STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

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Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan

Testimony Before the U.S. House of Representatives
Committee on Oversight and Government Reform
Michigan Department of Environmental Quality Director Keith Creagh
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Chairman Chaffetz, Ranking Member Cummings, and members of the Committee on Oversight and Government Reform, thank you for the opportunity to be here today to discuss the Flint water crisis. My name is Keith Creagh, and since January 4, 2016, I have served as Director of the Michigan Department of Environmental Quality (MDEQ).

I want to start by apologizing to the residents of Flint. In retrospect, government at all levels should have done more. We must fully investigate what happened in order to make sure it will never happen again. In addition, and most urgently, we must fix the problem for the people of Flint.

This is a complex issue due, in part, to the multiple levels of government oversight. The City of Flint (the City) is responsible for the daily operations of the water plant and the distribution system, including identifying sampling locations, collecting samples, and certifying that the samples meet the criteria of the Lead and Copper Rule. The State of Michigan (the State) is responsible for ensuring compliance with the Lead and Copper Rule and Safe Drinking Water Act. The U.S. Environmental Protection Agency (EPA) sets national drinking water standards, provides oversight to make sure those standards are met, and audits the State's program.

In Flint, as the City switched its water source without proper corrosion treatment, no entity focused on the structure and analysis enough to understand the possible implications. The City did not fully implement its water utility consultant's recommendations. In addition, the Lead and Copper Rule required the City to assure all sampling protocols were followed, including sampling from homes that had lead services and certifying those results with the State. It has been reported that the City has admitted that its staff certified results that did not meet the criteria.

Second, the implementation of the federal Lead and Copper Rule was ineffective in protecting public health. When the first round of lead sampling came back at 6 parts per billion in January 2015, corrosion treatment was not implemented. Regardless of the testing schedule allowed by the EPA rule, in hindsight, when the lead levels began to rise, corrosion treatment should have been required by the MDEQ. As the Michigan Auditor General pointed out, the MDEQ's Office of Drinking Water and Municipal Assistance relied on technical compliance instead of assuring safe drinking water. It is noteworthy that the Lead and Copper Rule would have allowed up to 24 months to begin these treatments. It has now become clear that the federal Lead and Copper Rule is outdated and inadequate to protect the public from exposure to lead, especially in communities with aging infrastructure, such as Flint.

From the time of the switch to the Flint River as the primary water source in 2014, until the MDEQ received the January 21, 2016, Emergency Administrative Order (the Order)

from the EPA, my observation is that the EPA did not display the sense of urgency that the situation demanded. This is underscored by the conversations started in February 2015 regarding implementation of the federal Lead and Copper Rule. Between February and the end of September 2015, there were multiple e-mail exchanges and conference calls between the MDEQ and EPA. Yet when the parties were unable to come to consensus on its implementation in July 2015, the EPA failed to provide the legal opinion requested by the MDEQ until November 2015.

Furthermore, after being provided a copy of Miguel Del Toral's June 24, 2015, memo on high lead levels in Flint by a third party, the MDEQ was notified by an EPA official in an e-mail that:

> *I wanted to remind you that Miguel's report had DEQ cc'd. So if the Legislature or who ever (sic) might say you all were cc'd, you can truthfully respond that it was EPA's request that the report not be sent to the cc's. Consequently, you all never received the report from Miguel.*

The MDEQ eventually received the memo from the EPA in November 2015, after it had already begun actions to address the lead problem. Legitimate concerns raised by EPA's own expert staff were not elevated or provided to either the City or the State for review and action until after the State's response was well underway.

When government finally responded to the public outcry, thanks to the relentless efforts of independent scientists whose warnings turned out to be correct – our tone was combative and dismissive. None of the levels of government communicated effectively with the public.

I am confident that the many reviews of this situation, from the U.S. Department of Justice to interagency teams, will address in-depth the policy and decision-making corrections needed to ensure that government at all levels can provide safe, clean drinking water to citizens.

While we could spend this whole morning trying to assign blame, I would first like to acknowledge the unwavering advocacy of EPA's Miguel Del Toral, Dr. Marc Edwards, and Dr. Mona Hanna-Attisha in helping to bring this problem to light. And I would like to spend the final few minutes discussing the coordinated State response that has been undertaken to fix this problem.

On October 2, 2015, Governor Snyder announced a 10-step plan to address the Flint water emergency. The initial steps included switching back to water provided by the Detroit Water and Sewerage Department (DWSD), which occurred on October 16, 2015. Supplemental phosphates were added to the treated DWSD water to provide additional protection on the lead service lines on December 9, 2015. All of Flint's public schools facilities have been evaluated, and problem fixtures are being remedied. In the

public schools, teams of plumbers were able to identify the issue was not lead service lines, but instead individual drinking water fixtures that contained lead.

The Governor announced the activation of the State Emergency Operations Center on January 5, 2016, just one day after Genesee County declared a state of emergency. Since the end of January, we have handed out approximately:

100,000 Water filters

234,000 Cases of bottled water

32,000 Water testing sampling kits

The State has been working hard to develop effective and responsive steps to address issues related to drinking water in Flint. There are more than I have addressed in my opening remarks, but I do want to highlight the State's five-prong sampling plan that addresses both the short-term and long-term needs of Flint. This approach includes the following:

1. Access to water sampling for all residents. Although this is not a scientific sampling pool, initial results have shown lead levels in the water with 93 percent of sampling of homes below the actionable level of 15 parts per billion.
2. Testing of additional schools, daycares, and nursing homes is underway.
3. Assessment of food establishment through the Michigan Department of Agriculture and Rural Development is occurring.

4. Home screening and additional follow up for children with elevated lead levels in their blood are being coordinated by the Michigan Department of Health and Human Services. And,
5. Identification of sentinel sites is occurring to allow for long-term monitoring and testing of the water, in conjunction with the EPA and the City.

The State has also enlisted the expertise of Dr. Marc Edwards and Dr. Mona Hanna-Attisha, among others, as advisors on Michigan's Flint Water Interagency Coordinating Committee to work on long-term water infrastructure solutions for Flint. Through this partnership, and the work of the EPA's Flint Safe Drinking Water Task Force, the City, State, and federal government will work in unison to provide safe drinking water to the residents of Flint. This partnership will ensure that testing and monitoring is validated by trusted third parties. Much of the work produced by these committees can be used as blueprints for other communities.

The State will achieve the deliverables identified in the Order sent on January 21. Since the issuance of the Order, the State and EPA have had productive and constructive conversations on a unified path forward. While we certainly appreciate the dialogue that has occurred, consultation with the State before the Order was issued would have provided clarity to many of the issues that the State was already underway in addressing. Indeed, it is puzzling that the Order was issued so long after the response efforts began, and without mentioning the steps that were already underway.

I recognize the problem with finger pointing is that it makes it difficult to work in tandem to solve real problems for real people depending on us. To be successful, we, the State, need to have a high performing, trust-based partnership with the EPA, the City, and other agencies at local and county levels. Learning from the Flint situation and talking about it will not be easy, especially in a political environment. I appreciate the relationships that have been established between myself, Mayor Weaver, and interim EPA Regional Administrator Bob Kaplan through our weekly calls with the EPA and meetings with the City.

We know the task ahead is important, as is the restoration of the public's trust. However, Governor Snyder is committed to providing the resources necessary to provide solutions. I look to our Congressional and federal partners to also provide leadership on federal resources that can be leveraged to address the problems related to the Flint water system. We will not rest until this problem is solved and the people of Flint are assured that they again have water that is safe for them and their families

I thank you again for the opportunity to come before you today and look forward to answering any questions you may have.