taken on Tuesday, Jan. 13, 2015, Gina Reynolds, a University of Michigan Flint student majoring in social work, chants "clean water is a human right," at cars passing by during a small protest over the conditions of the Flint water system in Downtown Flint, Mich. (AP Photo/The Flint Journal-MLive.com, Sam Owens)

By The Associated Press

Posted: 01/14/15, 4:25 PM EST | Updated: on 01/14/2015

[2 Comments](#)

FLINT- Some Flint residents are complaining that the city's water is causing skin problems for some children.

Hundreds of people turned out Tuesday to discuss Flint's water quality at a meeting with the mayor and city council members. Flint resident Qiana Dawson said her 4-year-old and 2-year-old have broken out in rashes because of the water, resulting in high doctor's bills.

"You all need to work with me on money," she said.

LeeAnne Walters said her 3-year-old, who has a compromised immune system, has been suffering from skin problems after bathing in the water.

"We got bad water," said City Councilman Eric Mays, who hosted the meeting. "If you buy a bad product, you return it for a refund."

The meeting was held hours after demonstrators gathered outside Flint City Hall to protest water quality and rising bills, [The Flint Journal reported](#).

The city insists the water is safe.

Some Flint residents complain of skin problems from water

Flint Mayor Dayne Walling said officials need to focus on how to improve the water.

"I'm talking with people about water every single day," Walling said. "We need to work together as a community, with the cooperation of the state and federal government, to fix this issue."

Issues with the city's water supply emerged after Flint stopped buying water from Detroit's water department. Flint officials this month said they were dealing with elevated levels of a disinfection byproduct.

Flint switched from using Lake Huron as its drinking water source in April. The city plans to use the Flint River as its water source until the end of 2016, when the Karegnondi Water Authority expects to complete construction of a new Lake Huron water pipeline.

Some want Flint to switch back to using Detroit's water.

Walling has supported the decision by state-appointed emergency manager Darnell Earley to hire a consultant to correct the treatment of water from the Flint River. Gov. Rick Snyder on Tuesday announced that Earley would be put in charge of the struggling Detroit Public Schools district.

Earley said last week that going back to Detroit water was cost prohibitive and that the city "can ill-afford to switch course."

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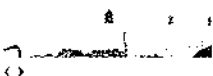
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EXHIBIT J

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

City of Flint Did Not Meet Treatment Requirements

Our water system was recently found to be in violation of a drinking water standard. Although this incident was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Samples were collected for total trihalomethanes (TTHM) analysis from eight locations on a quarterly basis (May 21, August 21, and November 20 of 2014). The average of the results at ANY of the eight locations must not exceed the maximum contaminant level (MCL) for TTHMs, otherwise our water system exceeds the Maximum Contaminant Level (MCL). The standard for TTHMs is 80 ug/L. The location reporting the highest TTHM level was 99 ug/L; thus, our water system exceeds the TTHM MCL.

What should I do?

- There is nothing you need to do unless you have a severely compromised immune system, have an infant, or are elderly. In that case, you may be at increased risk and should seek advice about drinking water from your health care provider.
- You do not need to boil your water or take other corrective actions. If a situation arises where the water is no longer safe to drink, you will be notified within 24 hours.

What does this mean?

This is not an emergency. If it had been an emergency, you would have been notified within 24 hours.

People who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

What is being done?

We are currently working on solutions to correct the problem. We anticipate resolving the problem in 2015.

For more information, please contact Mr. Brent Wright or Mike Glasgow at 810-787-6537 or the Water Plant at 4500 North Dort Highway, Flint, MI 48505.

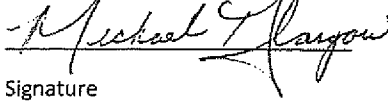
Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by the City of Flint.

CERTIFICATION: F1 S3

WSSN: 02310

I certify that this water supply has fully complied with the public notification requirements in the Michigan Safe Drinking Water Act, 1976 PA 399, as amended, and the administrative rules. Reminder to water supplier: This notice/certification must be sent to the DEQ.

	ASSISTANT SUPERVISOR	1/2/15
Signature	Title	Date Distributed



City warns of potential health risks after Flint water tests revealed too much disinfection byproduct

Ron Fonger | rfonger1@mlive.com By Ron Fonger | rfonger1@mlive.com

on January 02, 2015 at 9:09 PM, updated January 17, 2015 at 10:04 AM

FLINT, MI -- The city says there's been too much disinfection byproduct in Flint's water system recently, something that -- over many years could cause liver, kidney or central nervous system problems and an increased risk of cancer.

The notice from the city says Flint water is safe to drink but warns those with "a severely compromised immune system, (who) have an infant or are elderly" that they "may be at increased risk and should seek advice about drinking water from your health care provider."

For others, there is no need to boil water or take other actions, the notice says.

"It 's been a **rocky road**," City Council President Josh Freeman said. "It's not acceptable.

"People have a reasonable expectation that they are going to have quality drinking water. This is obviously going to rattle people."

Mailed Friday, Jan. 2, the customer notices come after the state Department of Environmental Quality issued a notice of violation of the Safe Drinking Water Act for maximum contaminant levels for trihalomethanes -- or TTHM -- a group of four chemicals that are formed as a byproduct of disinfecting water.

As city water plant operators used additional chlorine to fight bacteria in the Flint water system this summer, disinfectant byproduct levels also likely increased, city officials said Friday.

Levels of TTHM have decreased since that time, and in Nov. 20, testing at eight locations showed only one that exceeded maximum contamination levels, according to the state's notice of violation.

Testing on Aug. 21 showed contaminant levels were higher than maximum levels allowed at each of the same eight locations.

"The water in our system today is not in violation" because of efforts to improve the distribution system and adjust water treatment, said Dougherty Johnson, utilities administrator at the Flint water treatment plant.

Those changes "have likely contributed in part to the reduction in TTHM levels reported in the most recent

City warns of potential health risks after Flint water tests revealed too much disinfection b... Page 2 of 3

quarter, and suggest the city may be able to achieve compliance with the TTHM standard," the state's violation notice says.

City officials released a statement Friday saying its actions "appear to have corrected ... known compliance issues with the system, including a recent temporary increase in the maximum contamination level (MCL) of trihalomethanes (TTHM)

"Both the city of Flint and the MDEQ expect the corrective measures being implemented will resolve the issue by early 2015," the statement says.

The city's recent violation for excessive disinfectant byproducts is the latest in a series of issues for the Flint water system since officials **changed the water source** pumped to homes and business from treated Lake Huron water purchased from the city of Detroit to water drawn directly from the Flint River and treated in Flint.

The use of Flint River water is expected to be temporary because the city is a partner in the Karegnondi Water Authority, which is building a new water pipeline to Lake Huron.

Once that system is put into service, something that's expected to happen by the end of 2016, Flint will be in a position to return to using lake water.

Freeman said that long-term plan remains "the right path to be on" and said the city appears to be on course to fix the problem of disinfection byproduct levels, but Councilman Eric Mays called on the City Council to hold an inquiry about drinking water quality.

"Sworn information given under oath is the only information I trust," Mays said.

Residents have complained to the council about the smell and taste of the water since Flint stopped the flow of lake water here and there were three boil water advisories in a 22-day span this summer after positive tests for total coliform and fecal coliform bacteria.

In October, **General Motors announced** that it would no longer use treated river water at its engine plant here because of fears high chloride levels would cause corrosion.

Flint Department of Public Works Director Howard Croft said that the city's aging water distribution system remains the biggest obstacle to meeting Safe Drinking Water standards but officials have also said the relatively low quality of untreated river water and the need to more carefully manage chemical treatment has also been a factor.

Croft told a City Council committee in September that river water has proven hard to treat and to keep safe because of variables that wouldn't be factors in lake water, like temperature fluctuation and rain.

City warns of potential health risks after Flint water tests revealed too much disinfection b... Page 3 of 3

But Croft said the city has made improvements to its distribution system and said additional improvements are on the way, including pipe replacements, leak detection and hydraulic monitoring.

Johnson said the size of Flint's water system, which once served more than 200,000 people and now serves about half that number, also makes keeping water fresh in distribution pipes difficult.

Stagnant water is more susceptible to contamination, officials have said.

Flint will remain in violation of the Safe Drinking Water Act until every test site in the city has acceptable levels of disinfectant byproducts, Johnson and Croft said.

The next round of testing is scheduled to take place in February.

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EXHIBIT K



Lower TTHM levels put Flint in compliance with Safe Drinking Water Act

Ron Fonger | rfonger1@mlive.com By **Ron Fonger | rfonger1@mlive.com**

on September 03, 2015 at 3:17 PM

FLINT, MI -- The city is no longer in violation of the federal Safe Drinking Water Act because the level of total trihalomethanes in water samples collected last month has fallen, the Michigan Department of Environmental Quality says.

The DEQ notified the city of the test results in a letter Wednesday, Sept. 2, ending eight months of the city under a violation of the act. The city will no longer have to send water customers warning notices about TTHM levels.

"Creative measures by the city have been successful in achieving compliance with this standard," reads the letter from Michael F. Prysby of the DEQ. "These measures have included replacement of anthracite filter media with granular activated carbon as well as the optimization of water treatment plant and distribution system processes and operations as recommended through operational evaluations conducted by the city.

"It is important that the city continue to follow these recommendations in order to limit disinfection byproduct formation and maintain compliance (with state requirements)," the letter says. "While (requirements have) now been met at all eight compliance sampling sites, an individual TTHM concentration above (80 parts per billion) was measured at one location ... in August 2015."

The location of the highest TTHM test in August was at Salem Housing, 3216 King Boulevard, which registered 90 ppb. Flint's violation of the federal law was the result of the annual average of TTHM above 80 ppb at a minimum of one of the eight testing locations.

City officials have said they expected improved TTHM levels after the installation of the new **\$1.6 million carbon filter** this summer.

"The city of Flint is continuing to improve its water system, including both the areas of treatment and distribution," Mayor Dayne Walling said in a news release issued by the city Thursday, Aug. 3.

TTHM is a colorless, odorless byproduct of chlorinating water with high levels of total organic carbon. The city began having problems managing TTHM after it began using the Flint River as its water source in April 2014.

In past notices mailed to Flint water customers, the city has warned that drinking water with excess amounts of TTHM can pose increased health risks for those with a compromised immune system, the elderly, pregnant women and infants.

The good news on TTHM comes the day after researchers at Virginia Tech published an online report, saying tests show Flint **drinking water is "very corrosive"** and is "causing lead contamination in homes."

A statement from Walling on the lead issue says the city will work with the DEQ on a plan aimed at reducing the corrosive effects of water on older transmission pipes and home service lines.

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EXHIBIT L

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(/lifestyle)

Scary: Leaded Water and One Flint Family's Toxic Nightmare

July 9th, 2015, 11:28 PM

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61

Curt Guyette is an investigative reporter for the ACLU of Michigan. His work, funded by a grant from the Ford Foundation, focuses on emergency management and open government. He writes regularly for Michigan Democracy Watch Blog. (<http://www.aclumich.org/democracywatch/index.php/entry/hard-to-swallow-toxic-water-in-a-toxic-system>)

By Curt Guyette

It took a while for LeeAnne Walters to realize the full impact of the number: 13,200.

Walters—a stay-at home mom with four sons and a husband in the Navy—had seen other numbers reflecting the quality of drinking water at her Flint home that were devastating. But 13,200? She'd never seen anything like this.

The city had tested her water twice in this past March and both times found dangerously high levels of lead—104 parts per billion (ppb) and 397 ppb, respectively.



Those numbers filled her with dread, because they meant her family had been exposed to high levels of a terribly toxic heavy metal that put her children's future in jeopardy.

But it was the result of a third test of the tap water in her home, performed by independent experts at Virginia Tech University, that most stunned Walters.

"It took a while for me to wrap my head around it," said Walters.

The VT researchers discovered lead levels in Walters' water reached a jaw-dropping 13,200 ppb—more than twice the amount at which the U.S. Environmental Protection Agency classifies

water as hazardous waste.

"When I saw those numbers I was shocked," said Virginia Tech professor Marc Edwards, a former MacArthur Fellow and respected authority on corrosion in drinking-water systems, who oversaw the tests.

Edwards played a key role in discovering and addressing the problem of corroded water pipes and lead in Washington, D.C. during the early 2000s, in what's described as the *worst* contamination crisis ever seen in a major *urban* water system.

In terms of lead levels, the Walters family's numbers eclipsed even the worst D.C. homes.

"I have never in my 25-year career seen such outrageously high levels going into another home in the United States," said Edwards. "This was literally hazardous-waste levels."

But the condition of Walters' tap water raises a much more far-reaching question: Since the city moved away from Detroit's water system and began pumping water from the Flint River, how many other families have been put at risk by the city's questionable testing procedures and handling of the water supply?

The Walters family surely isn't alone in dealing with the threat of lead-laced drinking water. Flint has tens of thousands of homes that are a half-century old or older, built at a time when water service lines were typically made of lead.

And according to various experts, including an EPA water-quality specialist, the city's actions are only exacerbating the threat.

"What the public needs is accurate information," explained Miguel Del Toral, regulations manager for the Ground Water and Drinking Water Branch of the EPA's Region 5.

Instead, the city is utilizing testing measures that almost ensure that worst-case scenarios such as the one facing the Walters family escape detection, asserted Del Toral in an internal EPA memo provided to the ACLU of Michigan.

Compounding the threat is what Del Toral describes as the continued inability of officials to adequately treat water coming into people's homes from the Flint River.

"I don't want to scare people unnecessarily," said Del Toral in a phone interview from his home in Chicago. "But there is absolutely a problem in Flint that needs to be addressed right away."

During his interview with the ACLU of Michigan, Del Toral said he was willing to go on the record with his concerns, but that he was doing so as a private citizen, not as a representative of the EPA.

EPA rules, he said, required that such interviews be routed through the agency's public affairs people. But he's willing to speak out nonetheless, he said, because of the potential harm to the public is so great.

WATERING DOWN THE TESTS

Perhaps the most vexing problem in all of this is the contamination caused by the city's decades-old network of lead and iron pipes—a problem directly connected to the switch to river

water, and the city's failure to adequately treat it.

Under the U.S. Environmental Protection Agency's rules, if lead reaches a level of 15 parts per billion in water, the source of the problem must be identified and corrected.

In early March, after months of requests (and only after Walters had received a doctor's note raising concerns about problems with the water), the city finally conducted a test. It found lead levels of 104 ppb the first time. A second test recorded a level of 397 ppb.

Blood tests, taken after those water-sample numbers were reported, revealed that one of her children, a four year old, had lead poisoning.

The news was devastating, said Walters, and the concern it creates for her child's future is haunting.

"Lead can affect almost every organ and system in your body," according to the EPA's web site. "Children six years old and younger are most susceptible ... Even low levels of lead in the blood of children can result in: behavior and learning problems; lower IQ and hyperactivity; slowed growth; and hearing problems."

Those dangers made Walters all the more determined to get her questions answered.

For one thing, she wanted to know why residents were being instructed to "pre-flush" water lines before drawing samples that would be tested by the city

After much searching, she found Del Toral at the EPA's Region 5 in Chicago. He explained to her that her instincts were right, and that she had good cause to be concerned about the way testing was being done.

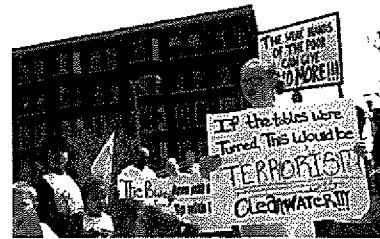
"The practice of pre-flushing before collecting compliance samples has been shown to result in the minimization of lead capture and significant underestimation of lead levels in drinking water," wrote Del Toral in an internal memo dated June 24.

Del Toral went on to say that the city's testing methods were a "serious concern" because they "could provide a false sense of security to the residents of Flint regarding lead levels in the water." As a result, he warned, residents could fail to take the necessary precautions to protect their families from lead in the drinking water.

Virginia Tech's Edwards completely agrees with Del Toral's assessment.

"The net effect of a 'pre-flush' is to greatly reduce the likelihood of detecting lead in samples collected ... that would normally be present in the consumers drinking water," Edwards wrote in an email. "I have long maintained that the practice should be banned, as it artificially lowers the amount of lead detected in samples versus typical consumer exposure."

Asked about these concerns, city spokesman Jason Lorenz offered the following email reply: "While I cannot directly respond to Mr. Del Toral's remarks without first contacting the EPA



Residents protest the poor water quality

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Region 5 office, I can say that the City of Flint follows all the testing procedures and schedules as required by the U.S. EPA."

He added that the Michigan Department of Environmental Quality (MDEQ) endorses the city's sampling method. The MDEQ did not respond to phone calls and e-mails seeking its comments on the controversy.

Del Toral contended in an interview that what Flint's doing is actually exploiting a "loophole" in the law.

"From a technical standpoint, there's no justification for the way Flint is conducting its tests," Del Toral said. "Any credible scientist will tell you [the city's] method is not the way to catch worst-case conditions."

There is no legitimate reason for the city's methodology, said Del Toral.

During his interview with the ACLU of Michigan, Del Toral said he was willing to go on the record with his concerns, but that he was doing so as a private citizen, not as a representative of the EPA.

EPA rules, he said, required that such interviews be routed through the agency's public affairs people. But he was willing to speak out nonetheless, he said, because of the potential harm to the public.

FLUSHING OUT REAL ANSWERS

It was Del Toral who, after determining that the lead problem plaguing the Walters family was coming from outside their home, connected LeeAnne with Edwards at Virginia Tech.

Instead of taking a single sample after a line had been "pre-flushed" under the city's direction, Edwards instructed Walters to collect a series of samples from water that had been allowed to sit in the service line long enough to accurately reflect levels the family could be exposed to under normal use.

(Meanwhile, that same service line, dug up and replaced after the sample collection, was found to be made of lead in one section and iron in another.)

Edwards tested the water and discovered that the lead contamination ranged from 200 ppb to the 13,200 ppb figure that stunned LeeAnne Walters—and should likewise shock many others.

Given the age of much of Flint's infrastructure, Edwards agrees with Del Toral's assessment that the test results they found at the Walters home amount to an alarm going off, and others in the city need to pay attention.

"I do not see any reason why there would not be serious problems occurring in at least some other Flint homes," said Edwards.

In 1986, the U.S. Safe Drinking Water Act was amended to prohibit the use of lead pipes in public water systems. Every house built before that is potentially at risk, said Edwards. About half of Flint's roughly 40,000 homes are at least 50 years old.

Making things worse is the fact that the high levels of chlorine being used to treat Flint's dirty river

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water lead to the creation of a carcinogenic byproduct known as total trihalomethanes, or TTHM. To keep TTHM levels down, the city is adding ferric chloride. The trouble is, that additive can also accelerate the corrosion of lead and iron pipes.

Adding yet another layer to the problem is something the city is *not* doing.

According to Del Toral, Flint should be adding corrosion-control chemicals designed to help keep lead and copper in pipes from leaching into drinking water. Doing so is required by federal regulations, wrote Del Toral in his memo.

"To our knowledge, that is inaccurate," said Flint spokesman Lorenz. "Before the plant was placed in operation, the City (and our engineering firm) had numerous discussions with DEQ personnel and inquired if corrosion-control chemicals – typically phosphates – needed to be included in the treatment process. The use of these chemicals was not required or mandated."

What's indisputable is this:

Flint's water contained corrosion-control chemicals until April 2014, when Flint's ties to the Detroit water system were severed. Flint officials hailed that changeover as a cost-cutting move for a city facing a financial crisis so severe it had been placed under the control of a state-appointed emergency manager.

Discontinuing the use of the anti-corrosion chemicals allowed toxic scale built up on the insides of pipes over the past decades to be released into water flowing into people's homes, explained Del Toral.

In his memo, Del Toral warned: "The lack of mitigating treatment is especially concerning as the high lead levels [that result] will likely not be reflected in the City of Flint's compliance samples due to sampling procedures used..."

In other words, at the same time the city is exacerbating the problem, it's conducting tests that will probably fail to identify the true extent of the threat.

Del Toral described the situation as a "major concern."

"In the absence of any corrosion control treatment, lead levels in drinking water can be expected to increase," he warned in his memo.

The EPA offered Flint officials the use of agency experts to help get the situation under control, said Del Toral, but added that, to his knowledge, the city has so far declined all help.

LeeAnne Walters said that when she asked why city officials weren't taking the EPA's offer of assistance, she was told, "We don't need it."

Flint spokesman Lorenz, on the other hand, maintained that "the city continues to work closely with the MDEQ and the EPA Regional Office."

As for Walters's family, that the city has finally replaced the service line leading to their home, and lead levels have dropped below the 15 ppb EPA action level.

The problem now, she said, is that water currently coming out of her tap tinged yellow and smells of rotten eggs. City officials have given her no explanation as to the possible cause of that.

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It is just one more in a long list of questions that need to be addressed.

"What we need," said Walters, "are more answers."

But it's not just answers the people of Flint require.

They also need solutions. And, as Del Toral's EPA memo emphasizes, they need them immediately.

Corrosive Impact: Leaded Water & One Flint Family's T...



Read more: Michigan Democracy Watch Project (<http://www.aclumich.org/democracywatch/index.php/entry/corrosive-impact-leaded-water-and-one-flint-family-s-toxic-nightmare>)



Lead leaches into 'very corrosive' Flint drinking water, researchers say

Ron Fonger | rfonger1@mlive.com By **Ron Fonger | rfonger1@mlive.com**

on September 02, 2015 at 5:41 PM, updated September 03, 2015 at 9:01 AM

FLINT, MI -- Flint drinking water is "very corrosive" and "causing lead contamination in homes," researchers from Virginia Tech University reported online Wednesday, Sept. 2.

Flint Journal file photo

"On a scientific basis, Flint River water leaches more lead from plumbing than does Detroit water," the report concludes. "This is creating a public health threat in some Flint homes that have lead pipe or lead solder."

The Virginia Tech report comes as students there, overseen by Professor Marc Edwards, are in the final days of testing water collected from 300 sample kits distributed to Flint residents.

On Monday, Aug. 31, the researchers reported 42 percent of 120 initial samples from Flint had lead levels that were more than 5 parts per billion, "which suggests a serious lead-in-water problem, according to our experience and criteria."

Virginia Tech was initially contacted by a Flint resident who had concerns about lead in **Flint water**. It has been working with citizen groups in Flint such as Water You Fighting For.

Twenty percent of the first samples also exceeded the U.S. Environmental Protection Agency lead action limit of 15 ppb, the report said.

The EPA requires water systems like Flint's to collect tap samples from sites that are more likely to have plumbing materials containing lead.

If more than 10 percent of samples exceed 15 ppb, then water systems are required to take action, including steps to optimize corrosion control treatment.

Lead is a toxic metal that was used for many years in products found in and around homes, according to EPA.

"Even at low levels, lead may cause a range of health effects, including behavioral problems and learning disabilities," EPA's website says. "Children 6 years old and under are most at risk because this is when the

Lead leaches into 'very corrosive' Flint drinking water, researchers say

Page 2 of 4

brain is developing."

The Virginia Tech report on Flint River water comes two days after representatives of three organizations delivered more than 26,000 online **petition signatures to Mayor Dayne Walling**, demanding the city end its use of the Flint River and **reconnect the city to the Detroit water system**.

The petition language says high lead levels are one reason the city should no longer use the river as a drinking water source.

Walling and Department of Public Works Director Howard Croft issued statements in response to questions about lead in Flint water Wednesday after Croft declined to discuss the issue in a news conference Tuesday.

Flint spokesman Jason Lorenz said the two would not comment further Wednesday.

"The city of Flint is currently in compliance with the safety mandates of the Michigan Department of Environmental Quality and continues to work with them to stay in compliance with all safety and quality standards," Croft's statement said. "We have also been in constant contact with Virginia Tech, sharing information as it becomes available."

Walling, who has supported Flint's continued use of the Flint River as a drinking water source, said, "Lead can be a concern in communities with older public and private infrastructure.

"The city of Flint has offered free and independent testing to residents since spring, and I encourage people to use this service if they have questions," Walling's statement said.

Edwards, a professor of civil and environmental engineering, said the elevated lead levels he has seen in Flint tap water are tied to a corrosive water source that contains about eight times more chloride than Detroit water does.

"Chloride is generally considered to be very corrosive to iron. For instance, chloride present in road salts applied in the winter causes iron in cars and bridges to rust," the Virginia Tech team's website says.

"This could be a huge public health problem. ... The Flint water just ate the pipe up," Edwards said of the testing he has overseen so far.

In the testing, researchers took copper pipe pieces joined with lead solder inside them, according to the report, which says lead solder is probably present in plumbing systems of many Flint homes built before 1986.

Lead solder-copper pipe test pieces were placed in containers filled with water from Detroit and Flint in the experiment, according to the report.

"If it were me, I would not be using (Flint River water) for cooking or drinking unless I had it tested for lead," said Edwards, who previously mounted a six-year campaign that succeeded in forcing the U.S. Centers for Disease Control and Prevention to admit it had misled the public about the risk of lead in the Washington, D.C., area's drinking water, according to The Washington Post.

"Bottled or filtered water (is what I would use for) children under 6 years old or if I was pregnant," he said.

Brad Wurfel, communications director for the state Department of Environmental Quality, said the preliminary water testing results from Virginia Tech don't jibe with two separate rounds of testing during the past year by the city.

That testing indicated "Flint drinking water meets state and federal safe drinking water standards," Wurfel said.

Wurfel said lead levels detected in testing are not the result of water containing lead when it leaves Flint's treatment plant. But he said the state "has requested Flint optimize its water treatment to further limit exposure to lead from plumbing in homes."

The concerns about lead are the latest challenge for the Flint water system since the city started using the Flint River to replace Lake Huron water sold by the city of Detroit in April 2014.

Since the switch, the city has been plagued by issues such as water main breaks and boil water advisories because of bacteria and has been in violation of the Safe Drinking Water Act because of high levels of total trihalomethanes (TTHM), a byproduct of chlorinating river water.

The Rev. Allen Overton, who hand-delivered petitions to Walling on Monday, asking that city officials reconnect the Flint water system to Detroit, said Wednesday that the Virginia Tech experiment is more evidence Flint is not using the best quality of water available.

"We have a major health issue here, (and) they are not being honest with the citizens of Flint," Overton said.

City Council President Josh Freeman said the city has been willing to provide customers with free water testing and has taken action — such as installing a new \$1.6 million filtration system — to address problems such as TTHM.

Councilman Eric Mays said, as more water testing is done, it becomes clearer that Flint should be negotiating with Detroit for a new, short-term water contract as work continues on the Karegnondi Water Authority pipeline.

The pipeline, a partnership between the city and Genesee County, is expected to bring untreated Lake Huron

Lead leaches into 'very corrosive' Flint drinking water, researchers say

Page 4 of 4

water to Flint at some point in 2016.

"They are trying to make the water safe by trial and error," said Mays, who called Flint's water situation "a disgrace."

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Menu

[Home \(http://flintwaterstudy.org/\)](http://flintwaterstudy.org/) Test Update: Flint River water 19X more corrosive than Detroit water for Lead Solder; Now What?

Test Update: Flint River water 19X more corrosive than Detroit water for Lead Solder; Now What?

🕒 September 11, 2015 (<http://flintwaterstudy.org/2015/09/test-update-flint-river-water-19x-more-corrosive-than-detroit-water-for-lead-solder-now-what/>) 👤 [Siddhartha Roy](http://flintwaterstudy.org/author/flintwaterstudy/)
(<http://flintwaterstudy.org/author/flintwaterstudy/>) 📁 [Articles](http://flintwaterstudy.org/category/articles/)
(<http://flintwaterstudy.org/category/articles/>), [Research Updates](http://flintwaterstudy.org/category/research-updates/)
(<http://flintwaterstudy.org/category/research-updates/>)

We are now three weeks into our laboratory experiment w.r.t. testing the relative corrosivity of Flint River water versus Detroit water (<http://flintwaterstudy.org/2015/09/flint-rivers-water-is-very-corrosive-to-lead-and-causing-lead-contamination-in-homes/>). As the test continues, it becomes a more accurate measure of the relative corrosivity of the two waters. We previously noted, that it would be expected that Flint River water would be much more corrosive than Detroit water, due to its higher chloride content.

Experiment: When we visited Flint, we took pieces of copper pipe joined with lead solder (old solder is 50% lead by weight (http://www.copper.org/environment/water/e_p_lead.html)) inside them. Lead solder is probably present in the plumbing of many Detroit/Flint homes built before 1986 when it was banned from use in drinking water systems (http://www.copper.org/environment/water/e_p_lead.html). We put the lead solder-copper pipe test pieces in 250 mL containers, and filled them with the following three waters:

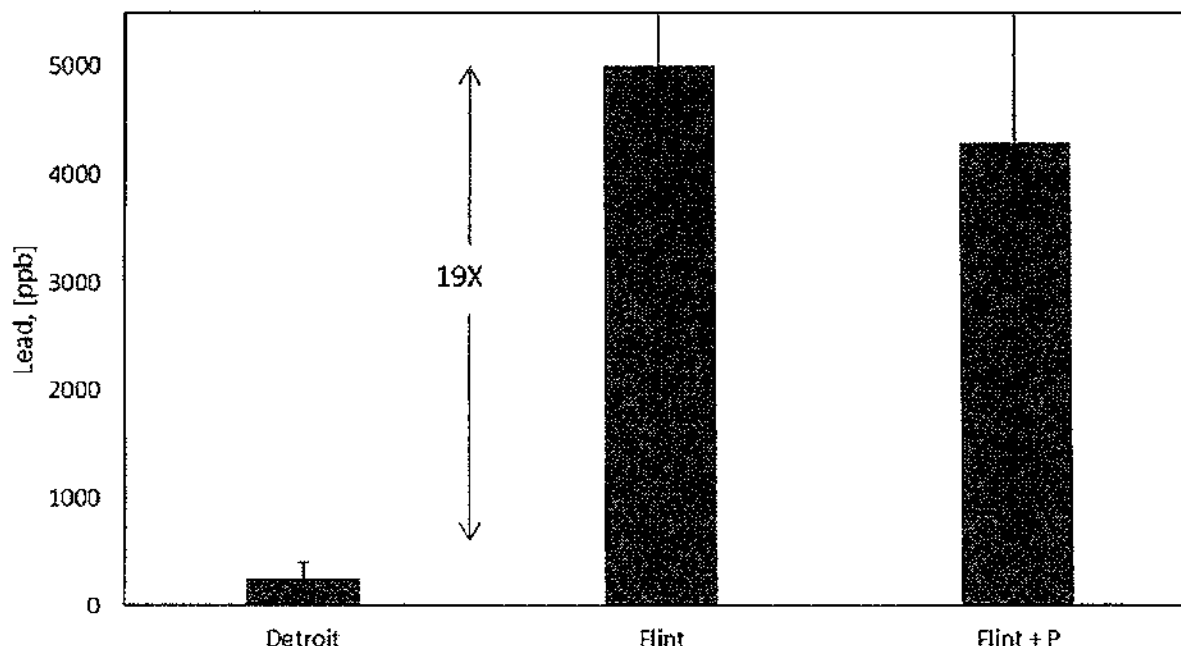
Test 1) Detroit water

Test 2) Current Flint River water

Test 3) Current Flint River water with orthophosphate (a typical corrosion inhibitor (<http://www.lenntech.com/products/chemicals/water-treatment-chemicals.htm#Corrosion%20inhibitors>))

Test 3 was conducted, to see if ***adding orthophosphate to Flint River water would stop lead corrosion***. About 50% of water companies in the U.S. add orthophosphate to their water to control lead corrosion, but it is not currently added to Flint River water.

Results and Observations:



(<http://i2.wp.com/flintwaterstudy.org/wp-content/uploads/2015/09/update.png>)

Figure 1 – Data from Week 3 comparing lead corrosion in Detroit water (left), current Flint water (middle), and Flint water with orthophosphate (right)

From the data shown above in Figure 1, it is clear that Detroit water is much less corrosive to lead solder than the Flint River water. **On average, Detroit water is 19 times (or 19X) less corrosive than the Flint River water currently in use.** That is, the current Flint River water leaches 19X more lead to the water than Detroit water. This explains why the lead in Flint's water in our survey, is so high, (<http://flintwaterstudy.org/information-for-flint-residents/results-for-citizen-testing-for-lead-300-kits/>) even when it was low before when Detroit water was being used.

We can actually still see the high lead in the Flint River water test by eye (i.e. as white particles suspended in the water (<http://flintwaterstudy.org/2015/09/flint-rivers-water-is-very-corrosive-to-lead-and-causing-lead-contamination-in-homes/>)). Lead levels in our test with Flint River water, were slightly above hazardous waste levels (5000 ppb), which is still lower than the worst levels of lead we detected in the

home of Flint resident Lee-Anne Walters

(<http://flintwaterstudy.org/2015/08/hazardous-waste-levels-of-lead-found-in-a-flint-households-water/>).

Orthophosphate still does not seem to help stop lead leaching in Flint River water, which is also consistent with expectations based on experiments in high chloride water

(<http://www.sciencedirect.com/science/article/pii/S0010938X11000382>).

There is a slight improvement, but even with phosphate, Flint River water has 16 times more lead compared to the same condition using Detroit water. We will continue to run these tests, but at present it does not seem like orthophosphate will provide a quick answer to the very high lead levels in Flint water.

Conclusion: On a scientific basis, Flint River water leaches more lead from plumbing than does Detroit water as predicted before

(<http://flintwaterstudy.org/2015/08/why-is-it-possible-that-flint-river-water-cannot-be-treated-to-meet-federal-standards/>). **This is creating a public health threat in some Flint homes that have lead pipe or lead solder. Unfortunately, adding orthophosphate corrosion inhibitor to the Flint River water, does not solve the lead problem.**

PRACTICAL IMPLICATIONS

We believe, that in the weeks and months ahead, MDEQ and Flint will be forced to admit they failed to protect public health as required under the Federal Lead and Copper Rule. The question that will then be asked is “What can be done to protect residents?”

Step 1: Issue Scientifically Sound Advice.

The first step is to admit that **the water in Flint is not safe for cooking or drinking** (<http://flintwaterstudy.org/information-for-flint-residents/results-for-citizen-testing-for-lead-300-kits/>)— a fact that MDEQ still denies. According to MDEQ statements provided to reporter Ronald Fonger this week, which were presented to us for comment, MDEQ's Brad Wurfel asserts that:

“the issue here isn’t Flint’s water source or water plants. It’s the high number of older homes with lead pipes and lead service connections....Folks who have concerns should get a water specialist to take a look at their home and see what they need to do to achieve peace of mind, because lead and copper are home plumbing problems that no water source can eliminate entirely.”

We note that this is the exact same position that MDEQ and the city took months ago, after Lee-Anne Walters’ child was lead poisoned from exposure to high lead in Flint water (<http://www.abc12.com/home/headlines/Flint-mother-said-the-water-gave-her-son-Lead-poisoning-324496551.html>). After MDEQ and the City blamed Ms. Walters home plumbing for the problem, an EPA water specialist did come to her home and inspected her plumbing. His finding: There were no lead plumbing sources in her home (<http://www.aclumich.org/sites/default/files/file/EPAWaterReport062415.pdf>). How does that finding, provide Ms. Walters and other Flint residents, with “peace of mind?”

Likewise, during our sampling events in Flint homes (<http://flintwaterstudy.org/information-for-flint-residents/results-for-citizen-testing-for-lead-300-kits/>), we are finding very high lead in other homes with modern lead free plumbing, which again points to city owned lead pipes and corrosive water as the problem.

On the basis of these facts, we consider MDEQ's position to be both unscientific and irresponsible, and we stand by our recommendations to Flint consumers, that they immediately reduce their exposure to high lead in Flint's water by implementing protective measures when using tap water for drinking or cooking.

Step 2. Implement Corrosion Control.

The second step will ultimately require some sort of corrosion control treatment to reduce lead in Flint water. Three options are possible as detailed below:

1. **Switch back to the non-corrosive Detroit water.** It is our opinion, based on years of experience, that Flint's lead levels would drop markedly in about one month.
2. **Add orthophosphate to Flint River water.** As indicated in this work, orthophosphate will not reduce lead leaching from all lead plumbing sources. On the basis of our extensive experience, we would only expect modest improvements to water lead levels if orthophosphate was added.
3. **Wait for KWA pipeline.** If orthophosphate was added to water from the KWA pipeline, it would be about the same corrosivity as Detroit water (Option A). In that case, Flint residents will have to live with the very high lead in their water, until at least one month after the pipeline is connected.

Politicians and residents will ultimately have to look at which of the above options is best for Flint, after weighing feasibility and costs.

Experiments and analysis: Christina Devine

Primary Author: Dr. Marc Edwards

Acknowledgements: Siddhartha Roy

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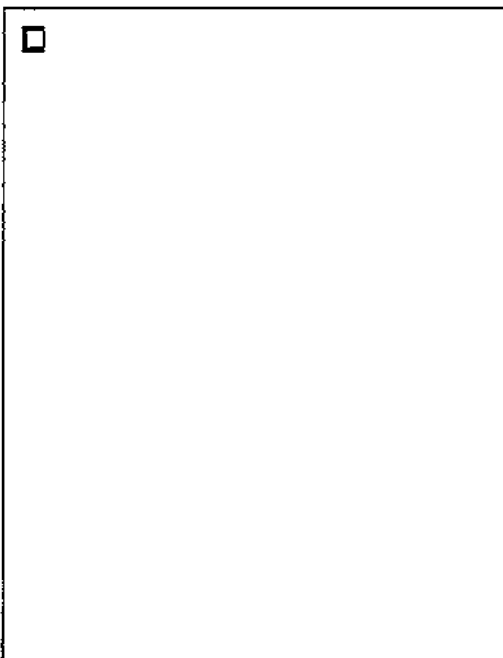
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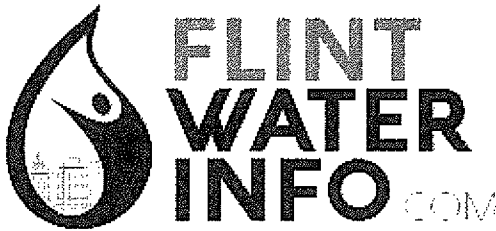
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(<http://flintwaterstudy.org/wp-content/uploads/2015/08/interpretation.pdf>). For the 252 lead kits analyzed so far, we have finished calling residents who had considerably high lead in their water.

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Lead levels in Flint water spiked after switch to river, state records show

Ron Fonger | rfonger1@mlive.com By Ron Fonger | rfonger1@mlive.com

on September 19, 2015 at 5:50 AM, updated September 19, 2015 at 7:59 AM

FLINT, MI -- City officials insist their own testing shows Flint water is **safe** and within federal guidelines for lead.

Flint Journal file photo

But those same tests also show lead levels have been rising since the city began using the Flint River for water 16 months ago.

The results of Flint's testing for lead since 1992, released by the state Department of Environmental Quality to The Flint Journal-MLive, show 10 percent of homes sampled in the city's most recent testing contained 11 parts per billion or more of lead, with six of 69 samples exceeding the federal lead limit of 15 ppb.

Those are the highest lead levels measured in Flint by the city in more than 20 years, the state data shows.

In contrast, the city's tests of Lake Huron water from Detroit for one 10-year period -- from June 2001 until September 2011 -- resulted in just one of 155 samples registering higher than 15 ppb of lead.

Flint began treating river water in April 2014 after Detroit terminated an expired contract for selling water to the city. The cutoff came after Flint joined Genesee County to form the Karegnondi Water Authority, which is building a new pipeline to Lake Huron, a project that's expected to be completed sometime next year.

City and state officials have pointed to their own testing as evidence that Flint water is safe and under the 15 ppb limit, but have said little about the lead level drifting up.

Marc Edwards, who is supervising separate water **testing in Flint by Virginia Tech University**, said there's no mistaking the pattern.

Lead levels in Flint water spiked after switch to river, state recor... http://blog.mlive.com/newsnow_impact/print.html?entry=/2015...

"The Flint River -- based on the chemistry -- has an obvious propensity for lead to be released to water," Edwards said. "There should have been red lights flashing (when the city began using the river in April 2014) -- knowing that if you put that water into Flint's system without corrosion control, you're going to see a massive lead release."

That release is what Edwards' testing has shown as 10 percent of homes sampled by students and faculty from Virginia Tech have had lead levels of at least 25 ppb.

Since the testing started, Mayor Dayne Walling announced Flint would speed up development of a plan for reducing corrosiveness of city water and called for \$10 million in state funds to begin replacing lead and lead solder in water service lines and plumbing.

Flint Department of Public Works Director Howard Croft would not attribute higher lead levels to the river alone, but said the source of the water is one variable as is the amount of time water is stagnant in pipes.

"Lead is in there. It's always been there," Croft said. "We would like there to be no lead, (but) I'm happy how aggressively we are responding" to what the city has.

Steve Busch, Lansing and Jackson district supervisor in the DEQ's office of drinking water and municipal assistance, said lead testing results vary in many areas and a shift doesn't necessarily show Flint River water is more susceptible to higher lead levels than lake water.

"We see numbers fluctuate with the same treatment and the same water," Busch said. "We have levels go up and down from monitoring round to monitoring round."

Lead is a toxic metal that was used for many year in products found in and around homes, according to the U.S. Environmental Protection Agency. Even at low levels, lead may cause health effects such as behavioral problems and learning disabilities.

Current regulations for lead in water began in 1992 and require a limited amount of testing to measure the degree to which lead leaches into tap water after flowing through lead service lines and lead solder in home plumbing.

If more than 10 percent of tap water samples from water systems exceed 15 ppb, the water system can be required to take steps like making water less corrosive or replacing lead service lines.

Since the EPA announced its lead and copper rule in 1991, Flint has collected 33 samples every six to 36 months but the number of tests increased after the city changed its water source to the river,

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according to state data.

State records show 100 samples were collected from Flint in the last six months of 2014, showing two sites with readings of more than 15 ppb of lead and 10 percent of homes registering at 6 ppb or more.

From January until June this year, the city collected just 69 samples, a reduction that was allowed because Flint's population had dropped below 100,000, Busch said.

The last time testing by the city showed a higher percentage of water samples above 11 parts per billion was 1992, immediately after new lead and copper rules went into effect.

In that case, the city of Detroit took five years to develop a plan to better control corrosion and lead levels and brought lead levels down from a high of 15 ppb in 10 percent of samples taken in Flint.

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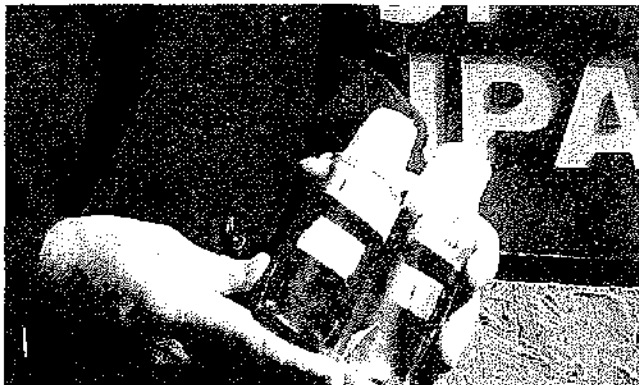
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Flint pediatricians raise alarm about lead levels in city water

By SARAH HULETT (/PEOPLE/SARAH-HULETT) • SEP 24, 2015

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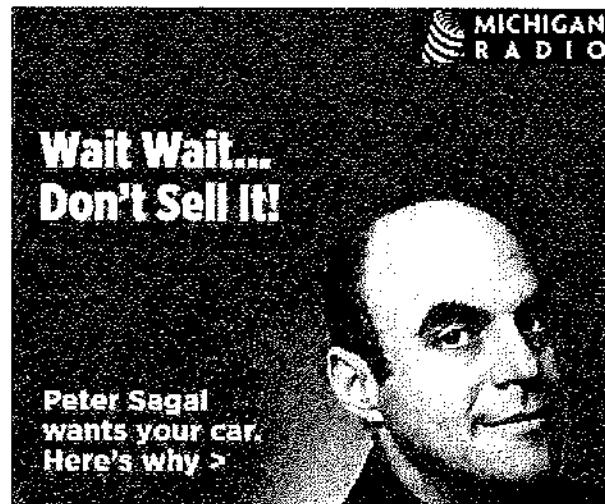


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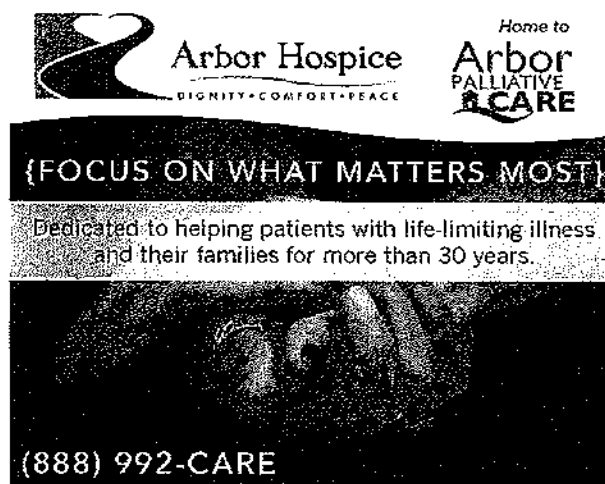
Water samples from Flint, on the left, and Detroit.

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The water in Flint is likely poisoning kids.

That's what pediatricians in the city say, after looking at lead levels in young children before and after the city switched the source of its drinking water from the Detroit water system to the Flint River.

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There's a long list of complaints about Flint's water. But physicians are really concerned about this one.

"My research shows that lead levels have gone up. I cannot say it's from the water, but that's the thing that has happened," said Dr. Mona Hanna-Attisha, a pediatrician with Hurley Children's Hospital.

Hanna-Attisha says she decided to look into blood-lead levels after researchers from Virginia Tech found elevated lead levels in tap water due to the corrosive nature of the river water.

She analyzed blood test results of 1,746 children age five and younger from Flint, and 1,670 non-Flint children. Before the switch, 2.1% of Flint children had elevated blood lead levels. After the switch, that rate jumped to 4%. By comparison, the rate for non-Flint children went from .6% to 1%, which Hanna-Attisha says is statistically insignificant.

She calls the city's response to water quality problems "inadequate," and says precautions need to be taken immediately.

"Because the impact of not doing anything will haunt us for years to come," says Hanna-Attisha, citing interventions like special education, lost productivity, and incarceration costs associated with high lead levels. "The cost will be astronomical in decades to come. So we cannot wait until this year or next year. We have to think five years from now, ten years from now."

Hanna-Attisha and other physicians are urging the city to issue an advisory about how to minimize exposure to lead in the water. The county health department says it's drafting that advisory now.

The news about the elevated lead levels did not surprise Lee Anne Walters. She found out her son had alarmingly high lead levels in April of this year.

"I kept talking to the doctors, trying to figure out why he wasn't growing," says Walters. "He was 27 pounds at four years old. His hair was thinning, breaking out in rashes."

Walters says her son would get a rash when he took baths. There would be a line on his body that corresponded with where the bath water ended. Above it, his skin was fine. Below it, where his skin was underwater, he'd get a rash.

"The doctors in the city gave me a hard time testing my kids," says Walters. "I took them out the city to a dermatologist down in Brighton, who ran the test and called me personally to tell me that he did have lead poisoning and anemia from the lead poisoning, and he's having speech problems."

It turns out the rash was probably from a chlorine byproduct the city had to dump into the river water to kill the E. coli that had made people sick the summer before.

People knew that chemical – it's called TTHM – was a problem. But lead wasn't on many people's radar until a guy named Marc Edwards came to town.

"I want them to take responsibility. I want them to quit poisoning their citizens."

Edwards is a researcher from Virginia Tech. His tests of Flint tap water found lead levels in some homes that were higher than federal regulators allow – and a lot higher than the city found in the tests it conducted. He says the river water is so corrosive it's eating the lead from old pipes and solder.

"That's why we are actually asking for funding to help with infrastructure," said Flint City Administrator Natasha Henderson. "It's not a secret that the city is very financially distressed."

Henderson and other city officials say they're working with state and federal regulators to get a handle on the problem.

But they're quick to point out that the city's own tests show it's in compliance with the Safe Drinking Water Act.

But activists say they don't trust how the city arrived at that conclusion, and point to the Virginia Tech results as evidence that the city has been conducting flawed testing.

"I want them to take responsibility," says Lee Anne Walters, the mother whose son has experienced health problems since the switch. "I want them to quit poisoning their citizens."

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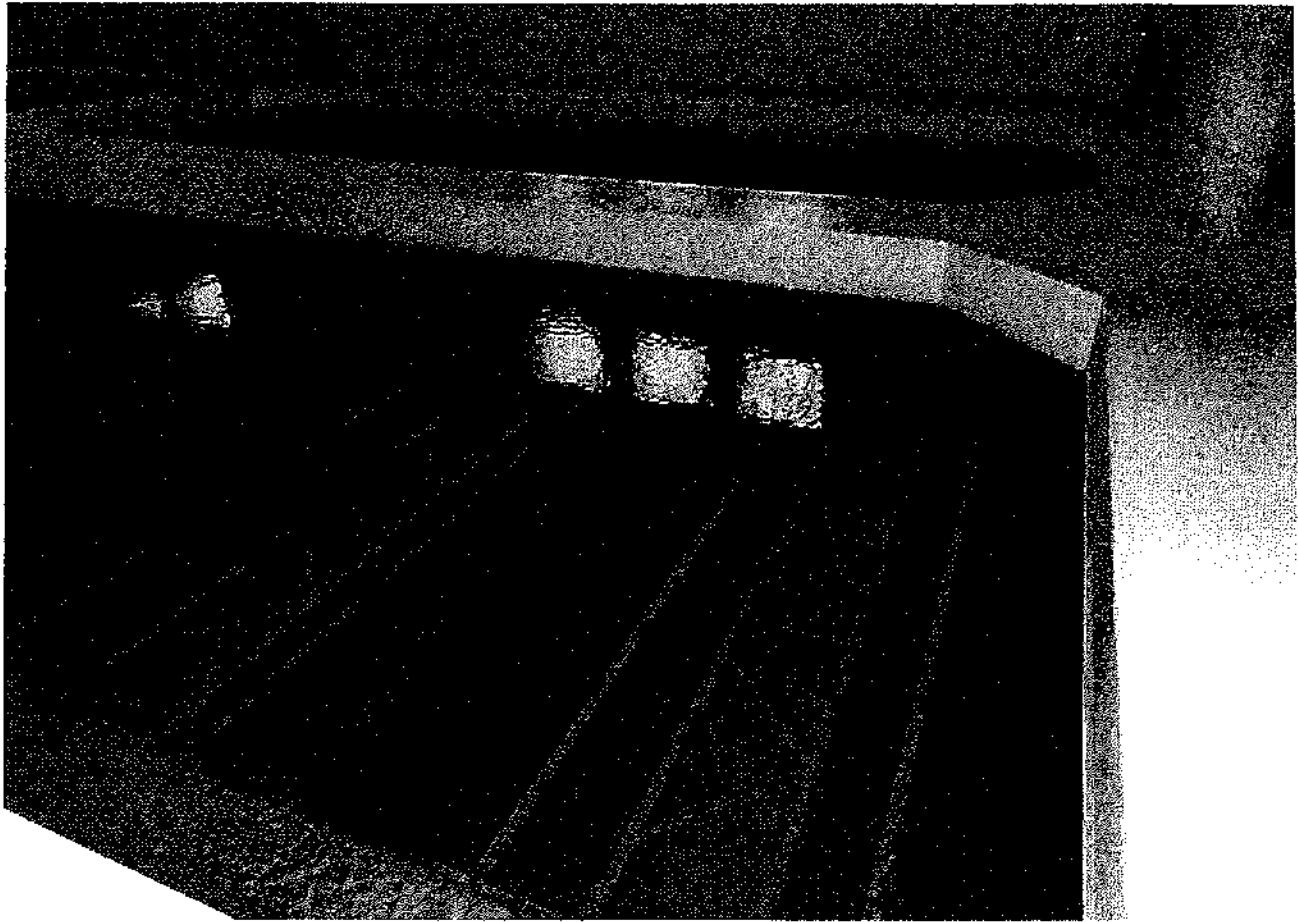
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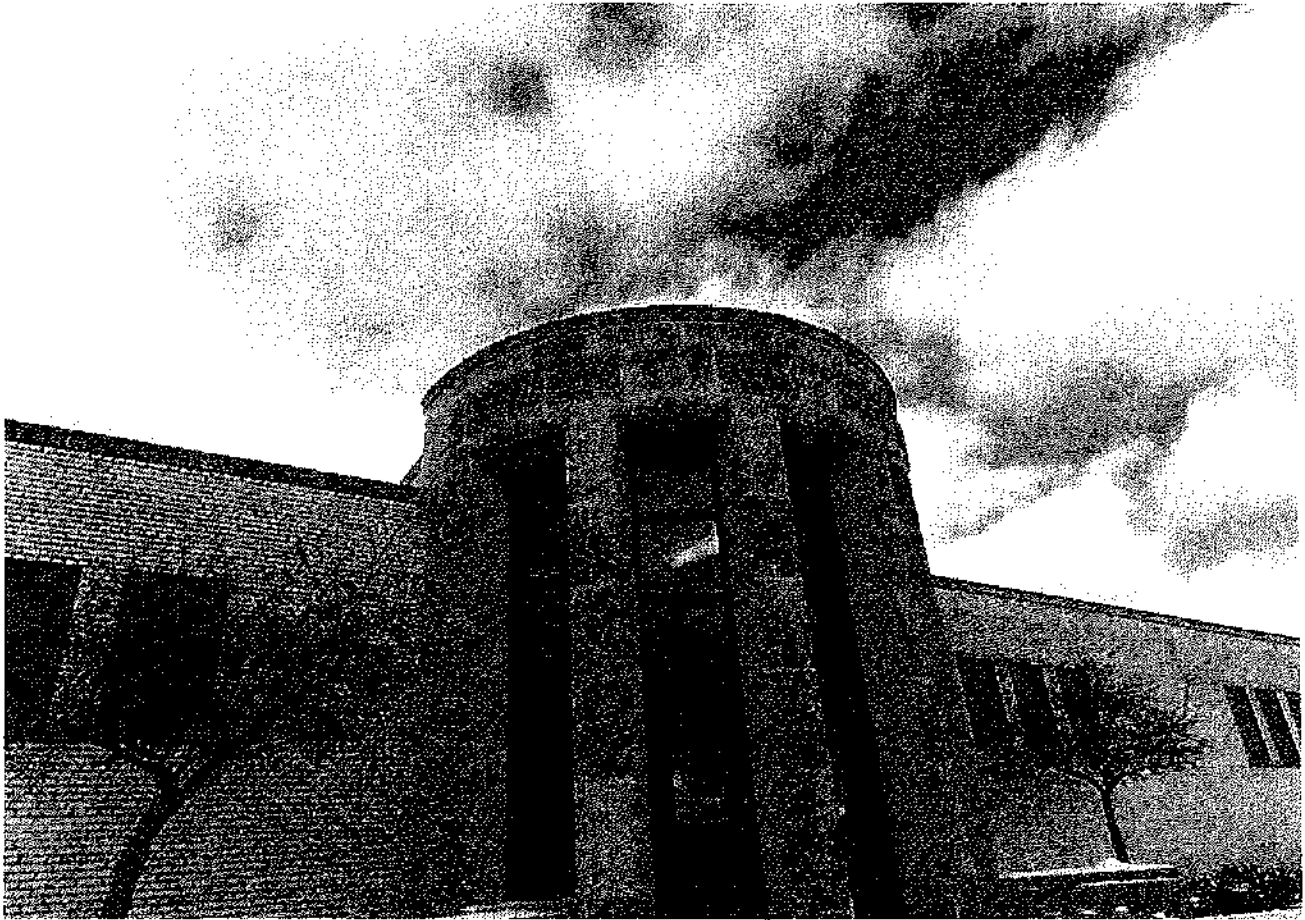
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michigan man • 1 days ago

Let's be clear...this situation is at least partly a result of massive cuts in state revenue sharing, which led the city to take dramatic steps to cut its costs...and now people are paying the price. But hey, we cut taxes at the state level (and our per cap income is still in the bottom 15 in the nation).

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Allison MacArthur-Ruesink • 1 day ago

This has nothing to do with Cost Cuts. The MDEQ is rife with corruption. perhaps the "employee" who had oversight of this facility was also hired and promoted based upon a family connection with a member of the Water Division's "Hot Tub Club" instead of experience and education!? I complained about the problems as far back as the early 2000's, even to Governor Grandholm's husband via Reading for Leading. Nothing was corrected !! Employees who speak out are harassed mercilessly and even worse as in my case. When I did not voluntarily retire after being asked 3x by MDEQ's Jon E. Russell, he conspired and fabricated a case to get rid of me!! I took a polygraph from Forensic Polygraph Services (Mr. Neil Myers) to prove I was telling the truth

but Michigan's corrupt Attorney General Bill Schuette and his equally corrupt Assistant AG Joseph Yung-Kung Ho (P-77390) have denied me any measure of Justice!! It is not a coincidence that the Judge involved with my case Thomas Wilson Jackson County Michigan used to work for the AG's Office. Everything was filed in a timely manner!! The MDEQ have even refused my receiving copies of my OWN PERSONNEL FILE! This is Michigan's way of saying "Thanks for 30 years of Service" They pulled this BS 65 days before my 55th birthday so they could deny my collecting my Retirement Benefits before age 60. Does someone have to die before the Bureaucracy cleans its own house?! Read "Well of Lies" about how inept and unqualified public servants who are unqualified or just plain corrupt, can injure innocent people!!

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Doctor: Lead seen in more Flint kids since water switch

<http://www.freep.com/story/news/local/michigan/2015/09/24/wa...>

Doctor: Lead seen in more Flint kids since water switch

By Robin Erb, Detroit Free Press 6:44 p.m. EDT September 25, 2015

Number of Flint children with lead poisoning jumps after Flint water switch, says researcher.



(Photo: Ryan Garza, Detroit Free Press)

Flint's ongoing water woes are now associated with an immediate and irreversible danger — possible lead poisoning of some of the city's children, according to a review of blood test results by a Hurley Children's Hospital pediatrician.

"I was hoping not to find anything, but what we found ... is concerning," said Dr. Mona Hanna-Attisha who also leads the pediatric residency program at Michigan State University's College of Human Medicine.

"This is not something you mess around with," she said. "Our population already has so many issues from poverty, from unemployment, from violence."

State officials say their own review of blood test results have not shown the same increase that Hanna-Attisha found. Moreover, water tests have similarly shown lead within federally accepted levels, they say.

Hanna-Attisha examined results from blood samples of Genesee County children taken both before and after the city ended its water contract with the Detroit Water and Sewerage Department (<http://www.dwsd.org/>) and began pulling water from the Flint River.

The number of Flint children with elevated blood-lead levels — 5 micrograms per deciliter or more — jumped from 2.1% in the 20 months prior to Sept. 15, 2013, to 4.0% between Jan. 1 and Sept. 15 this year. In certain ZIP Codes, the change was even more troubling, she said — jumping from 2.5% of the children tested to 6.3%.

Blood is often drawn by pediatricians as part of routine lead-level testing, especially among children who are on Medicaid. That gave Hanna-Attisha 1,746 test results from Flint children to compare against 1,640 results from elsewhere in Genesee County. Children in Genesee County outside of Flint showed no significant increase in blood-lead levels.

Health officials have said no lead levels are safe (<http://www.cdc.gov/nceh/lead/>). Lead can lead to serious developmental problems, reducing a child's IQ and causing serious behavioral and emotional problems. Though levels can fall in individuals over time, the damage is permanent.

If Hanna-Attisha's analysis is correct, this upward trend in Flint interrupts years of progress in reducing dangerous blood-lead levels.

State data show that the percentage of children with elevated blood lead levels have been falling for years. In fact in 2013, 3.6% of Flint children younger than 6 had elevated blood-lead levels, compared with the state-wide rate of 3.9%.

Though Hanna-Attisha's review didn't try to determine cause, "we can't think of another reason" for the trend other than the change in Flint's water source.

The review is sure to ratchet up tension in Flint.

In 2014, city officials ended the city's contract ([/story/news/local/michigan/2015/01/22/water-woes-latest-hit-flint/22193291/](http://www.freep.com/story/news/local/michigan/2015/01/22/water-woes-latest-hit-flint/22193291/)) with the Detroit Water and Sewerage Department (<http://www.dwsd.org/>), saying that water costs were too high. They opted instead to pull from the Karegnondi Water Authority, which is building a system to supply Genesee County with water pulled from Lake Huron. In the long run, this will mean lower water costs, officials have said.

But until the new system comes online in 2016, Flint is temporarily pulling water from the Flint River. Since it made the switch, residents have complained that the water smells, is discolored and makes them sick.

Soon after the switch, tests indicated the presence of coliform bacteria, which can suggest the presence of other disease-carrying pathogens. The water was then treated with disinfectants, and city officials maintain the water is safe.

The question is not that whether there is a higher level of lead in water from the Flint River — it's that river water may be more corrosive as it travels through lead pipes on residential properties and in homes, said Brad Wurfel, a spokesman for the Michigan Department of Environmental Quality. About 15,000 of the 40,000 Flint customers have lead pipes connecting to the city system, he said.

But he said testing has shown that lead levels in the Flint water system — both before and after the switch in 2014 — have been under the acceptable limit of 15 parts per billion during every three-year testing cycle since 1992. Additionally, two rounds of supplemented tests since the system switch put

Doctor: Lead seen in more Flint kids since water switch

<http://www.freep.com/story/news/local/michigan/2015/09/24/wa...>

lead levels at 6 parts per billion and then at 11 parts per billion — a change that Wurfel said fits in line with previous fluctuations.

Congressman Dan Kildee, a Flint Democrat, called state and local testing "lackluster."

For one thing, Flint residents collect samples, and there are concerns that there are too few samples and that they represent only some parts of the city. And Wurfel confirmed that about 60 bottles of water samples were turned in by citizens in the last round of testing, even though 200 bottles were sent out.

In the best of circumstances — with enough sampling and previous clean tests of water — citizen sampling might be adequate. But, in Flint — where there's a major change in the system that some residents say have led to health problems, "it seems to be a much higher standard would apply," Kildee said.

In addition to water testing, Wurfel said state public health officials have reexamined results of blood-lead level testing among Flint children. In short, that data doesn't show the same upward trend that Hanna-Attisha's found, he said.

Wurfel said environmental officials aren't taking the matter lightly, and they realize the water system is in "dire" need of an overhaul. They've requested a meeting with U.S. Environmental Protection Agency authorities to "review protocols" to make sure the state's testing is adequate.

"Lead is serious. Lead builds up. Lead effects children. It's not something we take lightly," he said. "We're confident with what we've done, but we know there are concerns."

Angela Minicuci, a spokeswoman for the Michigan Department of Health and Human Services, any increase in the past year in blood-lead levels among Flint children is attributed to predictable seasonal spikes.

In the year preceding the change in the water system, 95 Flint children younger than 16, or 2.4% of those tested, had elevated blood-lead levels, according to state data. The following year, 123 children, or 3.2%, of those tested had elevated blood-lead levels.

There is "cause for concern in Flint," but it cannot be attributed to the water, she said.

Contact Robin Erb: rerb@freepress.com (<mailto:rerb@freepress.com>) or 313-222-2708. Follow her on Twitter @FreepHealth. (<https://twitter.com/FreepHealth>)

Free Press staff writer Kristi Tanner contributed to this report.

Lead's toll (<https://www.nlm.nih.gov/medlineplus/ency/article/002473.htm>) on children:

Lead can affect many parts of the body, and is most harmful when there is repeated exposure, even to small amounts. Even low levels of lead exposure can harm a child's mental development, and the problems worsen as blood-lead levels get higher.

The younger the child, the more harmful the exposure; unborn children are the most vulnerable, according to the National Institutes of Health.

Among possible complications:

- Behavior or attention problems
- Failure at school
- Hearing problems
- Kidney damage
- Reduced IQ
- Slowed body growth

Very high levels of lead may cause vomiting, a staggering walk, muscle weakness, seizures, or coma.

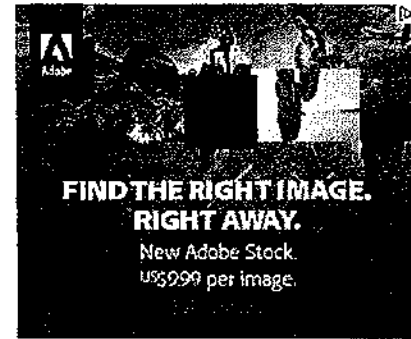
For more information, visit www.cdc.gov. Search "lead poisoning."

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High amount of lead found amid Flint children while switching waters

SEPTEMBER 27, 2015 BY DAVID BRYAN IN HEALTH 0 COMMENT

f t g+ in

It's exhausting to know the resounding yawn that appears to have emanated from the governor's workplace, following information that an growing share of Flint children have been lead poisoned after a change within the metropolis's water provide.

A spokeswoman for the Michigan Division of Well being and Human Providers despatched a Free Press knowledge analyst a chart she claimed would refute a report issued by a Hurley Medical Heart researcher, who discovered that because the metropolis began pumping water from the Flint River final April, the share of Flint youngsters with elevated blood-lead ranges has greater than doubled in some ZIP codes.

In reality, the state's information helps the Hurley researcher's declare — the variety of children with lead poisoning had been falling in Flint and throughout the state, till the water change. Now it is rising.

A spokeswoman for Gov. Rick Snyder wrote in an e-mail that the Hurley knowledge had been "spliced and diced," a suggestion that it's one thing apart from correct — though the state's personal knowledge bolsters the Hurley report.



And officers throughout the administration have hastened to insist that Flint's water is protected and to recommend that though printed reviews say Michigan Division of Environmental High quality information present elevated lead ranges in Flint's water, there's no motive to suspect that has prompted extra Flint children to undergo from lead poisoning. And thus far, none of it has it spurred them to motion.

However here is the scenario: There's extra lead in Flint's water than there was. And extra Flint youngsters have lead of their blood, one thing that results in severe, irreversible behavioral and developmental issues.

The way it occurred

The Metropolis of Flint determined in 2013 to affix the brand new Karegnondi Water Authority, together with Genesee, Sanilac and Lapeer counties. That system will not be full till 2016. Within the interim, the town — below former emergency supervisor Darnell Earley — opted to pump its water from the Flint River, as a substitute of constant to buy it from the Detroit Water and Sewerage Division — partly, state officers say, as a result of DWSD deliberate to lift its charges for a brief-time period contract. Town thought-about mixing Lake Huron and Flint River water, however finally selected to tug water from the Flint River alone. Genesee County, in distinction, will proceed to buy its water from DWSD whereas the brand new system is below building.

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High amount of lead found amid Flint children while switching waters | Statesman Tribune Page 2 of 4

Researchers say that Flint River water, extra corrosive than the Lake Huron water pumped by the Detroit Water and Sewerage Division, is leaching lead from the town's ageing infrastructure into the water provide.

The town, and its residents, need assistance. Within the close to time period, residents — particularly residents with formulation-fed infants, whose diets are composed virtually fully of water — residing in poverty want help to buy bottled water or filtration programs. And town wants to think about its lengthy-time period choices, particularly, whether or not to reconnect to DWSD till the Karegnondi system is full.

That would not be a easy course of. Former Flint EM Darnell Earley, now EM for Detroit Public Colleges, wrote in an e-mailed assertion that he was not concerned within the determination to make use of river water, though it occurred throughout his tenure. He was additionally EM when a 9-mile part of pipe was bought to Genesee County, a call he wrote was within the works earlier than his appointment, which means the town cannot reconnect to the Detroit system with out the cooperation of Genesee County.

Neither is the upper value of shopping for water from DWSD — about \$1.5 million a month — within the metropolis's price range, Flint Mayor Dayne Walling mentioned. The town, which emerged from state oversight this yr, would want the approval of its transitional advisory board to extend its water price range.

Flint, by the way in which, is broke.

U.S. Rep. Dan Kildee and state Senate Majority Chief Jim Ananich, each Flint Democrats, have pledged to deliver monetary and sensible help to the district.

For now, Walling mentioned, Flint's water therapy plant will start so as to add anticorrosive brokers to the Flint River water, which can take weeks to affect the water provide.

If I lived in Flint, I might be mad. If I had been a Flint mum or dad, with a little one who'd spent the final 12 months and a half ingesting lead-contaminated water, I might be in despair.

We're speaking a few public well being disaster — one that would have been prevented.

Whose fault is it?

Throughout their tenures, emergency managers are the last word authority within the cities they serve.

And so the accountability for Flint's water ties, finally, with Snyder, and the emergency managers he appointed — and it's Snyder who should come to Flint's rescue. Walling says Flint's residents want funds for instant aid, however that the town wants grants to begin to improve its growing older, lead-ridden water infrastructure.

Snyder hasn't hesitated to nominate or retain emergency managers in struggling cities throughout the state, a stance the Free Press Editorial Board has largely supported, with one caveat: Emergency managers need to make issues higher.

That's the premise on which the emergency supervisor legislation is based. Cities are the creation of the state. The state has a accountability to look after the well being and welfare of its residents, and typically, cities face challenges not fixable on the native degree. In these instances, the state should step in.

That is actually the case in Flint, which has suffered from the identical lack of inhabitants — and tax base — as Detroit, however with fewer property with which to leverage a passable consequence.

In these circumstances, the Free Press editorial board has argued, the state has a accountability to behave, to revive some fiscal stability, and thus service supply and high quality of life for residents.

That is the catch.

It would be straightforward to stability any metropolis's finances: Lay off all of the cops, promote all of the ambulances, liquidate town parks. However that would not make life higher for residents. That is the steadiness emergency managers should be conscious of — value financial savings versus high quality of life. Spending cuts versus service supply. A metropolis's backside line cannot be revenue-pushed.

That is the evident weak spot within the emergency supervisor legislation, and it on full show in Flint.

Snyder spokeswoman Sara Wurfel stated the state signed off on the swap on the behest of Walling and the Flint Metropolis Council, and solely "with severe reservations."

That is not precisely how Walling remembers it.

"I didn't assist it come what may," he mentioned. "It wasn't my resolution. I had lots of issues about it that I raised internally, however the funds was in place ... I had loads of considerations about it, however when it was determined that was the choice ... I didn't protest."

High amount of lead found amid Flint children while switching waters | Statesman Tribune Page 3 of 4

When the Flint Metropolis Council voted this 12 months to reconnect to the Detroit water system, then-emergency supervisor Jerry Ambrose known as its resolution "incomprehensible": "Water from Detroit isn't any safer than water from Flint," Ambrose stated, as reported within the Flint Journal.

It is fairly clear that is not true. It isn't clear what anybody from the State of Michigan is ready to do about it.

Sixteen months in the past, Earley and Walling celebrated the town's departure from DWSD, elevating glasses of Flint River water, ready to toss them again, with a toast that strikes a hole word at present: Here is to Flint.

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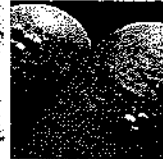
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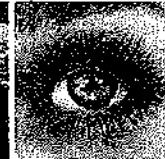
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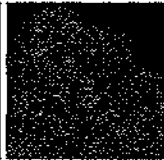
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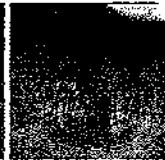
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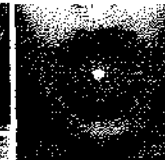
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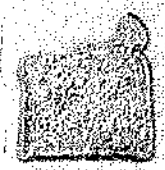
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EXHIBIT N

FOIA Coordinator City of Flint Department of Law
1101 S. Saginaw Street, 3rd Floor
Flint, MI 48502
Fax: (810) 232-2114
Email: ajones@cityofflint.com

Dear FOIA coordinator,

This letter is a request for records under the Freedom of Information Act, MCL 15.231 et seq.

The records I am requesting are:

1. All documents the City of Flint, or its agents, has in its possession, including correspondence, related to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.
2. All documents the City of Flint, or its agents, has in its possession, including correspondence, related to any communications between the Michigan Department of Environmental Quality, or its agents, and/or the Michigan Department of Treasury, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.
3. All documents the City of Flint has in its possession, including correspondence, related to any communications between the City of Flint of Treasury, or its agents, and the Office of the Governor of the State of Michigan, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.

I am enclosing a check in the amount of \$20 as a good faith deposit to cover a portion or all of the cost of these items. If the amount exceeds \$20, please contact me by phone at 810-223-7034, to discuss the balance and the basis for the amounts charged beyond \$20. If the amount is less than \$20 please refund the balance to this office.

Sincerely,

Phil Phelps
819 Main Street
Unit A
Flushing, MI 48433

Michigan Department of Treasury
Attn. FOIA Coordinator
P.O. Box 30716
Lansing, MI 48909

MIStateTreasurer@michigan.gov

Dear FOIA coordinator,

This letter is a request for records under the Freedom of Information Act, MCL 15.231 et seq.

The records I am requesting are:

1. All documents the Michigan Department of Treasury, or its agents, has in its possession, including correspondence, related to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.
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Sincerely,

Phil Phelps
819 Main Street
Unit A
Flushing, MI 48433

FOIA Coordinator
Department of Environmental Quality
P.O. Box 30457
Lansing, MI 48909-7957
Phone: 800-662-9278

deqfoia@michigan.gov

Dear FOIA coordinator,

This letter is a request for records under the Freedom of Information Act, MCL 15.231 et seq.

The records I am requesting are:

1. All documents the Michigan Department of Environmental Quality, or its agents, has in its possession, including correspondence, related to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.
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Sincerely,

Phil Phelps
819 Main Street
Unit A
Flushing, MI 48433

EXHIBIT O

City: Keep original and
provide copy of both sides,
along with Public Summary,
to requestor at no charge.

City of Flint
1101 S. Saginaw Street
Flint, Michigan 48503
Fax: (810) 232-2114

Denial Form

Notice of Denial of FOIA Request
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: **15-0664** Date Received: **Sept 10, 2015** Check if received via: Email ☐ Fax ☐ Other Electronic Method

Date of This Notice: **Sept 14, 2015**

Date delivered to junk/spam folder: _____

(Please Print or Type)

Date discovered in junk/spam folder: _____

Name Phil Phelps	Phone
Firm/Organization	Fax
Street 819 Main Street Unit A	Email
City Flushing	State MI Zip 48433

Record(s) You Requested: (see attached copy of original request)

Your request has been ☒ Denied OR ☐ Granted in part and denied in part. Please refer to this form for an explanation. If you have any questions regarding this denial, contact Althea Jones at ajones@cityofflint.com, by telephone at (810) 766-7146, or by fax at (810) 232-2114.

Reason for Denial or Partial Denial:

Disclosure of the following information is denied for the following reason(s):

☒ 2. The records which you have requested **do not exist** under the name given by the requester or by another name reasonably known to this public body or are not retained by this public body in the performance of an official function. This is a certification of their non-existence. **No Records – Requested documents do not exist. Attached please find your check for \$20.00.**

The City of Flint FOIA Procedures and Guidelines and Written Public Summary are available at the City's website at:

www.cityofflint.com/legal-2/foia/

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Mayor or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the city has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____

Date: 9-14-15

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

Opt-Out:

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

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CITY ATTORNEY'S
OFFICE

FOIA Coordinator City of Flint Department of Law
1101 S. Saginaw Street, 3rd Floor
Flint, MI 48502
Fax: (810) 232-2114
Email: ajones@cityofflint.com

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Sincerely,

Phil Phelps
819 Main Street
Unit A
Flushing, MI 48433

Opt-Out:

EXHIBIT P

Keith,

Just got this email while we were on the phone. The DEQ must have talked to Flint and decided that since Flint is not turning over documents that they are not going to either after they both told me that they had documents to share.

Thanks,
Phil

----- Forwarded Message -----

From: DEQFOIA <DEQFOIA@michigan.gov>

To: "Phillip Phelps (pphelps277@yahoo.com)" <pphelps277@yahoo.com>

Sent: Monday, September 28, 2015 11:59 AM

Subject: Request for Disclosure of Official Files

Mr. Phil Phelps
819 Main Street, Unit A
Flushing, MI 48433

Dear Mr. Phelps:

SUBJECT: Request for Disclosure of Official Files – Executive Division and Water Resources Division

This notice is issued in response to your request for information under the Freedom of Information Act, 1976 PA 442, as amended (FOIA), received on September 8, 2015. You have requested the following information: "Any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint, etc." (FOIA 6422-15).

The purpose of the FOIA is to provide the public with access to existing, nonexempt public records of public bodies. Your request to examine or receive a copy of the documents described above is denied.

To the best of this public body's knowledge, information, and belief, the public record does not exist under the name given by the requester, or by another name reasonably known to the public body.

Under section 10 of the FOIA, the DEQ is obligated to inform you of the following:

1) Appeal this decision in writing to the Director of the Department of Environmental Quality, P.O. Box 30473, Lansing, Michigan 48909-7973. The writing must specifically state the word "appeal," and identify the basis for which the disclosure determination should be reversed. The Director of the DEQ, or his/her delegated designee, must respond to the appeal within 10 days of its receipt. Under unusual circumstances, the time for response to the appeal may be extended by 10 business days.

2) Commence a civil action in circuit court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.

Susan Vorce, FOIA Coordinator
Department of Environmental Quality
800-662-9278
deqfoia@michigan.gov

The DEQ strives to continually improve its customer service to FOIA requesters. To provide input for improvements to the FOIA process, please complete this survey: <https://www.surveymonkey.com/s/foiaprocess>

EXHIBIT Q



Volume #54, Report #195, Article #1--Thursday, October 1, 2015

Senate Activity Report | House Activity Report

Pressure Mounts On Flint Water; Snyder Prepares Actions

A coalition of Flint and state organizations asked the U.S. Environmental Protection Agency on Thursday to order a switchover of the Flint water system with the Detroit Water and Sewerage system, in what is one of the most striking actions in the controversy. The demand came as state officials plan to announce a series of actions on Flint on Friday dealing with the water problems in the city.

One legislator - who also complained he had been denied documents from the state dealing with the switch from the Detroit system to using water from the Flint River (a state official said the wrong documents had been requested) - said there had been a general discussion, but no specifics about what Mr. Snyder might announce. Rep. Phil Phelps (D-Flushing) said he expected the state would provide more filters to residents to help curb lead in the water. Filters will be helpful, Mr. Phelps said, but not enough.

Governor Rick Snyder will not be at the event, to be held at Kettering University, but Flint Mayor Dayne Walling, along with Environmental Quality Director Dan Wyant, Health and Human Services Director Nick Lyon, Urban Initiatives Director Harvey Hollins and the state's chief medical officer, Eden Wells, will speak on the initiatives being pursued.

The presentation will be at 1:30 p.m. at the university's Innovation Center, 1300 Bluff Street.

The controversy over the water in Flint has grown exponentially since indications that lead levels, caused mainly by antique pipes and their connections, were elevated in children who were tested. Researchers said they could not absolutely say the elevated levels were from the water, but the measures showed the increase since the city made the switch. Also on Thursday, it was announced that the city had received donations to provide some 5,000 water filters to help contain the lead.

Prior to the discovery about elevated lead levels, the controversy over the system dealt largely with the smell and taste of the water. Flint switched from using Detroit water to drawing water from the Flint River in 2014 as the city prepared to build its own system that would draw water from Lake Huron. The switch was made largely because Flint and Detroit could not agree on a short-term contract to use the water, and the city, under a state-appointed emergency manager because of financial problems, did not want to pay the cost of Detroit water.

In a press conference on Wednesday, Mr. Snyder acknowledged that in making the switch, not all factors were probably considered.

The request for the EPA to order both the city and state to make the switch to Detroit water came with a variety of city and state groups, including the Concerned Pastors for Social Action, the Flint Water Study

10/9/2015

Gongwer News Service

Team, the Michigan Nurses Association, the NAACP-Michigan State Conference, the Natural Resources Defense Council and the Michigan branch of the American Civil Liberties Union, getting involved.

The request charged that neither the state nor Flint were doing enough to fix the problem and urged that both be ordered to immediately have Flint's water system reconnected with the Detroit system, and that city residents be provided with a free source of water that meets EPA standards.

Mr. Phelps, meanwhile, complained that the Department of Environmental Quality denied and the Department of Treasury ignored a Freedom of Information Act request for documents related to the city's switch from Detroit water to river water. Anytime there is a change in water systems of the course of water, the community has to apply to the state for that authority.

But Brad Wurfel, with the DEQ, said Flint did not have to file that application because the city had always listed the Flint River as its back-up should it need it for a water supply.

However, there are other documents that are available - to Mr. Phelps or anyone - dealing with the process the city and state took preparing for the switch, Mr. Wurfel said.

Mr. Phelps said a DEQ official contacted him and said there were documents available and that they would be sent to him. The official asked that he drop his FOIA request, Mr. Phelps said.

On the advice of his lawyers, Mr. Phelps said he did not drop the request. But he had also asked the department for any documents that might have to do with the switch. After his request was denied, he received several documents dealing with the system, but the documents were from 2007 and did not have to do with the switch.

Mr. Phelps was surprised by the refusal and was planning what steps to next take.

In terms of what the state should do to help in the situation, Senate **Minority Leader Jim Ananich** (D-Flint) told reporters after session on Thursday that he thought the state should first help with distributing filters to residents, especially those who may be most vulnerable, listing pregnant women, children, women that are nursing, those with immune system issues and the elderly among them.

"That should be done immediately," Mr. Ananich said. "I think we need to have corrosion control put in place as quickly as possible. Unfortunately, I think we need some independent, outside testers to come in and develop the confidence level that's just not there with traditional people in place. And I think we need to have a serious look at reconnecting with Detroit. I think the state needs to help us find a new source of water."

He said he would reserve judgment about how well the state has responded to the situation until after the administration makes its recommendations and remains unsure about any estimates on how much it might cost for Flint to reconnect to Detroit water.

"There's been some negotiations going on at the local level, but I think it's important to get the real cost because it's a public health issue. And I'm hopeful we'll find that. I would hope that all folks, with an issue of this magnitude, would not try to gouge a community that's been suffering the way they are," Mr. Ananich said. "I think we need to all, at the state level, make sure people are negotiating in good faith."

And Senate **Majority Leader Arlan Meekhof** (R-West Olive) said he is unsure what the state's role should be in terms of helping Flint. The Senate did, on Thursday, include a \$100 placeholder to deal with Flint's water

10/9/2015

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crisis in an appropriations supplemental it passed, but that was to keep the conversation going, Mr. Ananich said (see separate story).

"I don't know that we really have a solution there yet," Mr. Meekhof said after session. "We could use revolving funds maybe. I don't think the city of Flint is in as bad of financial trouble as the city of Detroit, so if they need to bond for something, they would have assets with which to bond and maybe fix the problem. There's lots of options that are out there."

[Back To Top >>](#)

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124 West Allegan Street, Suite 1200, Lansing, Michigan, 48933

Phone: 517-482-3500 **Fax:** 517-482-4367 **Email:** gongwer@gongwer.com

EXHIBIT R

89 (Rev. 04-15)

RICK SNYDER
GOVERNORSTATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSINGNICK A. KHOURI
STATE TREASURER

September 29, 2015

Mr. Phil Phelps
819 Main Street
Unit A
Flushing, MI 48433

Dear Mr. Phelps:

This notice is issued in response to your request dated September 4, 2015, which you submitted under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.* Your request was received in the Department of Treasury (Department) by electronic mail on September 8, 2015. As set forth in the Department's September 15, 2015 notice, a statutory extension of time to respond was taken through September 29, 2015.

You have requested records which you describe as: 1) All documents the Michigan Department of Treasury, or its agents, has in its possession, including correspondence, related to any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity; 2) All documents the Michigan Department of Treasury, or its agents, has in its possession, including correspondence, related to any communications between the Michigan Department of Environmental Quality, or its agents, and the Michigan Department of Treasury, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity; 3) All documents the Michigan Department of Treasury has in its possession, including correspondence, related to any communications between the Michigan Department of Treasury, or its agents, and the Office of the Governor of the State of Michigan, or its agents, regarding any waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity.

To the extent we understand your description, your request is denied. After a thorough search of Department records, to the best of the undersigned's knowledge, information and belief, no such records as you describe, or by any other name reasonably known to the Department, regarding any "waivers, permits or applications to use the Flint River as a source for water and/or drinking water for the City of Flint or any other municipality or municipal entity," exist in the Department of Treasury.

P.O. BOX 30716 • LANSING, MICHIGAN 48900
www.michigan.gov/treasury • 517-373-3200

Opt-Out:

Mr. Phil Phelps
Page 2
September 29, 2015

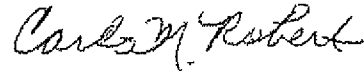
In an effort to be cooperative, you may wish to contact the Department of Environmental Quality as they may have records responsive to your request.

As to the denial of your FOIA request, the Department is obligated to inform you that under section 10 of the FOIA, MCL 15.240 you may do the following:

1. Appeal this decision in writing to the State Treasurer, Michigan Department of Treasury, P.O. Box 30716, Lansing, MI 48909. The writing must specifically state the word "appeal" and must identify the reason or reasons you believe the denial should be reversed. The Department must respond to your appeal within 10 days of its receipt. Under unusual circumstances, the time for response to an appeal may be extended by 10 business days.
2. File an action in the appropriate court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.

Pursuant to section 4 of the FOIA, MCL 15.234, the Department's FOIA procedures, guidelines and written summary can be found on the Department's website at the following link: <http://michigan.gov/treasury/0,4679,7-121-72699-357926--,00.html>.

Sincerely,



Carla M. Robert
FOIA Coordinator

Opt-Out:

From: Workman, Wayne (TREASURY)
Sent: Monday, October 19, 2015 3:50 PM
To: Byrne, Randall (Treasury); Sygo, Jim (DEQ)
Subject: FW: DEQ - Flint wire for TODAY (10/1 9)
Attachments: City of Flint Commercial Account Wire 10-19-15.pdf

Randy, please let the City know it is in route

Wayne L. Workman
 Deputy State Treasurer
 Michigan Department of Treasury

From: Boyne, David (Treasury)
Sent: Monday, October 19, 2015 3:39 PM
To: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmanj2@michigan.gov>; Workman, Wayne (TREASURY) <WorkmanW@michigan.gov>; Saxton, Thomas (Treasury) <SaxtonT@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Please find the approval attached. Thanks.

David
 1-2028

From: Fielek, Joseph L. (Treasury)
Sent: Monday, October 19, 2015 3:01 PM
To: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmanj2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>; Workman, Wayne (TREASURY) <WorkmanW@michigan.gov>; Saxton, Thomas (Treasury) <SaxtonT@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Wire approved -- paperwork to follow.

From: Christenson, Elysse (TREASURY)
Sent: Monday, October 19, 2015 2:40 PM
To: Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmanj2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Please see attached.

Thanks,
 Elysse

From: Fielek, Joseph L. (Treasury)
Sent: Monday, October 19, 2015 2:36 PM
To: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmani2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Thanks, I'll be looking for it.

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Sent: Monday, October 19, 2015 2:36 PM
To: Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmani2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

They will be resubmitting an updated form shortly.

From: Fielek, Joseph L. (Treasury)
Sent: Monday, October 19, 2015 2:25 PM
To: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Gross, Sara (Treasury) <GrossS1@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmani2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Do you know why the date on the signature line is 8/21/15?

From: Christenson, Elysse (TREASURY)
Sent: Monday, October 19, 2015 2:07 PM
To: Gross, Sara (Treasury) <GrossS1@michigan.gov>; Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>
Cc: Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmani2@michigan.gov>; Boyne, David (Treasury) <BoyneD@michigan.gov>
Subject: DEQ - Flint wire for TODAY (10/1 9)

Hi Joe,

Please approve the attached wire request to the City of Flint. The wire is in regards to the article below. Let me know if you have questions.

http://www.mlive.com/news/flint/index.ssf/2015/10/state_deq_flint_should_have_be.html

Thanks,
 Elysse

From: Gross, Sara (Treasury)
Sent: Monday, October 19, 2015 12:48 PM
To: Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>
Cc: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Lindsay, Brenda (Treasury)

<Lindsay82@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmani2@michigan.gov>

Subject: Wire - City of Flint

Joe,

FYI, DEQ will be requesting a non-repetitive wire transfer to the City of Flint for \$2.0 million, today.

We are assisting them in completing the wire transfer documents.

In regards to this article.

http://www.mlive.com/news/flint/index.ssf/2015/10/state_deq_flint_should_have_be.html

We will have the paperwork to you shortly.

sara

Sara Gross
Banking and Disbursement Manager
Office of Financial Services
Department of Treasury
Ph: 517-636-5350
GrossS1@michigan.gov

Michigan Department of Treasury
Form 3703 (Rev. 01-11)

Repetitive Wire or Non-Repetitive Wire Transfer

Payment Request or Update

PART A: ACTION REQUESTED (check only one)

Repetitive Wire

- ☐ Request to send payment via Repetitive wire transfer
- ☐ Add new repetitive payment (See note below)
- ☐ Change existing repetitive payment
- ☐ Delete existing repetitive payment

Non-Repetitive Wire (one-time payment)

- ☒ Request to send payment via Non-repetitive wire transfer

PART B: AGENCY CONTACT INFORMATION

1. Agency Contact Jennifer Dingman	2. Telephone Number (517) 335-2503
3. Fax Number (517) 373-6525	4. Pages Faxed
5. Date Faxed 10/19/15	
6. Receipts Processing Division Contacts Telephone: (517) 636-5384 or (517) 636-5400 Fax: (517) 636-5401	

PART C: PAYMENT

Repetitive Payment – complete Parts C1-14; Add, Change or Delete payment – complete C1, C6-14 and D1; Non-Repetitive Payment – Complete C1-14 and D1.

1. MAIN FACS Doc Agency (3 digits) 761	2. MAIN FACS Document Number (6 characters)	3. MAIN FACS Payment Number for Wire Transfer (9 digits) X
4. Settlement Date 10/19/15	5. Transfer Amount \$2,000,000.00	
6. Receiving Bank Name JPMorgan Chase	7. Receiving Bank Routing Transit Number PPI	
8. Beneficiary's Bank (BBK) Name (if different from receiving bank)		
9. Beneficiary Information (BNF) (name on account) City of Flint Commercial Account	10. Beneficiary Information (BNF) Account Number PPI	
11. Payment Details – Originator to Beneficiary Information (OBI) and Bank to Bank Information (BBI)		
12. Signed approval of Agency's Chief Financial Officer, Chief Accountant or authorized designee <i>Mary J. Litner for Julie Salmer</i>	13. Date 10/19/15	14. Request wire confirmation ☒ Yes ☐ No

PART D: TREASURY APPROVAL

1. Approval of Treasury's Authorized Signer (Treasurer, Deputy Treasurers or Financial Services Bureau Director, required for Add, Change or Deletion of repetitive payment information or requesting Non-repetitive payment.)

Signature: *Joseph L. Tuller*

Date: **10/19/15**

TREASURY RECEIPTS PROCESSING DIVISION USE ONLY

2. Transaction Number	3. The Department of Treasury certifies the payment was initiated as follows:
	Entered by _____ on _____ at _____ a.m./p.m.
	Released by _____ on _____ at _____ a.m./p.m.

PART E: DMB CERTIFICATION OF FUNDS (If unable to successfully enter and post MAIN FACS document)

Along with this form, submit PCHL 1800 (Direct Voucher Header Entry) screen from ADPICS or 520 (View a Batch) screen from R*STARS to your Agency Accountant Liaison for DMB certification of funds.

Signature	Date

To submit payment request to Treasury:

Fax completed form, with screen print of MAIN FACS header screen (ADPICS Screen PCHL 1800 or R*STARS screen 520, after approved and posted if timing allows) to: Receipts Processing Division, as shown in Section B6 above.

Dingman, Jennifer (MDOT)

From: McDonald, Paul (DEQ)
Sent: Monday, October 19, 2015 1:32 PM
To: Dingman, Jennifer (MDOT); Letner, Mary-Jo (MDOT)
Subject: Fwd: City of Flint Wire Transfer Routing Information

Here you go! Please confirm receipt and execution of wire. Will have form to you in a.m.

Sent from my Samsung S5

----- Original Message -----

From: Jody Lundquist <jlundquist@cityofflint.com>
 Date: Mon, October 19, 2015 1:25 PM -0400
 To: "McDonald, Paul (DEQ)" <mcdonaldp@michigan.gov>
 CC: "Sygo, Jim (DEQ)" <SygoJ@michigan.gov>, Natasha Henderson <nhenderson@cityofflint.com>
 Subject: City of Flint Wire Transfer Routing Information

Please see the wire transfer routing information below.

Bank Name : JPMorgan Chase
 Routing #:
 Acct #:
 Account Name: Commercial Account
 Contact: Amanda Trujillo
 Amount: \$2 million

Please let me know if you have any questions or if I may be of any assistance.

Thank you,

Jody N. Lundquist
 Chief Financial Officer
 City of Flint
 1101 S. Saginaw Street, 2nd Floor
 Flint, MI 48502
jlundquist@cityofflint.com
 (810) 766-7268 ext. 2301

From: Byrne, Randall (Treasury)
Sent: Monday, October 19, 2015 4:21 PM
To: Workman, Wayne (TREASURY)
Cc: Sygo, Jim (DEQ)
Subject: RE: DEQ - Flint wire for TODAY (10/1 9)

Wayne:

I just gave Natasha your message.

Randy,

From: Workman, Wayne (TREASURY)
Sent: Monday, October 19, 2015 3:50 PM
To: Byrne, Randall (Treasury) <ByrneR1@michigan.gov>; Sygo, Jim (DEQ) <SygoJ@michigan.gov>
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Randy, please let the City know it is in route

Wayne L. Workman
 Deputy State Treasurer
 Michigan Department of Treasury

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Thanks,
Elysse

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To: Fielek, Joseph L. (Treasury) <FIELEKJ@michigan.gov>
Cc: Christenson, Elysse (TREASURY) <ChristensonE1@michigan.gov>; Lindsay, Brenda (Treasury) <LindsayB2@michigan.gov>; Ruttman, Jennifer (Treasury) <ruttmanj2@michigan.gov>
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We will have the paperwork to you shortly.

sara

Sara Gross
Banking and Disbursement Manager
Office of Financial Services
Department of Treasury
Ph: 517-636-5350
GrossS1@michigan.gov

From: Wurfel, Brad (DEQ)
Sent: Tuesday, October 20, 2015 12:35 PM
To: Sygo, Jim (DEQ)
Subject: FW: Follow up on Phelps FOIA request

Jim, this gets deep in the weeds. Need your help here.

From: Lindsey Smith [<mailto:lnsmi@umich.edu>]
Sent: Tuesday, October 20, 2015 12:23 PM
To: Wurfel, Brad (DEQ)
Subject: Follow up on Phelps FOIA request

Hi Brad, hope you're better than Sunday night.

I'm wondering if you can help me sort something out.

So, there's some people who are familiar with EPA regs telling me that the state was required to approve the Flint River switch. They point to section 141.90 (a)(3), which, in summary, says (on page 2 of this document):

"At a time specified by the State, or if no specific time is designated by the State, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control... shall submit written documentation to the State describing the change or addition. The State must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system."

And so I'm wondering can you show me where the state did this? If I have to FOIA, fine, but I'm not even sure what specifically I would put in the FOIA request. I'm trying to avoid the "these documents do not exist" response that Rep. Phelps got, know what I mean? I have his FOIA request and I'm pretty sure he was looking for the same thing, so I don't want to duplicate.

So I guess, my last question is, if these documents don't in fact exist, is it fair to assume that's because either the city never submitted written documentation to the state describing the change or addition or the state didn't review and approve the new source? It sounded from some MLive reports from back then that something like this was going on, I'm just not sure if it ever ended up happening, and if so, where's the documentation. Help?

All the best,

--

Lindsey Smith
West Michigan Reporter
Michigan Radio
Office (616) 551-0717
michiganradio.org

From: Kaplan, Robert <kaplan.robert@epa.gov>
Sent: Tuesday, October 20, 2015 3:17 PM
To: Busch, Stephen (DEQ)
Cc: Sygo, Jim (DEQ)
Subject: Re: Flint corrosion control submittal

Received, thank you very much.

Sent from my iPhone

On Oct 20, 2015, at 1:56 PM, Busch, Stephen (DEQ) <BUSCHS@michigan.gov> wrote:

Bob,

Forwarding Flint Corrosion Control proposal info per Jim's request (see the 3 attached emails).

We had a conference call with Darren Lytle and Mike Schock this morning to get some things clarified and will be summarizing that conversation. I will include you and Jim when that gets sent out. Let us know if you need anything else.

Stephen Busch, P.E.
MDEQ Lansing District Coordinator
Office of Drinking Water and Municipal Assistance
Lansing and Jackson District Supervisor
517-643-2314
buschs@michigan.gov

<mime-attachment>

<mime-attachment>

<mime-attachment>

From: Hugh Madden <hugh@progressmichigan.org>
Sent: Thursday, October 22, 2015 3:02 PM
To: Sygo, Jim (DEQ)
Subject: Clarification of FOIA Request

To clarify my FOIA request dated September 30, 2015:

I am looking for emails pertaining to violations of the Clean Water Act by the City of Flint from the beginning of the switch from the Detroit Water system to the Flint River as the main source of drinking water. In addition, I am seeking emails regarding the need for adequate corrosion control.

This request includes all communications with Emergency Managers, Flint officials, the office of the Governor, the Department of Treasury and any other emails that pertain to the requested information.

Please let me know if you need anything else from me.

--

Hugh Madden
Communications Director
Progress Michigan

From: Thelen, Mary Beth (DEQ)
Sent: Sunday, October 25, 2015 1:56 PM
To: Anderson, Madhu (DEQ)
Cc: Goodhall, Mary (DEQ)
Subject: RE: Director's 8:00 Exec Team List for Monday, October 26, 2015

Thanks – good to know. I'll add this note to the Director's folder as well.
I'll let Jim know. Someone (or Jim) will need to fill in for that 2:00-2:15 slot on the agenda as well or we wing it.

The 2:00 call with the Governor is supposed to take 15 minutes (but we shall see).

MBT

Mary Beth

Mary Beth Thelen
Management Assistant to Director Dan Wyant
Department of Environmental Quality
Constitution Hall, 6th Floor South
Phone: 517-284-6712 or 284-6700 (new numbers)
Fax: 517-241-7401
Thelenm2@michigan.gov

From: Anderson, Madhu (DEQ)
Sent: Sunday, October 25, 2015 1:46 PM
To: Thelen, Mary Beth (DEQ)
Cc: Goodhall, Mary (DEQ)
Subject: Re: Director's 8:00 Exec Team List for Monday, October 26, 2015

Mary Beth - I note that Dan has to call the Governor w/Jon Allan at 2 pm Monday. Just an FYI, the facilitators for the retreat will be meeting from 2:15 to 2:40 pm to prep for the breakout sessions at 2:40 pm.

I suggest Jim Sygo be on call to attend the facilitators prep session as back up until Dan can arrive...or if he ends up not being able to get to the prep session. We'll have a list for him even though he will be able to wing it easily, but it since Jim hasn't been in the planning it would be good for Jim to be there. I can talk with Jim on Monday morning about it.

Madhu
Madhu R. Anderson
Deputy Director, Economic & Strategic Initiatives
Michigan Department of Environmental Quality
Phone 517 284 6702 | 517 290 9653

andersonm30@michigan.gov

On Oct 25, 2015, at 10:54 AM, Thelen, Mary Beth (DEQ) <THELENM2@michigan.gov> wrote:

Dear Executive Team attending the 8:00 Monday morning meeting:

Below are the Director's items for the 8:00-8:40 Executive Leadership Team (the smaller group this time) meeting on Monday, October 26. Director is still planning to meet on Monday morning for a short time but we will go for about 40 minutes due to traveling to the Mid-Managers meeting which is about 2 ½ hours from Lansing and for those attending (Director, Madhu, MBT, Sygo) we need to arrive by 11:30.

Executive

- City of Flint Drinking Water and Action Steps
- Mid-Managers Retreat – October 26-27, 2015
- Agenda Items for November 2, SMT Meeting
- Directors' Schedule this week: Call with Governor on Monday afternoon; Mid-Managers Meeting on Monday and Tuesday; Pipeline Advisory Safety Council – October 28, 1:30-3:30; Auditor General Meeting (Tuesday late afternoon); Internal Auditors (Wednesday) on 2016 priorities; Helen Taylor and Jon Allan on Wednesday morning (prep for November 2) Compliance Conference in Chicago (Th/F);
- Mid-West Environmental Compliance Conference, Chicago (October 29 and 30)
- Any followup from the meeting with the Governor on Enbridge – September 23
- Any followup from the meeting with the Governor on Budget – October 20
- Director's Advisory Council for 2016 Agenda Items
- Michigan Petroleum Pipeline Task Force – Implementation of Recommendations
- Michigan Pipeline Safety Advisory Council
- Employee Survey Results – Action Plan
- Organizational Excellence
- Invasive Carp Updates
- District Visits – Plan one for Detroit Office?
- Enforcement Policy (signed)
-

Admin (Amy Epkey)

- 2017 Budget Development
- Groundwater Fees
- Updates on Underground Storage Tank Authority
- Michigan Strategic Water Fund
- Administration Division In-Service Suggestions
- Budget

AQD

- 111d Updates
- Air Rules

OGL

- Water Strategy

OEA

- Action Learning Teams
- Environmental Justice
- Compliance Assistance/Customer Service/Employee Engagement

ODWMA

- City of Flint Drinking Water
- SAW Grants

OWMRP

- Recycling Council Updates
- Ontario Power Generation and MHSA

OOGM

- High Density Oil & Gas Development Workgroup

WRD

- Water Use
- Lake Erie Issues
- Enbridge
- Waters of the US/Wetlands/Blueberries
- DWSD
- Part 31 Water Rules Strategy
- Part 5, Part 13, Part 23, Part 22

RRD

- 201 Amendments
- 201 Criteria Workgroup

Thanks.

Mary Beth Thelen
Management Assistant to Director Dan Wyant
Department of Environmental Quality
Constitution Hall, 6th Floor South
Phone: 517-284-6712 or 284-6700 (new numbers)
Fax: 517-241-7401
Thelenm2@michigan.gov

From: Thelen, Mary Beth (DEQ)
Sent: Sunday, October 25, 2015 1:56 PM
To: Sygo, Jim (DEQ)
Subject: FW: Director's 8:00 Exec Team List for Monday, October 26, 2015

Please see Madhu's note. FYI.

From: Anderson, Madhu (DEQ)
Sent: Sunday, October 25, 2015 1:46 PM
To: Thelen, Mary Beth (DEQ)
Cc: Goodhall, Mary (DEQ)
Subject: Re: Director's 8:00 Exec Team List for Monday, October 26, 2015

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Madhu

Madhu R. Anderson
Deputy Director, Economic & Strategic Initiatives
Michigan Department of Environmental Quality
Phone 517 284 6702 | 517 290 9653
andersonm30@michigan.gov

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- Enbridge
- Waters of the US/Wetlands/Blueberries
- DWSD
- Part 31 Water Rules Strategy
- Part 5, Part 13, Part 23, Part 22

RRD

- 201 Amendments
- 201 Criteria Workgroup

Thanks.

Mary Beth Thelen
Management Assistant to Director Dan Wyant
Department of Environmental Quality
Constitution Hall, 6th Floor South
Phone: 517-284-6712 or 284-6700 (new numbers)
Fax: 517-241-7401
Thelem2@michigan.gov

From: Manning, Peter (AG)
Sent: Thursday, October 29, 2015 2:54 PM
To: Shekter Smith, Liane (DEQ)
Cc: Sygo, Jim (DEQ)

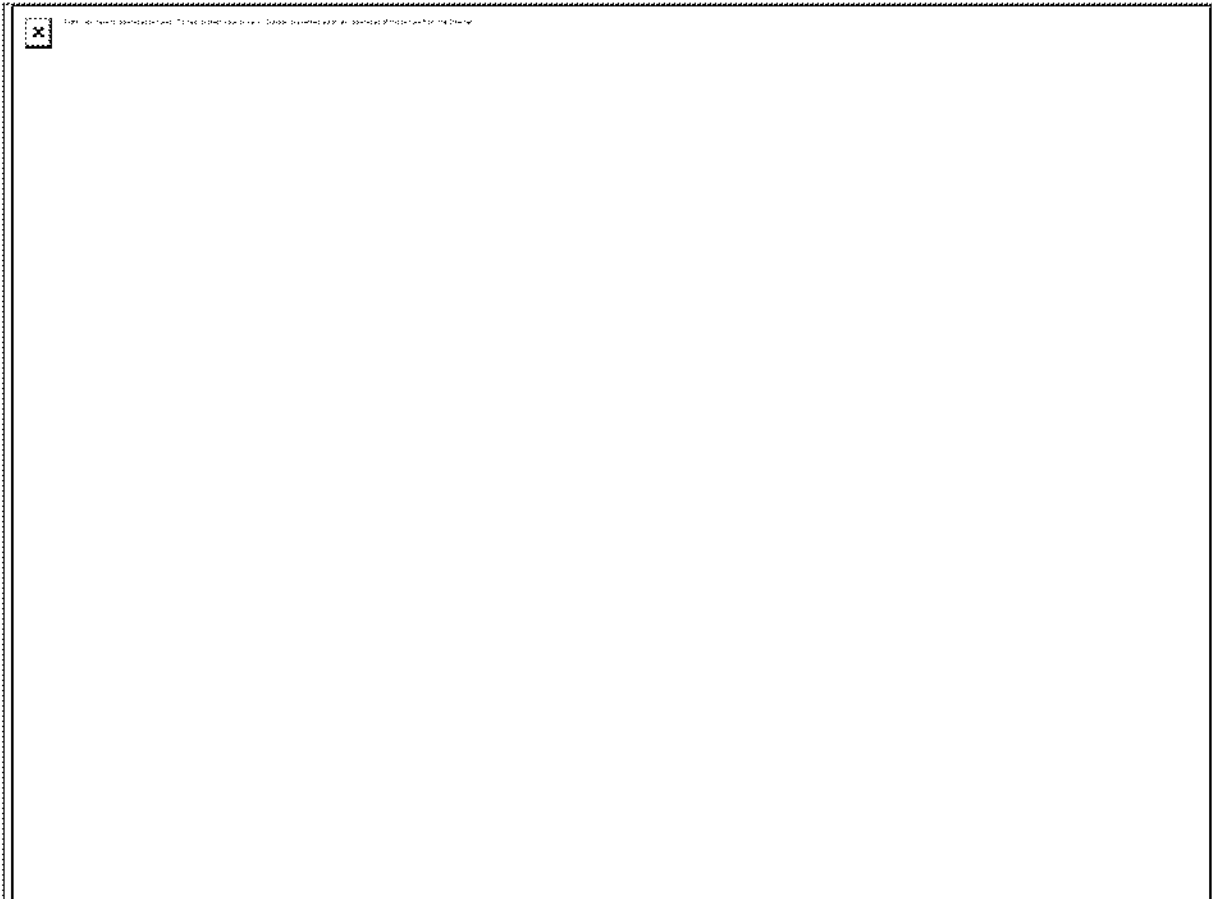
Attorney-Client Privilege

From: Shekter Smith, Liane (DEQ)
Sent: Thursday, October 29, 2015 2:51 PM
To: Manning, Peter (AG) <ManningP@michigan.gov>
Cc: Sygo, Jim (DEQ) <SygoJ@michigan.gov>

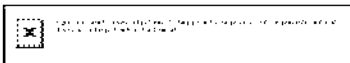
Attorney-Client Privilege

From: Chris Kolb, Michigan Environmental Council <chris@environmentalcouncil.org>
Sent: Friday, October 30, 2015 1:42 PM
To: Sygo, Jim (DEQ)
Subject: How air toxics rule changes fail public health | Michigan Environmental Report

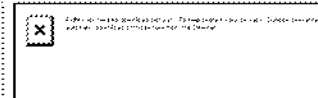
To view this email as a webpage [click here](#)



October 30, 2015 | Michigan Environmental Report



Support MEC

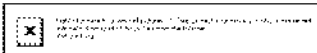
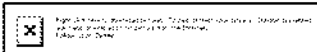
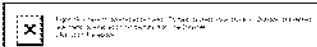


Be Social

Dear Jim,

The Flint water crisis puts a spotlight on public health and the critical role our state's laws and regulations -- and how they are put into practice -- play in protecting the health of Michiganders.

Last week Governor Snyder appointed me to serve on the after-incident review task force regarding the Flint water issue. Ken Sikkema and I will serve as co-chairs. The Governor was very clear that he wants us to find out what happened and why, and how to prevent any similar situation from occurring in the future. The task



force will make recommendations to the administration, including and not limited to, whether laws and regulations need to change and whether there are practices that need to take place in water systems across the state. We are determined to shine a bright light on this unacceptable tragedy and provide much needed answers.

This week is National Lead Poisoning Prevention Week, and our blog post on the Flint water crisis covers why lead in drinking water is so significant. It gives an overview of the situation in Flint, along with policy changes needed now to restore public trust.

Also this week, the Michigan Department of Environmental Quality's proposed air toxics rule change is now open for public comment. It's our position that companies using chemicals -- and reaping the financial benefits of that use -- should bear the burden of demonstrating they are safe before emitting them into the air we breathe. Instead, the draft rule transfers to those living next to a factory the risk that the chemicals emitted can cause cancer or have other negative health consequences. This change is not acceptable.

When an emergency happens, it's an important and serious duty to review what went wrong and recommend what can make it right. It's even more important to fix our systems -- laws, regulations, and practices -- to protect public health in the first place.

Day in and day out, that is what we work to do at the Michigan Environmental Council.

Sincerely,

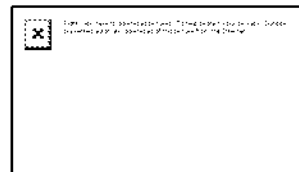
Chris Kolb
President

Michigan Distilled

Flint water crisis: Policy changes needed to restore public trust

In what has become a national news story and a full-fledged public health emergency, state officials now acknowledge that unsafe drinking water has exposed children, pregnant women and other Flint residents to dangerous levels of lead. Our blog post identifies some measures the state should take as soon as possible.

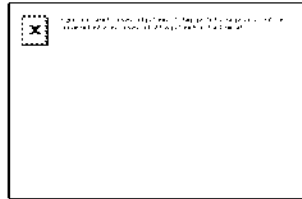
[READ MORE](#)



Air Pollution

Air toxics rule changes fail to put public health first

Changes to state regulation of toxic air emissions proposed this week by the Michigan Department of Environmental Quality would raise the risk of serious health impacts among Michigan families, particularly in vulnerable communities. The department announced that it is moving forward with a proposed administrative rule change requested by industry to deregulate 500 toxic chemicals which have been subject to oversight in the past. [READ MORE](#)

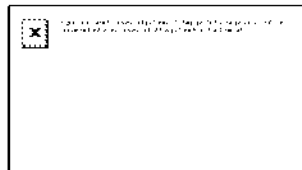


Sustainability

Fish farms don't belong in the Great Lakes

*Michigan Trout Unlimited,
MUCC & MEC op-ed*

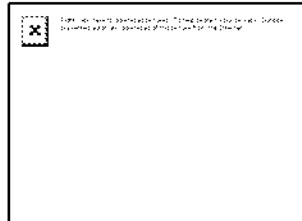
Multiple proposals to put fish farms in our shared Great Lakes waters are under consideration by state officials. We find it deeply troubling that this idea is even on the table. [READ MORE](#)



Water & Health

Task force appointed to examine Flint water controversy

Gov. Rick Snyder appointed an independent task force to examine the controversy over Flint's tainted water. The task force will look into the actions that went into water use in the beleaguered city, as well as the testing that took place on the water after the city switched from Detroit's water and sewerage system to pulling water out of the Flint River. [READ MORE](#)





MICHIGAN ENVIRONMENTAL COUNCIL

Your voice at the Capitol

Since 1980, the Michigan Environmental Council has been at the forefront of efforts to protect our Great Lakes, promote sustainable communities, safeguard public health and establish clean energy policies for a more vibrant economy. Representing over 70 member organizations throughout the state, MEC provides agenda-setting leadership at the State Capitol and with our Congressional delegation in Washington.

[Forward this email](#)



This email was sent to sygoj@michigan.gov by chris@environmentalcouncil.org :
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Michigan Environmental Council | 602 W. Ionia Street | Lansing | MI | 48933

From: Shaler, Karen (DEQ)
Sent: Monday, November 02, 2015 8:10 AM
To: Sygo, Jim (DEQ)
Cc: Thelen, Mary Beth (DEQ)
Subject: Draft Letter to Susan Hedman Re: Task Force Point of Contact
Attachments: USEPA Task Force - Sygo Appointment 11-2-15.docx

As we discussed, I took a crack at drafting the subject letter for the Governor's signature. Some of the wording I took from EPA's press release announcing the establishment of the Task Force. I had placed the attached letter in your office for review late Friday. Since you may not be back until Wednesday, I thought I'd e-mail it to you instead as Mary Beth was checking on the status.

Please let me know if you'd like anything changed. Thanks.

Dr. Susan Hedman, Regional Administrator
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard (R-19J)
Chicago, Illinois 60604-3507

Dear Dr. Hedman:

This letter is being sent in follow up to an October 20, 2015, conference call between the United States Environmental Protection Agency (USEPA), Region 5, and the Michigan Department of Environmental Quality (MDEQ). The purpose of that call was to discuss Region 5's Flint Safe Drinking Water Task Force (Task Force) that was established to provide the USEPA's technical expertise to the MDEQ and the city of Flint, Michigan.

During that call, it was requested that the State of Michigan provide the USEPA with an MDEQ point of contact for the Task Force. This is to inform you of the appointment of Mr. Jim Sygo, Chief Deputy Director, MDEQ, as that point of contact. Mr. Sygo may be reached at 517-284-6709; sygoj@michigan.gov; or MDEQ, P.O. Box 30473, Lansing, Michigan 48909-7973.

Thank you for your assistance in this matter as we work together to ensure a safe and reliable drinking water supply for the city of Flint.

Sincerely,

Rick Snyder
Governor

cc: Mr. Robert Kaplan, Deputy Regional Administrator, USEPA, Region 5
Mr. Dan Wyant, Director, MDEQ
Mr. Jim Sygo, Chief Deputy Director, MDEQ

From: Lindsey Smith [lmsmi@umich.edu]
Sent: Monday, November 02, 2015 9:41 PM
To: Sygo, Jim (DEQ)
Subject: Re: Interview request

Sorry. This is one occasion I gotta go in person. And I thought I could give til wednesday morning, but did not factor in that Tuesday is election night and I'll be in allegan county til lord knows when. 1p constitution hall it is. Thanks. Best-

On Monday, November 2, 2015, Sygo, Jim (DEQ) <SygoJ@michigan.gov> wrote:
I'm a bit under the weather, but if you still want to do this in person let's shoot for 1:00pm and I'll come in for the interview.
I'm in Constitution Hall.

Sent from my iPhone

On Nov 2, 2015, at 7:41 PM, Lindsey Smith <lmsmi@umich.edu> wrote:

Hi Jim, what time works for you? I will drive to Lansing. I can't come earlier than 1030a but prefer leaving no later than 4p. Best-

On Monday, November 2, 2015, Wurfel, Brad (DEQ) <WurfelB@michigan.gov> wrote:

Per my conversation with Lindsey today, Jim Sygo will speak for DEQ. He is available Tuesday. Contact him directly to arrange a time. I've copied him here to loop everyone in.

b

From: Mark Brush [mailto:mbrush@gmail.com]
Sent: Friday, October 30, 2015 9:01 AM
To: Wurfel, Brad (DEQ)
Cc: Rebecca Williams; Lindsey Smith
Subject: Interview request

Hi Brad,

We're putting this piece together next week about how the state and city managed testing Flint's water under the lead and copper rule. We're hoping to speak with someone who was directly involved in overseeing Flint's testing.

Specifically, we're hoping to talk with Adam Rosenthal and/or Liane Shekter Smith at MDEQ.

Other folks who might have been in the loop on this are Steve Busch or Pat Cook.

I'm sure you know who was making decisions about LCR tests in Flint in June of this year, so we're happy to hear your suggestions on who could best speak to this as well, of course.

Our deadline for this is Tuesday by 2pm as we'll be putting the piece together after that.

Thanks for any help you can provide.

Mark

--

Mark Brush, Digital Editor

Michigan Radio

w (734) 647-3472



--

Lindsey Smith
West Michigan Reporter
Michigan Radio
Office (616) 551-0717
michiganradio.org

--

Lindsey Smith
West Michigan Reporter
Michigan Radio
Office (616) 551-0717
michiganradio.org

From: Lindsey Smith <lmismi@umich.edu>
Sent: Tuesday, November 03, 2015 1:06 PM
To: Sygo, Jim (DEQ)
Subject: Re: Interview request

I cannot find you! On 6th floor

On Monday, November 2, 2015, Lindsey Smith <lmismi@umich.edu> wrote:
Sorry. This is one occasion I gotta go in person. And I thought I could give til wednesday morning, but did not factor in that Tuesday is election night and I'll be in allegan county til lord knows when. 1p constitution hall it is. Thanks. Best-

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Thanks for any help you can provide.

Mark

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Mark Brush, Digital Editor

Michigan Radio

w (734) 647-3472



--

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--

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--

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West Michigan Reporter
Michigan Radio
Office (616) 551-0717
michiganradio.org

From: Olszewski, Rosemarie (DEQ)
Sent: Wednesday, November 04, 2015 8:18 AM
To: Anderson, Madhu (DEQ);Shaler, Karen (DEQ);Sygo, Jim (DEQ)
Subject: U.S. EPA will conduct 'full review' of Flint water crisis

http://www.mlive.com/news/flint/index.ssf/2015/11/us_epa_tells_kildee_it_will_ca.html

Rosemarie

Rosemarie Olszewski

General Office Assistant - Executive Division

Michigan Department of Environmental Quality

Constitution Hall, 525 W. Allegan St.

6th Floor South Tower, Pillar P6

Telephone: 517-284-6700

Fax: 517-241-7401

From: Shekter Smith, Liane (DEQ)
Sent: Tuesday, November 17, 2015 3:50 PM
To: Sygo, Jim (DEQ)
Cc: Shaler, Karen (DEQ)
Subject: FW: NRDC and Flint
Attachments: 2015-11-16-SDWA-Notice of Intent to Sue-Flint-FINAL.PDF; ATT00001.htm

FYI

From: Krisztian, George (DEQ)
Sent: Monday, November 16, 2015 1:45 PM
To: Shekter Smith, Liane (DEQ)
Subject: FW: NRDC and Flint

George L. Krisztian
 Flint Action Plan Coordinator
 Laboratory Director
 Michigan Department of Environmental Quality
 Desk ph (517) 284-6719
 Cell ph PPI

From: Wyant, Dan (DEQ)
Sent: Monday, November 16, 2015 12:01 PM
To: Krisztian, George (DEQ)
Subject: Fwd: NRDC and Flint

Sent from my iPhone

Begin forwarded message:

From: "Brader, Valerie (LARA)" <braderv@michigan.gov>
Date: November 16, 2015 at 9:53:57 AM EST
To: "Wyant, Dan (DEQ)" <WyantD@michigan.gov>, "Travis Weber - Executive Office of Governor Snyder (WeberT7@michigan.gov)" <WeberT7@michigan.gov>, "Redford, James (GOV)" <RedfordJ@michigan.gov>
Subject: FW: NRDC and Flint

From: Gonzalez, Ariana [<mailto:agonzalez@nrdc.org>]
Sent: Monday, November 16, 2015 9:13 AM

To: Brader, Valerie (LARA)
Subject: NRDC and Flint

Hi Valerie,

I hoped to catch you on the phone, but didn't make it through. I wanted you to hear from me that NRDC's litigation team is at this moment filing a notice of intent to sue among others the City of Flint, Governor Snyder, and Dan Wyant under the Safe Drinking Water Act. NRDC along with the Concerned Pastors for Social Action, Melissa Mays, the American Civil Liberties Union of Michigan will working together in the state on this issue. I can put you in touch with those working in Flint if you'd like and will continue to be a resource and partner on all energy related matters. Please let me know if you have questions or would like more information.

Ariana

ARIANA GONZALEZ
Energy Policy Analyst

**NATURAL RESOURCES
DEFENSE COUNCIL**

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November 16, 2015

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**Re: Notice of Intent to Sue Under the Safe Drinking Water Act, 42 U.S.C.
§ 300j-8(b)(1)(a), for Failure to Control Lead in Drinking Water in Flint,
Michigan, and Failure to Assist Michigan Schools with Lead Testing and
Remediation**

We write on behalf of Concerned Pastors for Social Action, Melissa Mays, the
American Civil Liberties Union of Michigan (ACLU of Michigan), and the Natural

November 16, 2015

Page 2 of 16

Resources Defense Council (NRDC), nonprofit citizens' organizations and individuals working to secure safe drinking water for the residents of Flint, Michigan. Since April 2014, the City of Flint and Michigan state officials have failed to monitor and control for lead in Flint's drinking water, and to maintain a program to assist Michigan schools with lead testing and remediation, in violation of the Safe Drinking Water Act, 42 U.S.C. § 300f et seq. This letter provides notice pursuant to 42 U.S.C. § 300j-8(b)(1)(a) that we intend to sue the City of Flint; Rick Snyder, Governor of Michigan; Dan Wyant, Director of Michigan Department of Environmental Quality; Nick A. Khouri, Treasurer of Michigan; Frederick Headen, Chairperson of the Flint Receivership Transition Advisory Board (Board); Brian Larkin, David McGhee, Robert McMahan, and Beverly Walker-Griffiea, Members, RTAB; and Natasha Henderson, Flint City Administrator, if these violations are not remedied within sixty days.¹

Concerned Pastors for Social Action is an association of religious leaders from more than thirty churches and ministries in the Flint area that has advocated for the rights of the underserved for nearly fifty years. Melissa Mays is a Flint resident whose family has suffered from serious health problems as a result of the City's failure to provide safe drinking water. The ACLU of Michigan works in courts, legislatures, and communities to preserve the protections that our laws guarantee to all citizens. NRDC is a national membership organization committed to protecting public health and the environment and to reducing the exposure of all communities to toxic chemicals. These groups and individuals continue to be harmed by the violations of the Safe Drinking Water Act by the City and Michigan state officials, detailed below.

I. City and State officials have exposed and continue to expose Flint residents to dangerous amounts of lead in drinking water

A. The City, Emergency Manager, and State Treasurer chose the Flint River as a primary drinking-water source

In the fall of 2011, Michigan Governor Rick Snyder declared a financial emergency in the City of Flint and appointed an emergency manager to take control of the City's operations and finances.² Flint Mayor Dayne Walling and the City Council were stripped of all authority except as specifically allowed by the Emergency Manager, and the City was placed in state receivership.³ Under Michigan's Local Financial Stability and Choice Act, an

¹ These individuals are noticed in their official capacities.

² See Mich. Comp. Laws § 141.1549; Letter from Gov. Rick Snyder to Mayor Dayne Walling and Flint City Council (Nov. 8, 2011), http://www.michigan.gov/documents/treasury/Flint-GovernorsDetermination-11-8-11_417435_7.pdf (attached as Ex. 1); Dawson Bell, *Governor names Flint native as city's emergency financial manager*, Detroit Free Press, Nov. 30, 2011, <http://www.freep.com/article/20111130/NEWS06/111300370/Governor-names-Flint-native-city-s-emergency-financial-manager> (attached as Ex. 2).

³ Mich. Comp. Laws § 141.1549(2).

November 16, 2015

Page 3 of 16

Emergency Manager has “broad powers” to “rectify the financial emergency and to assure fiscal accountability of the local government.”⁴

While under control of the Emergency Manager, the City faced decisions about the future of its drinking-water supply. For fifty years, the City had purchased drinking water from the Detroit Water and Sewerage Department (Detroit), which sources water from Lake Huron.⁵ In response to rising water rates charged by Detroit, in March 2013, the City Council voted to join the Karegnondi Water Authority (KWA), a newly formed municipal water supply system. The KWA was planning to build a pipeline to distribute water directly from Lake Huron to mid-Michigan communities, including Genesee County, where Flint is located.⁶ The City Council’s vote did not become effective until several weeks later, after both the Emergency Manager and State Treasurer approved the decision.⁷

The City’s contract with Detroit was set to expire in April 2014, at least eighteen months before the KWA pipeline was scheduled to be completed.⁸ Faced with a year-and-a-half gap in the City’s water supply, the Emergency Manager declined to negotiate a short-term contract with Detroit and decided instead to use the Flint River as a primary drinking-water source.⁹ The City had previously explored—and rejected—the Flint River as a primary drinking-water source. This is because the Flint Water Treatment Plant would have required fifty million dollars in upgrades to treat the river water and “produce finished water in conformance with the current federal and state drinking water regulations.”¹⁰

⁴ *Id.*

⁵ See Dominic Adams, *Closing the valve on history: Flint cuts water flow from Detroit after nearly 50 years*, Michigan Live, Apr. 25, 2014, <http://www.mlive.com/news/flint/index.ssf/2014/04/closing-the-valve-on-history-f.html> (attached as Ex. 3).

⁶ Steve Carmody, *Flint opting to get its future tap water from Lake Huron*, Michigan Radio, Mar. 25, 2013, <http://michiganradio.org/post/flint-opting-get-its-future-tap-water-lake-huron#stream/> (attached as Ex. 4); Karegnondi Water Authority, About, <http://www.karegnondi.com/#!/about/c20r9> (last visited Nov. 13, 2015) (attached as Ex. 5).

⁷ See Mich. Comp. Laws § 141.1552(1)(g), (3); Emergency Manager, Resolution to Purchase Capacity from Karegnondi Water Authority (adopted Mar. 29, 2013) (attached as Ex. 6); Letter from Andy Dillon, State Treasurer, to Edward Kurtz, Emergency Manager (Apr. 11, 2013) (authorizing Emergency Manager to enter into contract with KWA) (attached as Ex. 7).

⁸ Sarah Schuch, *KWA pipeline work continues as Flint water lead concerns rise*, Michigan Live, Sept. 25, 2015, http://www.mlive.com/news/flint/index.ssf/2015/09/kwa_pipeline_projected_to_be_c.html (attached as Ex. 8); see Ron Fonger, *Detroit gives notice: It’s terminating water contract covering Flint, Genesee County in one year*, Michigan Live, Apr. 19, 2013, http://www.mlive.com/news/flint/index.ssf/2013/04/detroit_gives_notice_its_termi.html (attached as Ex. 9).

⁹ Letter from Darnell Earley, Emergency Manager, to Sue McCormick, Detroit Water & Sewer Dep’t (Mar. 7, 2014) (explaining that the City “has actively pursued using the Flint River as a temporary water source” instead of accepting Detroit’s offer to provide water to the City) (attached as Ex. 10).

¹⁰ Cost of Service Study (2011), Appendix 8 to Analysis of the Flint River as a Permanent Water Supply for the City of Flint, <http://www.scribd.com/doc/64382181/Analysis-of-the-Flint-River-as-a-Permanent-Water-Supply-for-the-City-of-Flint-July-2011-Appendices-1-to-8> (attached as Ex. 11);

November 16, 2015

Page 4 of 16

Under the Safe Drinking Water Act's Lead and Copper Rule, Flint's water system could not use the Flint River as a water source without first obtaining approval from the Michigan Department of Environmental Quality (MDEQ). The Lead and Copper Rule required MDEQ to approve both the City's proposed addition of a new water source (the Flint River) and the long-term change in water treatment (from treatment through Detroit's water plant to treatment at the Flint Water Treatment Plant).¹¹ In April 2014, MDEQ approved the switch to river water.¹² The City immediately began pumping Flint River water through the City's distribution pipes and into residents' taps.

B. Dangerous lead contamination results from the City's switch to river water

In the twenty months following the switch in water sources, residents' drinking water has been at times cloudy, discolored, and foul-smelling.¹³ Residents reported that they have experienced hair loss, skin rashes, and vomiting after drinking the water.¹⁴ In the summer of 2014, the City was forced to issue several boil-water notices after tap water tested positive for total coliform bacteria.¹⁵ The City's subsequent treatment of the water to kill disease-carrying pathogens resulted in elevated levels of total trihalomethanes, a disinfection byproduct that can cause serious health problems, including an increased risk of cancer.¹⁶

see also Kristin Longley, *Water pipeline v. Flint River: City of Flint studying its drinking water options*, Michigan Live, Jan. 22, 2011, http://www.mlive.com/news/flint/index.ssf/2011/01/water_pipeline_vs_flint_river.html (attached as Ex. 12); Dominic Adams, *Flint River now an option for drinking water following Detroit's termination of contract*, Michigan Live, July 23, 2013, http://www.mlive.com/news/flint/index.ssf/2013/07/city_readying_water_plant_to_t.html (quoting city officials' explanation for rejecting use of Flint River: "upgrades to Flint's water plant would be too expensive, the river didn't provide enough capacity to serve Flint residents' water needs and the Michigan Department of Environmental Quality would not allow it") (attached as Ex. 13).

¹¹ 40 C.F.R. § 141.90(a)(3); see also *id.* § 141.81(a)-(b).

¹² See Adams, *Closing the valve on history*, *supra* note 5 (Ex. 3).

¹³ See Curt Guyette, *In Flint, Michigan, Overpriced Water is Causing People's Skin to Erupt in Rashes and Hair to Fall Out*, The Nation, July 16, 2015, <http://www.thenation.com/article/in-flint-michigan-overpriced-water-is-causing-peoples-skin-to-erupt-and-hair-to-fall-out/> (attached as Ex. 14); Wenonah Hauter, *Flint's Brown Water Blues*, Huffington Post, July 10, 2015, http://www.huffpost.com/wenonah-hauter/flints-brown-water-blues_b_7765132.html (attached as Ex. 15).

¹⁴ Laura Gottesdiener, *Flint, Mich., residents find state water control hard to swallow*, Al Jazeera America, Apr. 3, 2015, <http://america.aljazeera.com/articles/2015/4/3/flint-residents-find-state-water-control-hard-to-swallow.html> (attached as Ex. 16).

¹⁵ Ron Fonger, *Flint issues boil water advisory for section of the city after positive test result for total coliform bacteria*, Michigan Live, Sept. 5, 2014, http://www.mlive.com/news/flint/index.ssf/2014/09/flint_issues_boil_water_adviso.html (attached as Ex. 17).

¹⁶ Robin Erb, *Who wants to drink Flint's water?*, Detroit Free Press, Jan. 23, 2015, <http://www.freep.com/story/news/local/michigan/2015/01/22/water-woes-latest-hit-flint/22193291/> (attached as Ex. 18); Mich. Dep't of Env'tl. Quality, Violation Notice—Maximum Contaminant Level for Total Trihalomethanes (Dec. 16, 2014) (attached as Ex. 19); U.S. EPA, Basic Information about Disinfection Byproducts in Drinking Water, <http://water.epa.gov/drink/contaminants/basicinform>

November 16, 2015

Page 5 of 16

Because Flint River water is also highly corrosive, dangerous amounts of lead began to leach out of pipes and into the City's drinking water.¹⁷ Lead in drinking water occurs primarily from corrosion of pipes and other plumbing materials that contain lead or lead solder.¹⁸ The Lead and Copper Rule requires water systems to manage lead levels by controlling corrosion, which is often accomplished by adding corrosion-inhibiting chemicals.¹⁹ Water systems must implement and maintain an "optimal" corrosion-control treatment program that "minimizes the lead . . . concentrations at users' taps."²⁰

Flint did not consider how to control the corrosivity of the river water before switching water sources, nor did MDEQ require the City to implement any corrosion-control measures. Rather, beginning in April 2014, the City did not use any form of treatment to control corrosion.²¹ The City waited until after its residents were drinking the river water to assess whether it posed a risk of increased lead exposure. MDEQ endorsed this approach. In June 2014, Flint's water system initiated the first of two six-month monitoring periods to test tap water for lead under the Lead and Copper Rule; the second six-month period ran from January to June 2015.²² During these monitoring periods, the water system used flawed testing methods that appear to have been designed to underreport the lead content of residents' drinking water.²³

ation/disinfectionbyproducts.cfm (last updated Dec. 13, 2013) (attached as Ex. 20); *see also* 40 C.F.R. § 141.64(b).

¹⁷ Marc Edwards, *Test Update: Flint River water 19X more corrosive than Detroit water for Lead Solder; Now What?*, Flint Water Study (Sept. 11, 2015), <http://flintwaterstudy.org/2015/09/test-update-flint-river-water-19x-more-corrosive-than-detroit-water-for-lead-solder-now-what/> (attached as Ex. 21); Marc Edwards, *Flint River water is very corrosive to lead, and causing lead contamination in homes*, Flint Water Study (Sept. 2, 2015), <http://flintwaterstudy.org/2015/09/flint-rivers-water-is-very-corrosive-to-lead-and-causing-lead-contamination-in-homes/> (attached as Ex. 22). The river water is so corrosive that in October 2014, a local GM engine plant decided to switch back to Lake Huron water to avoid damage to equipment at the plant from corrosion. Brianna Owczarzak, *GM says no to Flint water*, WNEM, Oct. 14, 2014, <http://www.wnem.com/story/26785625/gm-says-no-to-flint-water> (attached as Ex. 23).

¹⁸ *See* Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper, 56 Fed. Reg. 26,460, 26,464 (June 7, 1991).

¹⁹ *See* 40 C.F.R. § 141.82.

²⁰ *Id.* §§ 141.2; 141.80(d).

²¹ *See* Email from Pat Cook, MDEQ, to Miguel Del Toral, U.S. EPA (Apr. 24, 2015) (attached as Ex. 24).

²² *See* 40 C.F.R. § 141.86; Email from Pat Cook, *supra* note 21 (Ex. 24).

²³ *See infra* pp. 11-13.

November 16, 2015

Page 6 of 16

Flint's monitoring data showed that some residents' water contained lead at concentrations above the federal "action level" of 15 parts per billion (ppb).²⁴ These high lead levels put residents at risk of a broad array of serious, irreversible health effects, including cognitive impairment, kidney damage, and increased blood pressure.²⁵ When the Environmental Protection Agency (EPA) learned of these high lead sampling results in February 2015, it notified MDEQ officials that the sampling results raised significant concerns about corrosion from lead pipes in Flint's distribution system.²⁶ Nonetheless, throughout the monitoring periods, the City and MDEQ maintained that these high lead levels were isolated and that the data, taken together, demonstrated Flint's compliance with the Lead and Copper Rule.²⁷

C. Community advocacy and independent testing prompt long past due response from City and State officials

As the City concluded its second six-month round of sampling in July 2015, and notified some Flint residents of elevated lead levels in their tap water, the community became increasingly concerned. A small coalition of local groups, including Water You Fighting For and Concerned Pastors for Social Action, began working with researchers at Virginia Tech to conduct their own lead sampling of Flint's water. The Virginia Tech scientists found that ten percent of the more than 250 samples collected from Flint residences had lead levels of 25 ppb or more, well above the federal action level for lead.²⁸ Several samples exceeded 100 ppb, and one sample exceeded 1000 ppb.²⁹ Though aware of

²⁴ See Mich. Dep't of Env'tl. Quality, Lead and Copper Report and Consumer Notice of Lead Result Certificate for Community Water Supply (Aug. 20, 2015) (showing six samples with lead levels over the action level) (attached as Ex. 25); 40 C.F.R. § 141.80(c)(1).

²⁵ See, e.g., U.S. EPA, Integrated Science Assessment for Lead tbl.ES-1 (June 2013) (attached as Ex. 26); U.S. EPA, Basic Information About Lead in Drinking Water, <http://water.epa.gov/drink/contaminants/basicinformation/lead.cfm> (last updated June 26, 2015) (explaining that "[i]nfants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development," and that "[a]dults who drink this water over many years could develop kidney problems or high blood pressure") (attached as Ex. 27); see also National Ambient Air Quality Standards for Lead, 80 Fed. Reg. 278, 290 (Jan. 5, 2015).

²⁶ See, e.g., Email from Jennifer Crooks, U.S. EPA, to Stephen Busch, MDEQ, and Mike Prysby, MDEQ (Feb. 26, 2015) (attached as Ex. 28).

²⁷ See Nancy Kaffer, *MDEQ e-mails show stunning indifference to Flint peril*, Detroit Free Press, Oct. 22, 2015, <http://www.freep.com/story/opinion/columnists/nancy-kaffer/2015/10/21/indifference-characterized-state-approach-flint-water/74289430/> (attached as Ex. 29).

²⁸ *Flint Town Hall Meeting Presentation and Distribution of lead results across Flint by ward and zip codes*, Flint Water Study, Sept. 16, 2015, <http://flintwaterstudy.org/2015/09/distribution-of-lead-results-across-flint-by-ward-and-zip-codes/> (attached as Ex. 30); Ron Fonger, *Virginia Tech professor says Flint's tests for lead in water can't be trusted*, Michigan Live, Sept. 15, 2015, http://www.mlive.com/news/flint/index.ssf/2015/09/virginia_tech_researcher_says.html (attached as Ex. 31).

²⁹ Marc Edwards et al., *Lead testing results for water sampled by residents*, Flint Water Study, Sept. 28, 2015, <http://flintwaterstudy.org/information-for-flint-residents/results-for-citizen-testing-for-lead-300-kits/> (attached as Ex. 32).

November 16, 2015

Page 7 of 16

the Virginia Tech sampling results, MDEQ officials continued to insist that Flint's water was safe to drink.³⁰

In September 2015, a medical study conducted by a local pediatrician confirmed the kinds of adverse health impacts that residents had voiced concern about for months: the rate of Flint children with elevated blood lead levels had nearly doubled since the City changed its drinking-water source.³¹ State officials and the Governor reacted by “downplay[ing] and in some cases attempt[ing] to discredit” the pediatrician’s findings, and dismissing citizen concerns as “near-hysteri[cal].”³²

Subsequent testing by MDEQ revealed that at least four schools in Flint had lead levels in their drinking water above the federal action level.³³ At Freeman Elementary School, water tested had lead levels over 100 ppb, more than six times the federal action level.³⁴ This increase in lead exposure is particularly dangerous in Flint, a community where residents are already at higher risk of elevated blood lead levels and lead poisoning. Michigan ranks fifth worst in the country for harmful exposures to lead.³⁵ Low income is a risk factor for lead poisoning, and more than a third of families in Flint live below the poverty level, three times the national average.³⁶ Children in Flint also face high risk of lead

³⁰ Ron Fonger, *Feds sending in experts to help Flint keep lead out of water*, Michigan Live, Sept. 10, 2015, http://www.mlive.com/news/flint/index.ssf/2015/09/university_researchers_dont_dr.html (attached as Ex. 33).

³¹ *Pediatric Lead Exposure in Flint, MI: Concerns from the Medical Community* (PowerPoint Presentation) (presented on Sept. 24, 2015), available at <http://flintwaterstudy.org/2015/09/pediatric-lead-exposure-presentation-from-hurley-medical-center-doctors-concerning-flint-mi/> (attached as Ex. 34).

³² *Study suggests Flint's water causing increased lead poisoning*, Michigan Radio, Sept. 28, 2015, <http://michiganradio.org/post/study-suggests-flints-water-causing-increased-lead-poisoning#stream/0> (attached as Ex. 35); Ron Fonger, *State says data shows no link to Flint River, elevated lead in blood*, Michigan Live, Sept. 24, 2015, http://www.mlive.com/news/flint/index.ssf/2015/09/state_says_its_data_shows_no_c.html (attached as Ex. 36); *Did this Michigan Town Poison its Children?*, U.S. News & World Report, Sept. 24, 2015, <http://www.usnews.com/news/articles/2015/09/25/flint-michigan-children-show-high-levels-of-lead-in-blood> (attached as Ex. 37).

³³ Steve Carmody, *Four Flint schools have high lead levels in their water*, Michigan Radio, Oct. 8, 2015, <http://michiganradio.org/post/four-flint-schools-have-high-lead-levels-their-water> (attached as Ex. 38).

³⁴ *Id.*

³⁵ Ctrs. for Disease Control & Prevention, *Public Health in Action: Lead Poisoning Prevention in Michigan* (last updated Feb. 4, 2013), http://www.cdc.gov/nceh/information/healthy_homes_lead.htm (attached as Ex. 39).

³⁶ 2009-2013 American Community Survey 5-Year Estimates, 2013, available at <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (enter “Flint, MI” in the box under “Community Facts,” click on “Income” on left-side bar, then click “Selected Economic Characteristics” under “2013 American Community Survey”) (table attached as Ex. 40 compares data from Flint, Michigan, to Michigan and the United States).

November 16, 2015

Page 8 of 16

exposure from lead-paint dust, as nearly ninety percent of Flint's housing stock was built before 1978 (when the federal ban on high-lead paint went into effect).³⁷

Finally, in late September 2015, the City abandoned its assertions that Flint's drinking water was safe. Nearly seven months after the City first saw dangerously high levels of lead in some residents' water, Flint issued a drinking-water advisory and called for state financial assistance to switch the water system back to Detroit's supply.³⁸ Two weeks later, Governor Snyder requested six million dollars from the state legislature to reconnect the Flint water system to Detroit.³⁹ With additional funding from the City and a private foundation, the switch was completed in mid-October.⁴⁰

Following the switch back to Detroit water, some government officials began to ask questions about what went wrong in the course of Flint's change in water sources.⁴¹ Governor Snyder created a task force to review water management and testing in Flint,⁴² and EPA established its own task force "to provide the Agency's technical expertise through regular conversations" with the City and MDEQ.⁴³ Governor Snyder has also announced

³⁷ 2012 Annual Data Report on Blood Lead Levels of Children in Michigan 26 (Apr. 30, 2013), https://www.michigan.gov/documents/mdch/2012AnnualDataReportOnBloodLeadLevels_419508_7.pdf (attached as Ex. 41); Am. Cancer Soc'y, *Lead, Lead in the Environment*, <http://www.cancer.org/cancer/cancercauses/othercarcinogens/athome/lead> (last updated May 27, 2014) (explaining that lead paint is a "major" source of exposure) (attached as Ex. 42); Maj. Thomas F. Zimmerman, *The Regulation of Lead-Based Paint in Air Force Housing*, 44 A.F. L. Rev. 169, 174-75 (1998).

³⁸ *City of Flint Issues Lead Advisory*, City of Flint, Sept. 25, 2015, <https://www.cityofflint.com/2015/09/25/city-of-flint-issues-lead-advisory/> (attached as Ex. 43); Steve Carmody, *Flint officials exploring return to Detroit water*, Michigan Radio, Sept. 28, 2015, <http://michiganradio.org/post/flint-officials-exploring-return-detroit-water#stream/0> (attached as Ex. 44).

³⁹ John Wisely, *Snyder announces \$12 million plan to fix Flint water*, Detroit Free Press, Oct. 8, 2015, <http://www.freep.com/story/news/local/michigan/2015/10/08/snyder-flint-water-reconnect/73567778/> (attached as Ex. 45).

⁴⁰ Amanda Emery, *Flint reconnects to Detroit water, may take 3 weeks to clear all pipes*, Michigan Live, Oct. 16, 2015, http://www.mlive.com/news/flint/index.ssf/2015/10/flint_reconnecting_to_detroit.html (attached as Ex. 46).

⁴¹ E.g., Letter from Sen. Jim Ananich, Mich. Senate Minority Leader, to Susan Hedman, U.S. EPA, and Gina McCarthy, U.S. EPA (Oct. 21, 2015) (attached as Ex. 47); Letter from Rep. Daniel Kildee, U.S. Congressman, to Gina McCarthy, U.S. EPA (Oct. 21, 2015) (attached as Ex. 48).

⁴² Press Release, Gov. Rick Snyder, *Gov. Rick Snyder announces Flint Water Task Force to review state, federal and municipal actions, offer recommendations* (Oct. 21, 2015), http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-367761--,00.html (attached as Ex. 49).

⁴³ Press Release, U.S. EPA, *EPA Establishes Safe Drinking Water Task Force to Provide Technical Expertise to MDEQ and City of Flint* (Oct. 16, 2015), <http://yosemite.epa.gov/opa/admpress.nsf/0/A92DE629DB86E66685257EE000579593> (attached as Ex. 50).

November 16, 2015

Page 9 of 16

plans to launch an “education campaign soon to help schools statewide learn how to get their water tested” for lead.⁴⁴

Despite this proliferation of task forces and campaigns, neither the City nor MDEQ has announced changes in the City’s lead monitoring practices in the wake of Flint’s public-health crisis. Rather, Flint and MDEQ have maintained that these practices are accurate and adequate, despite the near certainty that they are underrepresenting lead contamination in many of Flint’s high-risk homes.

II. City and State officials are in violation of the Safe Drinking Water Act’s Lead and Copper Rule

The Safe Drinking Water Act (the Act) authorizes citizens to sue any governmental entity “who is alleged to be in violation of any requirement” under the statute.⁴⁵ These requirements include the national primary drinking-water regulations for lead and copper set forth in the Lead and Copper Rule.⁴⁶ The Lead and Copper Rule obligates water systems to monitor and control for lead in drinking water.⁴⁷

Since April 2014, Flint’s water system has failed to comply with the Lead and Copper Rule’s requirements for monitoring water for lead, notifying the public of tap-water monitoring results, reporting monitoring results to MDEQ, and controlling corrosion from lead pipes.⁴⁸ These violations systematically result in the City’s underestimating lead levels in its drinking water, masking a public-health crisis. The violations are ongoing and likely to recur in the future: Flint’s water system presently is obligated to monitor for lead every six months, and there is no indication that Flint has changed or disavowed its inadequate approach to monitoring.⁴⁹

⁴⁴ See Lori Higgins, *Michigan to launch lead education effort statewide*, Detroit Free Press, Oct. 13, 2015, <http://www.freep.com/story/news/local/michigan/2015/10/13/lead-water-flint-michigan-testing/73871480/> (attached as Ex. 51).

⁴⁵ 42 U.S.C. § 300j-8(a)(1).

⁴⁶ See *id.* § 300g-1(b)(1)(A); 40 C.F.R. § 141.80(a)(1).

⁴⁷ See, e.g., 40 C.F.R. § 141.86.

⁴⁸ Flint’s water system is subject to the requirements of the Lead and Copper Rule because it is a “community water system” not otherwise exempted from the regulations. 40 C.F.R. §§ 141.80(a)(1), 141.2.

⁴⁹ See *Tamaska v. City of Bluff City*, 26 F. App’x 482, 485 (6th Cir. 2002) (citing *Chesapeake Bay Found. v. Gwaltney of Smithfield*, 844 F.2d 170, 171–72 (4th Cir.1988)). A water system is required to monitor tap water for lead every six months if it (1) exceeds the action level for any monitoring period, or (2) “fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the State ... for more than 9 days in any six-month period.” 40 C.F.R. § 141.86(d)(4)(vi)(B). Flint’s water system failed to maintain applicable values of orthophosphate and/or pH designated as the optimal water quality parameters by MDEQ. In addition, had the water system conducted monitoring in compliance with the Lead and Copper Rule during the January to June 2015 period, it likely would have exceeded the lead action level.

November 16, 2015

Page 10 of 16

Under the Act, a “supplier of water” is “any person who owns or operates a public water system.”⁵⁰ The City of Flint owns Flint’s water system.⁵¹ Upon information and belief, the State officials administering Flint’s receivership and the City presently operate Flint’s water system. As discussed above, Flint’s Emergency Manager exercised the authority of the local government in the place of Flint’s mayor and city council. The Emergency Manager managed the water system and conducted its affairs, including making the decision to use the Flint River as a primary drinking-water source.⁵² In April 2015, Governor Snyder removed the Emergency Manager and appointed a Receivership Transition Advisory Board to oversee the City’s affairs until the receivership is terminated.⁵³ The Board has control over the City’s budget, and must approve all decisions adopted by the City Council.⁵⁴ The Michigan Local Financial Stability and Choice Act requires the State Treasurer to sit on a receivership transition advisory board for any municipality for which the governor appoints such a board, and Governor Snyder has appointed the State Treasurer (or his designee) to chair Flint’s Board.⁵⁵ The City Administrator reports to the Board, manages the City’s daily administrative operations, and directs City department heads in carrying out the daily activities of the City.⁵⁶ To date, the City remains in receivership, and its actions remain subject to approval of the Board.⁵⁷

Accordingly, the City of Flint; Governor Snyder; Dan Wyant, Director of MDEQ; Nick A. Khouri, Treasurer of Michigan; Frederick Headen, Chairperson of the Flint Receivership Transition Advisory Board; Brian Larkin, David McGhee, Robert McMahan,

⁵⁰ 42 U.S.C. § 300f(5).

⁵¹ See City of Flint, Water System Update, Sept. 2015, <https://www.cityofflint.com/wp-content/uploads/City-Council-Water-Presentation-9-14-2015.pdf> (attached as Ex. 52).

⁵² See *United States v. Twp. of Brighton*, 153 F.3d 307, 314 (6th Cir. 1998) (defining “operator” for purposes of CERCLA as an entity that “performed some affirmative acts,” such as “directing the workings, managing, or conducting the affairs” of a facility) (internal quotation marks and alterations omitted); cf. *United States v. Alisal Water Corp.*, 114 F. Supp. 2d 927, 938 (N.D. Cal. 2000) (applying case law discussing CERCLA “operator” liability to the Safe Drinking Water Act context).

⁵³ Mich. Comp. Laws § 141.1563(1); Press Release, Gov. Rick Snyder, *Gov. Rick Snyder: City of Flint ready to move forward as financial emergency resolved*, Apr. 29, 2015, http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-353433--,00.html (attached as Ex. 53); Emergency Manager Order 20 ¶¶ 4.a.6, 4.a.7 (adopted Apr. 25, 2015), <https://www.cityofflint.com/wp-content/uploads/Order-No.-20.pdf> (attached as Ex. 54).

⁵⁴ Emergency Manager Order 20 ¶¶ 4.a.6, 4.a.7, *supra* note 53 (Ex. 54).

⁵⁵ See Mich. Comp. Laws § 141.1563(2); Letter from Gov. Rick Snyder to Hon. Ruth Johnson, Mich. Sec’y of State (Apr. 29, 2015), http://michigan.gov/documents/treasury/Flint_RTAB_Appointments_488251_7.pdf (attached as Ex. 55).

⁵⁶ Emergency Manager Order 3 ¶¶ 4-6, 25 (adopted Apr. 10, 2015), <https://www.cityofflint.com/wp-content/uploads/Order-No.-3.pdf> (attached as Ex. 56). The City Administrator was appointed by the Emergency Manager and can be removed only with the Board’s consent.

⁵⁷ *Id.*

November 16, 2015

Page 11 of 16

and Beverly Walker-Griffea, Members of the Board; and Natasha Henderson, Flint City Administrator, are responsible for the violations of the Act by Flint's water system which have endangered and will continue to endanger the health of Flint's residents.

A. Flint's water system is in violation of the Lead and Copper Rule's tap-water monitoring, reporting, and notification requirements

The Lead and Copper Rule requires water systems to identify a pool of sampling sites prior to the commencement of a monitoring period.⁵⁸ This requirement is designed to target residences at high risk of lead contamination in drinking water, such as homes served by lead service lines.⁵⁹ In violation of the Rule, Flint's water system does not select sampling sites for lead monitoring based on a pre-established sampling pool. For Flint's most recent completed monitoring period, January–June 2015, the Director of the City's Department of Public Works admitted that Flint “thr[ew] bottles out everywhere just to collect as many [samples] as we can, to try and hit our number.”⁶⁰ Similarly, email correspondence shows that the City has, during several monitoring periods, asked its own employees to submit tap-water samples, without regard to whether the employees were part of a pre-selected sampling pool.⁶¹

Under the Lead and Copper Rule, water systems that contain lead service lines also must draw fifty percent of their tap-water samples from sites served by a lead service line.⁶² Flint's water system does not comply with this requirement. The water system reported to MDEQ that all the sample sites it used during the January–June 2015 monitoring period were residences served by lead service lines.⁶³ Flint's Utilities Administrator, however, admitted that he was not able to verify that all homes sampled were served by lead service lines.⁶⁴ This is because City records concerning the locations of lead service lines in the distribution system are stored on 45,000 paper notecards. Flint began converting these notecards into an electronic spreadsheet this fall, well after the January–June 2015 monitoring period.⁶⁵

⁵⁸ See 40 C.F.R. § 141.86(a).

⁵⁹ *Id.*

⁶⁰ See ACLU of Michigan, *Thirst for Truth: Who's to Blame for Flint Water Crisis?*, <https://www.youtube.com/watch?t=9&v=LTO9irD2f0Y> (posted Sept. 23, 2015).

⁶¹ Email from Michael Glasgow, Flint Utilities Adm'r, to Flint municipal staff (June 1, 2015) (attached as Ex. 57).

⁶² 40 C.F.R. § 141.86(a)(8).

⁶³ See, e.g., City of Flint, Lead and Copper Report and Consumer Notice of Lead Result Certificate for Community Water Supply (July 28, 2015) [hereinafter July 28 Report] (attached as Ex. 58).

⁶⁴ See ACLU of Michigan, *Thirst for Truth: Who's to Blame for Flint Water Crisis?*, *supra* note 60.

⁶⁵ See Ron Fonger, *Flint data on lead water lines stored on 45,000 index cards*, Michigan Live, Oct. 1, 2015, http://www.mlive.com/news/flint/index.ssf/2015/10/flint_official_says_data_on_lo.html (attached as Ex. 59).

November 16, 2015

Page 12 of 16

Flint's water system has also failed to sample the same sites across monitoring periods or document the reasons for declining to sample the same sites, as the Lead and Copper Rule requires.⁶⁶ Sampling new sites from one monitoring period to the next is permitted only if a site "is no longer accessible" to the water system or "no longer fits the requirements of a priority site."⁶⁷ Records show that in the January–June 2015 monitoring period, Flint's water system retested only thirteen of the one hundred sites it sampled in the previous monitoring period.⁶⁸ It did not provide the required explanation for these departures from the previous monitoring period's sampling sites.⁶⁹ Upon information and belief, Flint's water system concentrated its monitoring in areas where it anticipated low lead levels, due to recent infrastructure improvements, and selectively retested sites that had previously yielded low lead levels. Such selective sampling violates the Lead and Copper Rule's intention that water systems "do not use only those sampling locations with the lowest lead or copper levels."⁷⁰

Flint's instructions to residents for the collection of tap-water samples also violate the Lead and Copper Rule. The Rule allows residents to collect the tap-water samples used to monitor lead in drinking water, so long as the water system instructs residents of the sampling procedures required by the regulations.⁷¹ Tap-water samples must be "first-draw samples," meaning that the sample must be collected after water in the tap has stood motionless in the plumbing system for at least six hours.⁷² Flint's instructions direct residents to flush their taps for five minutes prior to letting the water sit for the six required hours. This "pre-flushing" has been shown to "result in the minimization of lead capture and significant underestimation of lead levels in drinking water."⁷³ The water system's pre-flush instruction "negates the intent of the [Lead and Copper Rule] to collect compliance

⁶⁶ 40 C.F.R. § 141.86(b)(4).

⁶⁷ U.S. EPA, *Lead and Copper Rule Monitoring and Reporting Guidance for Public Water Systems* 25 (Mar. 2010), <http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/upload/Revised-Lead-and-Copper-Rule-Monitoring-and-Reporting-Guidance-for-Public-Water-Systems.pdf> (attached as Ex. 60).

⁶⁸ See July 28 Report, *supra* note 63 (reporting that the same sample sites were not used) (Ex. 58); see also Curt Guyette, *Lead Astray: An ACLU of Michigan investigation has found a stream of irregularities in Flint's water tests*, Michigan Democracy Watch Blog, Sept. 14, 2015, <http://aclumich.org/democracywatch/index.php/entry/lead-astray-an-aclu-of-michigan-investigation-has-found-a-stream-of-irregularities-in-flint-s-water-tests> (attached as Ex. 61).

⁶⁹ 40 C.F.R. § 141.90(a)(1)(v).

⁷⁰ U.S. EPA, *Lead and Copper Rule Monitoring and Reporting Guidance for Public Water Systems*, *supra* note 67, at 25 (Ex. 60).

⁷¹ 40 C.F.R. § 141.86(b)(2).

⁷² *Id.* §§ 141.2, 141.86(b)(2).

⁷³ Mem. from Miguel Del Toral, U.S. EPA, to Thomas Poy, U.S. EPA, at 2 (June 24, 2015) (attached as Ex. 62).

November 16, 2015

Page 13 of 16

samples under ‘worst-case’ conditions,”⁷⁴ and goes “against the intent of the monitoring protocol, since it changes the normal water use of the homeowners in the sample.”⁷⁵

Flint’s water system is violating the Lead and Copper Rule’s reporting requirements by representing to MDEQ that Flint’s monitoring practices are in compliance with the Rule. The City’s water system did not provide documentation to MDEQ justifying its selection of new sample sites in the January–June 2015 monitoring period, and, upon information and belief, is not accurately reporting information concerning whether sampled sites meet required regulatory criteria.⁷⁶

The Lead and Copper Rule also requires Flint’s water system to notify each resident whose tap water was sampled of the lead results.⁷⁷ Upon information and belief, Flint has failed and continues to fail to properly notify all residents whose tap water was tested for lead of the individual monitoring results.

B. Flint’s water system has failed to maintain optimal corrosion-control treatment

The Lead and Copper Rule required all large public water systems, including Flint’s water system, to install an “optimal corrosion control treatment” program by January 1, 1997.⁷⁸ After a system has optimized its corrosion-control treatment, the regulations require the system to “continue to operate and maintain optimal corrosion control treatment.”⁷⁹ Since April 2014, Flint’s water system has not maintained an optimal corrosion-control treatment program. Historically, the water system complied with the corrosion-control requirements by purchasing treated water from Detroit. When Flint switched its water source to the Flint River in April 2014, it did nothing to treat the Flint River water to control corrosion. This failure to maintain optimized corrosion control violates the Lead and Copper Rule.

Although Flint’s water system has resumed its purchase of treated water from Detroit, it has not disavowed its erroneous interpretation of the Lead and Copper Rule’s corrosion-control requirements. Nor has it committed to maintaining optimized corrosion control when it switches water sources again this summer to the KWA pipeline. Flint’s water system’s failure to maintain an optimized corrosion-control treatment program is likely to recur in the future.

⁷⁴ *Id.*

⁷⁵ Letter from Cynthia Dougherty, U.S. EPA, to Ralph Scott, Alliance for Healthy Homes (Sept. 12, 2008) (attached as Ex. 63).

⁷⁶ See 40 C.F.R. § 191.90(a)(1)(i), (a)(1)(v); *supra* pp. 11-12.

⁷⁷ 40 C.F.R. § 141.85(d)(1).

⁷⁸ *Id.* § 141.81(d)(4).

⁷⁹ *Id.* § 141.82(g).

November 16, 2015

Page 14 of 16

III. The State of Michigan's failure to maintain a schools testing and remediation program violates the Safe Drinking Water Act

The Act requires each state to establish a program “to assist” schools and day care centers in “testing for, and remedying, lead contamination in drinking water.”⁸⁰ Test results must be made available at schools, with notification to parents and teachers.⁸¹ Michigan, upon information and belief, does not maintain a program for school lead testing, remediation, and notification.⁸² Accordingly, Governor Snyder and MDEQ Director Wyant are presently in violation of the Act's schools provision.⁸³

IV. Intent to Sue

The City of Flint and Michigan state officials have been and continue to be in violation of the Lead and Copper Rule's requirements for monitoring and sampling tap water for lead, notifying the public of and reporting to the State tap-water monitoring results, and corrosion control. Governor Snyder and MDEQ Director Dan Wyant are in violation of the Act's requirement to maintain a program to assist Michigan schools with testing and remediating lead in school drinking water. These violations are likely to continue and to recur in the future absent a judicial decree ordering City and State officials to comply with the Act. If the City of Flint and the Michigan state officials identified above fail to cure their noncompliance with the Act within sixty days, Concerned Pastors for Social Action, Melissa Mays, ACLU of Michigan, and NRDC will file suit in federal district court seeking declaratory relief, injunctive relief, and litigation costs, as appropriate.

The name, address, and telephone number of each person giving notice pursuant to this letter are:

Concerned Pastors for Social Action
2200 Forrest Hill
Flint, MI 48504
(810) 394-6787
Attention: Pastor Allen Overton

⁸⁰ 42 U.S.C. § 300j-24(d)(1).

⁸¹ *Id.* § 300j-24(d)(2).

⁸² Although MDEQ recently announced “an education campaign” to help Michigan schools learn how to test their water for lead, MDEQ has yet to release the details of this effort, including whether it will offer the kind of assistance with testing, remediation, and notification contemplated by the Safe Drinking Water Act. *See Higgins, Michigan to launch lead education effort statewide, supra* note 44 (Ex. 51).

⁸³ MDEQ has primary enforcement authority in Michigan for the Safe Drinking Water Act. *See* MDEQ, Drinking Water, http://www.michigan.gov/deq/0,4561,7-135-3313_3675---,00.html (last visited Nov. 13, 2015) (attached as Ex. 64).

November 16, 2015

Page 15 of 16

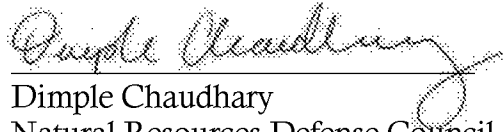
Melissa Mays
3714 Beecher Road
Flint, MI 48503

American Civil Liberties Union of Michigan
2966 Woodward Avenue
Detroit, MI 48103
(313) 578-6814
Attention: Michael Steinberg

Natural Resources Defense Council
1152 15th Street, NW, Suite 300
Washington, DC 20005
(202) 289-2385
Attention: Dimple Chaudhary

Do not hesitate to contact us if you would like to discuss this matter.

Respectfully,

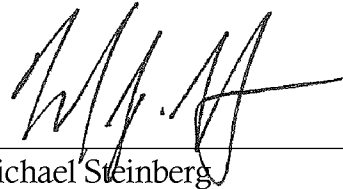


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Enclosure



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November 16, 2015

Page 16 of 16

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