

Congress of the United States
House of Representatives
The Committee on Oversight and Government Reform
“Examining Federal Administration of the Safe Drinking Water Act in Flint,
Michigan – Part II”
Tuesday, March 15, 2016
10:00 AM Room 2154 Rayburn House Office Building
Washington, DC

Darnell Earley, ICMA-CM, MPA

Written Testimony – Mr. Darnell Earley

Introduction

My name is Darnell Earley. I am a career public servant with nearly 40 years of experience in Michigan as a city and township manager, county administrator, state government appointee, and public school and college educator. In 2008, while serving as city manager of Saginaw, Michigan, I was elected president of the International City/County Management Association (“ICMA”), a professional association of approximately 10,000 local government, academic, and student members across the United States, and in 19 other countries around the world. I served as president from 2009 until 2010. My career has predominately been focused on managing financially distressed urban communities, and I have also served on a number of state-appointed financial review teams for distressed cities in Michigan.

From 2001 until 2004, I served as City Administrator and briefly as Acting Mayor in Flint, Michigan. During my tenure, there was already significant discussion among civic and business leaders about the vision for a new water system for servicing Flint, Genesee County, and the surrounding area. The Detroit Water and Sewerage Department (“DWSD”) contract had long presented logistical challenges and resulted in some of the highest water consumer rates in the county over the 50 years of its duration. The Karegnondi Water Authority (“KWA”) concept’s timing corresponded with the approaching 2014 expiration of the DWSD contract, and would give the City and County a better means for managing the cost, maintenance, and efficiency of its water services.

In November 2011, the first of four Emergency Managers, Michael Brown, was appointed in Flint. Edward Kurtz then served in this role from August 2012 until July 2013, and Michael Brown served a second term from that July through October 2013. I myself was appointed Emergency Manager in October 2013. By then, Flint was under state emergency management (PA 436 of 2012) for the second time in recent years.

As Emergency Manager, it was my responsibility to continue working to restore financial solvency to the city government, and to ensure that the city could sustain itself financially and organizationally following a return to local control. The issues before us

today arose amidst many other challenges that all financially distressed cities, and Flint in particular, face. Public safety, road repair and public works maintenance, blight elimination, and the implementation of the City's newly created Master Plan, among other challenges, all presented significant hurdles for Flint during the relevant period. In light of these many issues, please accept the following testimony.

Account of Events

The Decision to Switch From DWSD to KWA

The decision to purchase water from the new KWA upon termination of the existing 50-year contract with DWSD had been fully vetted and confirmed prior to my tenure as Emergency Manger in Flint. In March 2013, the Flint City Council passed the measure by a vote of 7-1. The Genesee County Drain Commissioner, Jeffrey Wright ("Wright"), required this affirmative vote by the City Council as a condition of joining the KWA and publicly applauded the decision. The lone "no" vote was from a council-member who opined that the Flint River should be used permanently and the KWA option defeated!

Then-Emergency Manager Edward Kurtz also supported the decision, signing it into effect on March 29, 2013, a full seven months before my appointment in October. (Attachment 1 – "Resolution to Purchase Capacity from the Karegnondi Water Authority"). The State Treasurer at the time, Andy Dillon, approved and authorized the move, citing: support of the deal from Mayor Dayne Walling, the Flint City Council, and the Michigan Department of Environmental Quality ("MDEQ"); the unique opportunity for regional collaboration; and the desperately needed costs savings the deal would bring to Flint. (Attachment 2 – "Letter from Treasurer Andy Dillon to Edward Kurtz"). For a water system that, as of June 30, 2012, had a deficit of \$8,758,091, the decision offered both short- and long-term opportunities to lower costs.

For example, it allowed the City to update the Flint Water Plant without seeking outside funds and would pass along rates savings to individual citizens and business

owners. Once this plan was fully authorized in April 2013, DWSD terminated its water contract with Flint, effective April 2014.

Before I served as Emergency Manager, there was already overwhelming consensus that the Flint River would be used as an interim water source during construction of the new KWA plant. Indeed, a subsequent order signed by Kurtz on June 26, 2013, speaks specifically to “placing the Flint Water Plant into operation using the Flint River as a primary drinking water source for approximately two years and then converting to KWA delivered lake water when available” (Attachment 3 – “Resolution to Place the Flint Water Plant into Operation”). I have read recently released correspondence from Governor Snyder’s office further pointing to such a consensus, that the decision to use the Flint River was pushed locally by the City Council, Mayor Walling, city staff, and the state. Genesee County officials were also aware of this plan. The overall decision favored using the Flint River exclusively over a proposed blend of Flint River and Lake Huron water because the river itself had been used as a capable back-up water supply for decades, and had been consistently tested and evaluated on a quarterly basis during that time. The Flint River had also served as the primary water source for the city for decades prior to the contract with DWSD. In addition, an engineering firm, Rowe Professional Services Company, independently analyzed the Flint River as an alternative water source. The City’s water treatment staff informed me that Rowe’s analysis had been submitted to and approved by MDEQ.

Tenure as Flint Emergency Manager: October 2013 – January 2015

Upon taking office, I outlined the City’s goals in a 7-Point Transition Management Plan. These goals were approved by the Mayor and City Council, and included:

- Eliminating Flint’s \$25 million budget deficit;
- Establishing a five-year financial forecast as a forward-planning schedule for Flint’s leaders to track the City’s funds, budgets, and expenditures;

- Establishing a Blue Ribbon Committee on Governance which resulted in a charter review commission to determine whether Flint should remain under a “strong mayor” system or transfer to a council/manager form of government. Many of Flint’s financial and organizational issues stemmed from the former, as strong mayors tended to appoint political rather than trained and experienced leaders to head its departments; those appointees often lacked the political will to make the difficult decisions necessary for crisis management.
- Consolidating the City’s staff, including its courts and its 9-1-1 dispatch office, to increase efficiency and reduce unnecessary expenses;
- Addressing and eliminating the City’s legacy costs associated with healthcare and retirement;
- Having the strategic plan approved by the City itself and not simply forced into execution by the Emergency Manager; and
- Ensuring that, when the City was ready to return to local control from receivership, it could sustain itself for years to come.

Additionally, while I was appointed Emergency Manager to return Flint to financial solvency, I was nonetheless confronted by the need to curb crime in the community and to oversee the transition of the City’s water supply from DWSD to the Flint River and eventually to KWA. For example, as early as October 18, 2013, I issued a press release assuring residents that subsequent changes in water rates would be transparently assessed and communicated.

Between October 2013 and April 2014, the suggestion of renewing a long-term deal with DWSD was raised and carefully reviewed. In my correspondence with DWSD Director Sue McCormick, dated March 7, 2014, I informed her that, following DWSD’s notice of termination in April 2013, the City had already fully committed to using the Flint River as an interim source until the KWA could be constructed. (Attachment 4 – “Letter from Darnell Earley to DWSD Director Sue McCormick”). I reminded her that we expected the Flint Water Treatment Plant to be fully operational and capable of

treating the river water by April 2014, but reserved interest in negotiating an interim contract should our plans encounter significant delays. We of course ended up not requiring such an interim arrangement, but the reality of the situation was that, at that moment, entering into another full time, long term contract with DWSD was financially impossible – the City had already invested millions of dollars into the KWA arrangement and simply did not have the money in its coffers for such a deal, nor could the state allocate sufficient support.

And, to be clear, I never personally received any offer of discounted rates for a short term contract from DWSD once complaints about the Flint River water surfaced, nor was I notified of any such offer. Indeed, a letter from DWSD dated January 12, 2015¹, confirmed, per Gerald Ambrose’s conservative estimates, that reconnecting to its Lake Huron source would immediately increase the City’s fixed costs alone by \$846,700 per month, or \$10,160,400 per year. (Attachment 5 – “Letter from Sue McCormick to Darnell Earley and Dayne Walling”; Attachment 6 – “Memorandum from Gerald Ambrose to Deputy Treasurer Wayne Workman”). In addition, the actual water purchase cost would average more than \$1 million per month, plus associated costs. This January 2015 proposal was an unsustainable financial fantasy, especially given that one of my first orders as Emergency Manager, pursuant to the City’s request and the Treasurer’s approval, was to sell a section of pipeline to the Genesee County Drain Commissioner that would have had to be used for any such reconnection to DWSD. (Attachment 7 – “Press Release: Michigan Department of Treasury Approves Sale of Pipeline Section”).

As the project progressed, I met several times with Wright, the Flint Water Department staff, the director of the Water Department, and water treatment plant staff. When I asked whether the plant could service water on a 24/7 basis, the Water Department staff repeatedly assured me that the project was proceeding accordingly with MDEQ’s regulatory guidance. At no time did the Water Department staff, Mayor

¹ While DWSD did address this letter to me in my capacity as Emergency Manager, I did not receive it – the letter was dated January 12, 2015, my last day in office. It is my understanding that my successor, Gerald Ambrose, responded to that letter.

Walling, the City Council, or the state petition me to halt, slow, or otherwise modify the implementation of the plan. Nor at any point and time during the preparation for the switch, did I receive any information that would even remotely indicate that the use of the Flint River was unsafe in any way.

Instead, those at the local level were pleased with the project's value as well as the independence from DWSD that it represented. Per the necessary requirements, the City applied for a permit with MDEQ for its Water Treatment Plant to process the river water for distribution throughout the community; MDEQ approved that permit on or around April 10, 2014.

The water source was switched from DWSD's Lake Huron water to the Flint River on April 25, 2014. (Attachment 8 – "Press Release: City of Flint Begins Using Flint River as Temporary Primary Water Source"). The crossover was widely praised and marked by a public ceremony, at which Mayor Walling flipped the switch and exclaimed, "It's regular, good, pure, drinking water, and it's right in our backyard. [T]his is the first step in the right direction for Flint, as we take this monumental step forward in controlling the future of our community's most precious resource." Public Works Director Howard Croft ("Croft") and others confirmed that the water was healthy and completely safe for consumption. Indeed, I had no information to doubt the veracity of the reports I was receiving regarding the switch, or the readiness of the treatment plant.

Beginning in April 2014, I received weekly briefings on the water distribution system's acclamation to river water from Croft. I had no reason to doubt his qualifications or the substance of his briefings up to that date. Keeping with my leadership philosophy of including local leaders to help mend a distressed community, I signed an Order on June 20, 2014, increasing Mayor Walling's responsibilities (and salary) to include day-to-day management of the City's Department of Public Works. This, of course, covered the Water Treatment Plant and the City's water distribution system. (Attachment 12 – "Emergency Manager Order No. 15"). Former Emergency Manager Kurtz had authorized similar additional responsibilities for Mayor Walling in April 2013.

However, tests in August 2014 indicated the presence of fecal and total coliform in parts of the water distribution system. Croft notified me of these test results, and at my request, he set up a meeting with the two of us, water treatment staff, and the MDEQ. Given the complexity of the scientific data behind the test results, I required MDEQ's interpretation and an explanation regarding what was being found in the water. I was informed that these test results could be linked to a number of sources, such as water main breaks, low pressure in the system, cross connection, an unauthorized connection to the water system, or sampling error.

I orchestrated these meetings out of concern for the people of Flint, even though I had delegated the responsibility to oversee Flint's water system to Mayor Walling only two months prior. Indeed, this issue was now out of my realm of management and should have been squarely in the hands of local leaders – yet, I assisted as I could while addressing the many additional financial challenges confronting me as Emergency Manager.

Per MDEQ standards, the City issued a boil water advisory to residents so that further testing could be performed. While this advisory was in effect, MDEQ and the water treatment staff added chlorine and fresh water to the system. I was advised by these experts that total coliform was generally harmless and that it could be eradicated with these measures. Indeed, the advisory was lifted after a few days of testing revealed no sign of coliform bacteria in the samples. But, only one month later, in September 2014, tests revealed yet another positive indication of total coliform in a localized portion of the distribution system. I requested and attended another meeting with Croft, the water treatment staff, and MDEQ. This time, I was advised that low usage may have caused the contaminants to accumulate. Another boil water advisory was issued, and again, MDEQ and the water treatment staff determined to add chlorine and increase flushing. During both of these joint meetings, MDEQ shared data reports outlining chemical testing results with me – I could only understand these reports in conjunction with the scientific interpretations MDEQ and the treatment staff provided to me. And, at any rate, MDEQ and the staff assuaged my concerns by describing these episodes as natural occurrences,

harmless to human health and geographically limited in nature. While I had general concerns, I had no basis for skepticism as to the water's quality or MDEQ and the water treatment staff's ability to treat it based on the information conveyed to me by these experts. At absolutely no time during these boil water advisories were the issues of corrosion control or lead leaching brought to my attention.

In both boil water advisory episodes, once the City's staff took these steps, MDEQ certified that water from all testing sites was well within acceptable guidelines. I had no reason to doubt the staff's actions as water treatment professionals, and certainly had no reason to question the MDEQ's expert certification. To be sure, I kept the Governor and Treasurer fully apprised of any situational knowledge I held through regular meetings with both offices. I additionally ordered Croft to prepare and circulate a formal memorandum to Harvey Hollins in the Governor's office. (Attachment 9 – "Email from Darnell Earley to Harvey Hollins and Attached Memorandum"). Croft's memorandum confirmed our September 8, 2014, meeting between City officials, the Mayor, and MDEQ staff, via conference call. As a result of that meeting, it was correctly determined that a broken valve had prevented the adequate circulation of fresh water into the distribution system, and that repairing this valve erased nearly all of the symptoms within twenty-four hours.

I additionally sought to address the growing concerns of water quality in September and October of 2014 by monitoring hydrant flushing and repairs to the City's broken water mains and valves. The water treatment staff maintained that opening the fire hydrants to flush the system would enhance circulation and reduce stagnation in the system. As for the water line repairs, they were a key part of the City's newly adopted Master Plan and the staff deemed them to be long overdue.

Nonetheless, my confidence in the water treatment staff and the guidance they were receiving from MDEQ began to wane after the second boil water advisory was issued, and after the City was notified it had violated the federal limit for trihalomethanes ("TTHM") in the water. It was clear that, despite the assurances I received, the treatment solutions relayed to me were inappropriate and ineffective.

Thus, because the analysis of our Flint water treatment staff and MDEQ seemed to be failing, I sought out private industry experts in water treatment to analyze our situation and propose solutions. In the fall of 2014, I ordered a Request for Proposal issued, and the City did so, just after I left in January 2015. Since I was successfully completing my tenure in Flint and the City was preparing for return to local control, I was appointed Emergency Manager of Detroit Public Schools by Governor Snyder. The City subsequently engaged Veolia North America to review the incoming contamination data and analyze potential causes. Veolia's resulting analysis and report was not released until March 2015.

The report commended the City's proactive efforts taken under my watch. For example, the City had reached out to engineering firms and specialty vendors, worked with the medical community, established lines of communication to receive public complaints, and offered to perform tests at individual residences. However, Veolia noted that a harsh winter heightened the risk of corrosion to the aging water distribution system. Thus, the report recommended adding polyphosphates to the water to combat corrosion, but it made no mention of the risk of lead in Flint's water. At no point during my tenure had recommendations to add corrosion control been suggested, recommended, or placed in front of me for action.

During my fifteen months in Flint, the City and I, together, attained a tremendous amount of our original goals in order to return the community to a stable, sustainable, and safe home for its residents. For one, we directed financial and human resources toward the implementation of the City's new Master Plan. We also eliminated the structural budget deficit and created a five-year financial forecast to ensure that, if followed, Flint remained financially solvent. We addressed our healthcare-related legacy costs, slashed expenses associated with previous 9-1-1 dispatch inefficiencies, and reduced the crime rate by bringing the police department under new leadership and by partnering with the Michigan State Police.

Lastly, and perhaps most significantly, I established a Blue Ribbon Committee which resulted in an elected charter review commission to review the City's charter. As

mentioned above, historically, many of Flint's struggles over the years flowed from poor management on the part of those appointed under a "strong mayor" system of governance. It was thus imperative, before I left office, to create a review process by which the people of Flint could decide for themselves whether they wished to remain living under this "strong mayor" system which had twice resulted in state receivership, or to transfer authority to a more comprehensive, competent, and management oriented structure for city administration. Too long had the City suffered from the appointment of unqualified political operatives and this last measure gave its people an opportunity to take control responsibly, and demand more from its elected and appointed officials.

These accomplishments must not be overlooked. Together, the people of Flint and I inherited yet another financial emergency. However, through the process of state intervention we made enormous strides toward returning to the City a stronger and more resilient government. This was my charge as Emergency Manager, as spelled out in Public Act 436 of 2012.

Role of MDEQ and EPA

Recent coverage of Flint's water crisis has revealed that myself and others were grossly misled by the experts at MDEQ and EPA. We were all totally dependent on their regulatory analysis – indeed it would have been unreasonable, given what I was being told at the time, to reject their guidance and attempt to make independent rulings on a highly sophisticated and scientific subject matter.

For example, General Motors' ("GM") October 2014 decision to terminate water service from the City presented an ideal opportunity for MDEQ to question the corrosive effects of its prescribed chlorine treatment. But MDEQ did not. In announcing its decision, GM cited concerns that the chloride levels in the water were corroding its raw engine blocks. It was explained, in a meeting with GM representatives, that the additional chlorine was prescribed by MDEQ to combat contaminants in the water, but at no time did GM's concerns raise any doubt in our mind that the water was unsafe for human consumption. I relied on the guidance from MDEQ experts, who maintained that

although the chloride levels were above acceptable manufacturing limits, this did not present a health concern for human consumption and use. And while I could only act upon what I was told at the time by scientific experts on water treatment, the issues of corrosion and lead were never revealed to me by any of them as a part of the problem.

Not only did MDEQ miss its opportunity to identify serious pipe corrosion problems, but it continued to ignore and reject warning signs long after I left Flint. Despite multiple emphatic warnings from EPA, MDEQ never required the Flint Water Treatment Plant to exercise optimized corrosion control until late 2015, and its water monitoring policy masked the resulting lead contamination by pre-flushing the system prior to taking samples.

Preliminary conclusions issued by Governor Snyder's Flint Water Advisory Task Force echo the sheer and gross reality of the situation: that myself and others relied on incorrect guidance from MDEQ experts to devastating effects. (Attachment 10 – "Letter from Flint Advisory Task Force to Governor Snyder"). Not only did MDEQ misapply federal safe drinking water regulations, but it fostered a culture of bare minimum, technical compliance, blinding it to many indications that the public's drinking water was compromised. The warning signs were there. EPA staffer Miguel Del Toral raised corrosion and lead concerns both in February and June of 2015. Virginia Tech's Marc Edwards reported astonishing levels of lead in Flint's drinking water. Still, MDEQ completely discounted credible indications that it had misinterpreted the appropriate standards, misinformed the City and its staff, and misled the public.

It took until October 2015 for MDEQ to admit these failures. Had MDEQ realized its mistakes in January 2015, I would have at least been in a position as Emergency Manager to immediately direct implementation of the necessary corrosion controls. Instead, by its own admission, MDEQ had been misapplying the Lead and Copper Rule's standards for not only ten months after I left Flint, but a full eighteen months after it permitted the Flint Water Plant to distribute water to Flint's citizens, in April 2014. MDEQ's inexcusable failure, concealed for months, foisted a systemic failure on everyone involved.

However, EPA should not escape criticism merely because MDEQ misapplied the safe drinking water regulations. EPA Regional Director Susan Hedman downplayed and rejected Del Toral's June 2015 memorandum. Furthermore, even if I had questioned the advice of our state and local experts, and even if I had taken it upon myself to inquire about corrosion and lead leaching, neither of which were brought to my attention, EPA itself has acknowledged the corrosion control provisions of the Lead and Copper Rule were subject to interpretation and ambiguous. It is my sincerest hope that the Agency's subsequent clarification will prevent other communities across our nation from suffering the same fate as Flint. Unfortunately, it came too late to alter the circumstances we discuss here today.

These unthinkable errors all underscore that Flint's crisis resulted from improper treatment of the water, an issue which fell squarely in the bailiwick of MDEQ and EPA. The decision to switch to KWA and to use the Flint River in the interim had nothing to do with this simple fact: when the water left the Flint Water Treatment Plant, it contained no corrosion controls. We relied on the experts to verify that the water would not pose any threat to the community--the experts failed all of us.

Switching Back to DWSD Service

The Flint City Council voted in late March 2015 to cease using the Flint River and to return to DWSD. Yet, it took seven months after their vote, and ten months after I left office as Emergency Manager, to reconnect to DWSD. This reconnect was only made possible through a series of grants, requests, and options that were unavailable to the City until, at the earliest, February 2015. That month, Governor Snyder announced \$2 million in grants to enhance Flint's water system through waste management, leak detection, and pipe assessments. (Attachment 11 – "Press Release: Governor Snyder Awards Flint \$2 Million for Water System Improvements"). Despite this grant, the City was still unable to reconnect by September 2015, as Mayor Walling requested a staggering additional \$30 million in aid to guarantee safe drinking water in Flint.

In October, DWSD's proposal included dramatically more gracious terms than any proffered to me while serving as Emergency Manager. For example, DWSD finally offered a short term and immediate reconnect until KWA was fully operational, without reconnect fees. DWSD also offered a fixed monthly rate of \$662,100 and a wholesale rate adjustment. Had these funds and proposals been available in 2013 and 2014, a reconnect to DWSD during that period may have been feasible and even desirable. However, given the raw economics at play, such an arrangement was simply not possible until well into 2015.

Conclusion

Overall, these shortcomings symbolize not an excuse, but an explanation – an explanation of the factually based realities faced by me as Flint's Emergency Manager from October 2013 until January 2015. The reality is such, that with so many challenges facing distressed urban areas, like Flint, an Emergency Manager must rely on the experts around him, especially when matters of such scientific complexity as water contamination and treatment are at the forefront. At the time, I deeply believed the information offered to me was accurate and sound, but, in relying on experts, the solutions I oversaw failed to ameliorate the troubles plaguing Flint's water.

I relied heavily upon people at all levels of government, specifically MDEQ and EPA, in their roles as regulatory agencies, and the Flint water treatment staff as the operators to advise me and to examine the issues we faced in switching to the Flint River. As a part of that group, despite lacking the necessary water treatment expertise, I now wish that I had been more probative in my approach in delving deeper into the explanations I was receiving about what was being done, what needed to be done, and when it would be done. In hindsight, it is always easier to diagnose what needed to be done or what else could have been done based upon the consequences, unintended or otherwise.

I challenge this Committee and its members: what would any of you have done differently? How should I have told the City's water treatment staff, MDEQ, or even

EPA that they were wrong in their analysis of contaminants, water treatment, or corrosion control? Given that these were highly complex environmental issues, it was more than reasonable for me to rely on these experts available to us. And, if this Committee is sincerely interested in uncovering the truth behind Flint's water crisis, it will call forward all the decisionmakers, including the other Emergency Managers, to testify. Do not stop with this panel, or the panel to be heard on March 17 – get to the whole truth. The facts *must* matter!

I do not relish the above confirmations that the experts failed me and the residents of Flint, nor do I celebrate them, but as more and more reports of Flint citizens exposed to lead are confirmed, I cannot deny that the failures of these experts resulted in the Flint water crisis.

Not one day goes by in which I do not think about, and pray for, those afflicted families in Flint, and at no time during my tenure as Emergency Manager did I ever wake up and consciously decide to deny them, or otherwise ignore their right to quality drinking water. To the contrary, as a faithful and committed public servant, I strived to return to them the financially stronger government they deserved while overseeing all of Flint's service delivery systems.

The hard work and dedication of many will be needed to solve this problem and to be reasonably sure that it will never happen again. It is therefore my prayer that everyone's attention will now turn toward solving these challenges, including formulating plans to address the aged and crumbling condition of water distribution systems that exist not only throughout Flint and Genesee County, but also in virtually every urban-core city in America. Until we do this, many other cities are just one "expert's" mistake away from a fate similar to Flint's.

Thank You.

Attachments

Attachment	Description	Date
1	Resolution to Purchase Capacity from the Karegnondi Water Authority	3.29.2013
2	Letter from Treasurer Andy Dillon to Edward Kurtz	4.11.2013
3	Resolution to Place the Flint Water Plant into Operation	6.26.2013
4	Letter from Darnell Earley to DWSD Director Sue McCormick	3.7.2014
5	Letter from Sue McCormick to Darnell Earley and Dayne Walling	1.12.2015
6	Memorandum from Gerald Ambrose to Deputy Treasurer Wayne Workman	3.3.2015
7	Press Release: Michigan Department of Treasury Approves Sale of Pipeline Section	6.13.2014
8	Press Release: City of Flint Begins Using Flint River as Temporary Primary Water Source	4.25.2014
9	Email from Darnell Earley to Harvey Hollins and Attached Memorandum	9.17.2014
10	Letter from Flint Advisory Task Force to Governor Snyder	12.29.2015
11	Press Release: Governor Snyder Awards Flint \$2 Million for Water System Improvements	2.3.2015
12	Order Number 15 - Mayor Walling's Increased Responsibility and Compensation	6.20.2014

Attachment 1

Resolution to Purchase Capacity from the Karegnondi Water Authority 3.29.2013

EM SUBMISSION NO.: 2013EM041

PRESENTED: 3-28-13

ADOPTED: 3-29-13

BY THE EMERGENCY MANAGER:

**RESOLUTION TO PURCHASE CAPACITY FROM
KAREGNONDI WATER AUTHORITY**

The Karegnondi Water Authority (KWA) is a governmental consortium of cities and counties in southeastern Michigan that was created to build a water pipeline that will provide water from Lake Huron to interested communities in Sanilac, Lapeer, and Genesee counties. The incorporating bodies that created the KWA are Sanilac County, Lapeer County, Genesee County, the City of Flint, and the City of Lapeer.

The City of Flint is currently in a year to year contract with the City of Detroit for the purchase of water. A study was conducted that projected that staying with Detroit will cost the region \$2.1 billion over the next 25 years. In contrast, if the region builds its own pipeline, the projected costs are \$1.9 billion over the same period. After the initial 25 year period, the projected costs would be less then 25% of the projected water costs from Detroit.

In order to build the pipeline, the KWA needs commitment from its members regarding the capacity that each member will purchase in the pipeline. The KWA is allowed to withdraw 85 million gallons of water per day. Capacity is available to members in increments of 1 million gallons per day known as units. For each unit of capacity that a member purchases, the buyer shall pay to the KWA a one time fee of \$32,300.00. Additionally, the buyer shall pay to the KWA not less then \$32,300.00 per unit per year until such time as water is made available to the buyer. After water is made available, the buyer shall pay to the KWA an estimated amount not to exceed \$355.300.00 per unit per year until such time that the bonds are paid in full. If it is determined that the costs per unit will exceed \$355,300.00 the buyer has a right to cancel the contract.

The purchase of capacity along with the payment of other costs necessary to operate the pipeline gives the member a right to water for sale to its customers. The buyer has a right to resell capacity and water rights. Each party entering into a capacity contract shall also be entitled to appoint additional board members equal to the party's percentage share of the total capacity under contract.

It is in the long term best interests of the City of Flint to enter into a contract with the KWA to purchase up to eighteen (18) units of capacity.

IT IS RESOLVED that City officials are authorized to enter into a contract with KWA to purchase up to eighteen (18) units of capacity.


IT IS FURTHER RESOLVED that the City Administrator is authorized to provide KWA information needed to administer the contract and, with approval of the Chief Legal Officer, to make minor (non-material) modifications to the contract.

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:



Peter M. Bade, City Attorney




For Gerald Ambrose, Finance Director

EM DISPOSITION:

ENACT FAIL

DATED 3-29-13



Edward L. Kurtz, Emergency Manager

Attachment 2

**Letter from Treasurer Andy Dillon to Edward
Kurtz 4.11.2013**



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

ANDY DILLON
STATE TREASURER

Mr. Edward Kurtz
Emergency Manager
City of Flint
1101 South Saginaw Street
Flint, MI 48502

April 11, 2013

Dear Mr. Kurtz:

Thank you for your March 29, 2013 letter, which is attached for reference. As the Emergency Manager for the City of Flint ("Flint" or "City"), you have asked for my concurrence, pursuant to Public Act 436 of 2012, the Local Financial Stability and Choice Act, to authorize a contract in excess of \$50,000.00 not subject to competitive bidding. This request was related to the City entering into an agreement with the Karegnondi Water Authority (KWA) for provision of raw water for the City.

In considering your request, I took note of the following facts in support of Flint joining KWA. First, there is widespread support in the City for this move, including the support of the Mayor, the City Council, and the Emergency Manager. Second, this move will provide a unique opportunity for the City and County to partner on an important project, which will hopefully lead to future regional collaboration. Third, the Department of Environmental Quality is supportive of the City participating in the KWA project. Finally, your representations that this deal will lead to substantial savings for the City over the coming decades, savings that are desperately needed to help with the turnaround of the City of Flint.

It is my understanding that the Detroit Water and Sewer Department is making a final best offer to Genesee County and the City of Flint next Monday, April 15, 2013. As such, this approval will be effective at 5 pm on April 16, 2013 after receiving written notice from the City that either no such offer was presented to the county and the City or that an offer was received and was rejected in good faith based upon specified objections.

For the reasons described above and subject to the conditions set forth herein, pursuant to Section 12 (3) of PA 436 of 2012, I am authorizing you to proceed with adopting the resolution and entering into a contract with KWA.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Dillon".

Andy Dillon
State Treasurer

Attachment 3

Resolution to Place the Flint Water Plant into Operation 6.26.2013

EM SUBMISSION NO.: 2013 em140

PRESENTED: 6-21-13

ADOPTED: 6-26-13

BY THE EMERGENCY MANAGER:

Resolution Authorizing Approval to Enter into a Professional Engineering Services Contract for the Implementation of Placing the Flint Water Plant into Operation

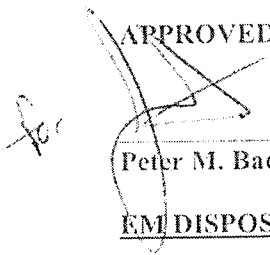
The City of Flint requires professional engineering services for assistance in placing the Flint Water Plant into operation using the Flint River as a primary drinking water source for approximately two years and then converting to KWA delivered lake water when available at a cost of \$171,000.00; and

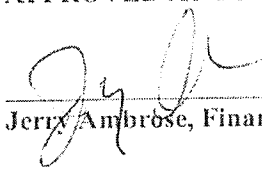
The City of Flint is seeking to enter into a sole source contract with Lockwood, Andrews & Newnam, Inc., with funding coming from the Utilities Administration FY14 account in 591-536.100-801.000; and

IT RESOLVED. That appropriate City Officials are authorized to enter into a Professional Engineering Services contract with Lockwood, Andrews & Newnam, Inc., for the administration of placing the Flint Water Plant into operation using the Flint River as a primary drinking water source at a cost of \$171,000.00. Funding will come from the Utilities Administration FY14 account 591-536.100-801.000

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:


Peter M. Bade, Chief Legal Officer


Jerry Ambrose, Finance Director

EM DISPOSITION:

ENACT ✓ FAIL _____

DATED 6-26-13


Edward J. Kurtz, Emergency Manager

RESOLUTION STAFF REVIEW

Date: June 17, 2013

Agenda Item Title: Resolution Authorizing Approval to Enter into a Professional Engineering Services Contract for the implementation of Placing the Flint Water Plant into Operation

Prepared by:

Yolanda Gray, Utilities Accounting Coordinator

Summary of Proposed Action:

Resolution authorizing the City of Flint to enter into a sole source contract with Lockwood, Andrews & Newnam for professional engineering services to place the Flint Water Plant into operation using the Flint River as a primary drinking water source.

Financial Implications:

\$171,000.00

Pre-encumbered?: Yes ___ No x Requisition: Funding will be available in the FY14 Utilities Administration budget.

Account No. FY14 591-536.100-801.000

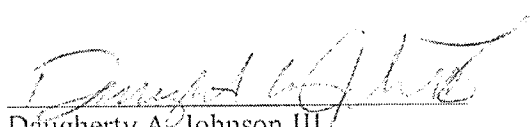
Other implications (i.e. collective bargaining):

No other implications are known at this time.

Staff Recommendation: Recommend Approval

Staff Person


Howard Croft
Infrastructure & Development Director

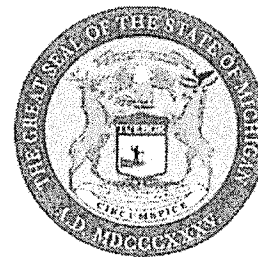

Daugherty A. Johnson III
Utilities Administrator

Attachment 4

**Letter from Darnell Earley to DWSD Director
Sue McCormick 3.7.2014**



CITY OF FLINT
OFFICE OF THE EMERGENCY MANAGER



Darnell Earley, ICMA-CM, MPA
Emergency Manager

ELECTRONIC COMMUNICATION

March 7, 2014

Ms. Sue McCormick
Detroit Water and Sewer Department
Detroit, Michigan

RE: DWSD Water Rates

Dear Ms. McCormick:

Thank you for the correspondence dated February 12, 2014 which provides Flint with the option of continuing to purchase water from DWSD following the termination of the current contract as of April 17, 2014.

Following DWSD's April 17, 2013 notice of termination of the water service contract between the City of Flint and DWSD, the City of Flint has actively pursued using the Flint River as a temporary water source while the KWA pipeline is being constructed. We expect that the Flint Water Treatment Plant will be fully operational and capable of treating Flint River water prior to the date of termination. In that case, there will be no need for Flint to continue purchasing water to serve its residents and businesses after April 17, 2014.

We are aware that Genesee County has been in negotiations with DWSD to purchase water from DWSD following the termination of our contract, and we understand that an agreement may be imminent. Should that occur, there would be no further need for the City to discuss with DWSD any continuing purchase of water. Should that not occur, however, we would be interested, if Genesee County were to so request, to purchase water from DWSD for some period of time. In such an event, our demand for water would be only for the amount necessary to provide Genesee County with water. That amount would be approximately half of the amount Flint is currently purchasing from DWSD.

Ms. Sue McCormick
March 7, 2014
Page 2

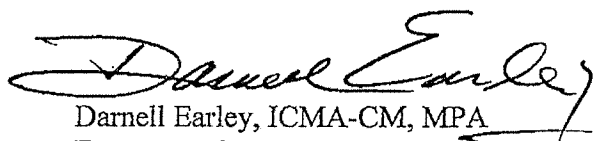
However, in the very unlikely event that the City of Flint is not able to draw water from the Flint River no later than April 17, 2014, then the City would like the option of continuing to purchase water from DWSD for a period of time, up to the time water is available from KWA.

Consequently, I am requesting that you clarify your proposal for the City of Flint to continue purchasing water from DWSD under the following scenarios:

- Flint, upon the request of Genesee County, purchases water for sale to Genesee County for up to 3 years, beginning April 17, 2014, in an amount approximately 50% of the volume currently purchased by the City;
- Flint purchases water from DWSD in approximately the same volume as currently, for up to 3 years, beginning April 17, 2014, with the ability to reduce that volume by up to 50% during that period, upon 30 days notice to DWSD
- Flint purchases water from DWSD in approximately the same volume as currently, for up to 3 years, beginning April 17, 2014, with the ability to reduce that volume by up to 50% during that period, upon 30 days notice to DWSD, and further, to terminate the reduced volume purchase should Genesee County and DWSD reach an agreement whereby Genesee County directly purchases water from DWSD.

Thank you and please contact me if you have any questions. I look forward to your response.

Sincerely,



Darnell Earley, ICMA-CM, MPA
Emergency Manager
City of Flint

Attachment 5

**Letter from Sue McCormick to Darnell Earley
and Dayne Walling 1.12.2015**

CITY OF DETROIT
WATER AND SEWERAGE DEPARTMENT
OFFICE OF THE DIRECTOR

735 RANDOLPH STREET
DETROIT, MICHIGAN 48226-2830
WWW.DETROITMI.GOV

Fuji
Wyant/Saxton
RB/Dm/EC/DP
JW/VB

January 12, 2015

Mr. Darnell Earley, Emergency Manager
Mr. Dayne Walling, Mayor
City of Flint
1101 S. Saginaw Street
Flint, Michigan 48502

Dear Messrs. Earley and Walling:

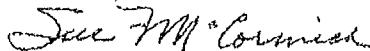
Regarding: Re-establishing Detroit Water and Sewerage Department Water Service

I was recently referred to a report in MLive in which there was reference to the City of Flint (City) potentially re-visiting its decision to utilize Flint River water as a water source prior to the completion of the KWA pipeline. Within that report, there appeared to be some incorrect assumptions about the cost of water service from the Detroit Water and Sewerage Department (DWSD). I write to you today to express the willingness of DWSD to resume delivery of drinking water to the City and its residents. We have monitored the water quality issues that have troubled the City since May, 2014, and understand that many of the difficulties stem from the limited access to source water. Please know that DWSD is ready, willing and able to resume service to the City if you so desire.

If the City is interested in a long term arrangement with DWSD, with this goal in mind, we offer that the City can immediately reconnect to the DWSD system at no additional charge to the City and at the same "expired contract" rate that the City was paying in April, 2014, modified to reflect the 4% increase experienced by all other wholesale customers in July, 2014. The resulting rate structure is a fixed monthly rate of \$846,700 and a commodity rate of \$14.92/Mcf. In order to facilitate contract negotiations, DWSD is willing to extend this rate to the City (and to Genesee County as the City's partner and former customer) until June 30, 2015.

We at DWSD take very seriously the matter of drinking water quality, and we are as concerned as you must be by the continued quality issues faced by the City. We are confident that DWSD can provide you with a solution for reliable, safe, high quality water on an expeditious timeline. Please contact me directly at (313) 224-4701 if you wish to discuss this offer further.

Sincerely yours,



Sue F. McCormick
Director

cc: Governor Rick Snyder -- (via U.S. Mail)
Flint City Council, (via U.S. Mail and Electronic Mail)
Eric Mays; Jacqueline Poplar (c/o Jennie Johnson); Kerry Nelson (c/o Jennie Johnson); Joshua Freeman;
Wantwaz Davis; Herbert Winfrey (c/o Jennie Johnson); Monica Galloway, Vicki VanBuren; Scott
Kincaid (c/o Jennie Johnson)
Jeff Wright, GCDC -- (via Electronic Mail)
Mayor Mike Duggan (via Electronic Mail)
James Fausone, BOWC (via Electronic Mail)
Robert Daddow, GLWA (via Electronic Mail)

Attachment 6

**Memorandum from Gerald Ambrose to Deputy
Treasurer Wayne Workman 3.3.2015**



CITY OF FLINT
OFFICE OF THE EMERGENCY MANAGER



Gerald Ambrose
Emergency Manager

TO: Wayne Workman, Deputy Treasurer
Treasury Department
State of Michigan

FROM: Jerry Ambrose, Emergency Manager
City of Flint

DATE: March 3, 2015

As the Emergency Manager for the City of Flint, I am charged with restoring the City government to financial solvency, and working to assure that the City moves forward on a financially sustainable basis. The steps taken over the past three years have been difficult. Taxes and fees have been raised, services and workforce reduced, and ongoing costs, including legacy costs, have been constrained.

The current controversy surrounding the provision of water, and the path for resolution, has a potentially significant impact on the progress that is being made. I am satisfied that the water provided to Flint users today is within all MDEQ and EPA guidelines, as evidenced by the most recent water quality results conducted for MDEQ. We have a continuing commitment to maintain water safety and to improve water quality, and have dedicated resources to assure this commitment will be made.

The oft-repeated suggestion that the City should return to DWSD, even for a short period of time, would, in my judgment, have extremely negative financial consequences to the water system, and consequently to the rate payers. By the most conservative estimates, such a move would increase costs by at least \$12 million annually, with that amount achieved only by eliminating virtually all budgeted improvements in the system. For a system with Unrestricted Assets of only \$740,745, according to the June 30, 2014 audited financial statements, the only recourse within the City's control would be to increase revenues significantly. And in my judgment, that would come from raising rates for water by 30% or more. Further, changing the *source* of the city's water would not necessarily change any of the *aesthetics* of the water, including odor and discoloration, since those appear to be directly related to the aging pipes and other infrastructure that carry water from the treatment facility to our customers.

Wayne Workman
March 3, 2015
Page 2

This direction of discussion also deviates from what, in my judgment, should be the focus: How can we not only operate and maintain a system to assure the delivery of safe and quality water dependably, but significantly reduce the cost of water and sewer to the users? At an average of \$149 per month for water and sewer service for a residential user, the cost is extremely high in comparison to surrounding areas, as well as most areas across the state, and creates a significant financial burden for many users. In my judgment, we should all be concentrating on how to reduce rates by 50% or more. Unfortunately, there are no easy or evident answers, and continuation of the status will be an impediment to the sustainable recovery of the City of Flint. It is a conversation that I expect we will have with the recently created Water Quality Advisory Committee.

My reasoning for this conclusion is as follows:

One of the decisions made in the context of beginning to eliminate deficits and to restore financial stability to the City of Flint was to increase water and sewer rates significantly – the only choice available to financially stabilize a system that as of June 30, 2012, had a deficit of \$8,758,091. Another was to leave DWDS for the KWA because it offered the opportunity to lower future rate increases. A third decision was to utilize the Flint River on an interim basis when DWSD unilaterally terminated the City's contract for water purchase. That decision was made because it also offered an immediate cost savings opportunity which translated into the ability to upgrade the Water Treatment Plant without having to seek financing. It was a reasonable decision because of our experience in using the river in a back-up capacity, including test runs on a quarterly basis for several decades.

Unfortunately, the switch to the river as a primary source was more challenging than anticipated, and the harsh winter of 2013-2014 resulted in much more damage to the aging water infrastructure than in previous years. The result was the issuance of required notices that water exceeded established guidelines for safety as it could affect certain vulnerable populations, and some users of the system experienced unpleasant odors and discoloration. Some users also appeared to have had some negative reactions to the new source of water. However, as soon as the test results were known, City staff took immediate actions to address the concerns. These actions are evidenced today by the fact that MDEQ has certified that our most recent testing shows water from all testing sites to be well within acceptable guidelines. Additionally, the City is continuing to taking the necessary actions to assure that the water supply remains safe and that water quality continues to improve.

As the City has moved to address the situation, the suggestion continues to be made that the City should re-engage with DWSD and purchase water at least until the KWA pipeline is supplying water. As evidenced by the most recent letter from DWSD, such a decision would immediately increase the City's cost by \$846,700 per month, or \$10,160,400 per year, just for the fixed cost portion of the price. The actual *purchase* of water would be an additional fee, and dependent upon

Wayne Workman
March 3, 2015
Page 3

the quantity purchased. We estimate the actual water purchase cost to average more than \$1 million per month, for a grand total of approximately \$22 million per year. Finally, the DWSD offer is conditioned upon the City (or presumably the KWA) agreeing to negotiate a long term contract (30 years) for back-up.

The \$22 million annual estimate of increased costs to purchase water from DWSD would be minimally offset by an approximate \$3 million in reduced operating costs, and could be further offset by an additional \$9 million, but only if all funding for capital improvements to the system are eliminated. To eliminate all funding dedicated to repairing, stabilizing, and improving the system would be totally irresponsible and would have long term negative consequences to the City and to future rate payers.

As you are aware we have recently brought in outside expert assistance to evaluate the steps we have taken to assure that the water is safe and to continue to improve water quality. We are expecting specific recommendations within the next few weeks, and are committed to implementing those recommendations in a timely manner. Many steps have already been taken. I am confident that implementing their recommendations will assure a continuing supply of safe water as well as improved quality, and at far less cost than re-engaging DWSD.

We have also created a 40-member Water Advisory Committee and a 13-member Technical Advisory Committee to assure two-way communication with the public and users of the system. Those committees will begin to meet this week, and we look forward to answering their questions and receiving their input.

It is unfortunate that problems and concerns with quality have arisen, and we are working every day to address the issues that caused them. Maintaining safe water and improving quality is a top priority as we work to make the City of Flint an attractive place to live, work, study, and play.

Attachment 7

**Press Release: Michigan Department of Treasury
Approves Sale of Pipeline Section 6.13.2014**



CITY OF FLINT
OFFICE OF EMERGENCY MANAGER
DARNELL EARLEY
ICMA-CM, MPA

Jason Lorenz
Public Information Officer
(810) 237-2039
jlorenz@cityofflint.com

For Immediate Release

**Michigan Department of Treasury Approves City of Flint's Sale of
Section of 72" Pipeline to Genesee County Water & Waste, Sale
Finalized This Week**

Flint, Michigan – June 13, 2014 – The City of Flint's sale of a section of 72" pipeline to the Genesee County Drain Commission for \$3,987,700 has been approved by the Michigan Department of Treasury and the sale was finalized this week. The pipeline section being sold is from the connection the City of Flint formerly used to receive water from the Detroit Water & Sewerage Department, located at Potter and Baxter Roads. "The sale of this 9 mile section of water main, which no longer provides any practical function to the City of Flint, is a fortuitous one-time revenue gain from which the proceeds will be reinvested into the ongoing maintenance and operations of the Flint water system," said Emergency Manager Darnell Earley. Genesee County was the sole prospective buyer of the pipeline.

The Emergency Manager presented the pipeline sale proposal to Flint City Council in May to be approved or denied, as provided under Public Act 436. City Council voted not to accept the proposal and did not provide an alternative proposal as required under

–CONTINUE–



CITY OF FLINT
OFFICE OF EMERGENCY MANAGER
DARNELL EARLEY
ICMA-CM, MPA

PA 436, thereby allowing the Emergency Manager's recommendation to be considered approved by Treasury.

—END—

Attachment 8

**Press Release: City of Flint Begins Using Flint
River as Temporary Primary Water Source
4.25.2014**



Darnell Earley
ICMA-CM, MPA
Emergency Manager

Dayne Walling
Mayor

Jason Lorenz
Public Information Officer
(810) 237-2039
jlorenz@cityofflint.com

For Immediate Release

City of Flint Officially Begins Using Flint River as Temporary Primary Water Source

Flint, Michigan – April 25, 2014 – For the first time in fifty years, the City of Flint is using the Flint River—part of the Saginaw River watershed—as a primary water source for city residents. Today the valve to the pipeline from Detroit was closed and the Flint River officially became Flint’s water supply. The temporary switchover is scheduled to support the city’s primary water needs for the next two years while construction of the forthcoming pipeline from Lake Huron is completed by Karegnondi Water Authority. Officials from the City of Flint, the Genesee County Drain Commission and the Michigan Department of Environmental Quality were all on hand to witness the historic event.

The Flint River was once the primary source of water for city residents up to the 1960s. Over the past 40 years, it has provided water to city residents as a back-up to water provided to us by Detroit. During our partnership with Detroit, Flint has had to transition to the use of the Flint River for residential water on a few different occasions, with the most recent temporary switchover happening in 2009. Each temporary stint on local water proved three things to city employees and residents alike: That a transition to local river water could be done seamlessly, and that it was both sensible and safe for us to use our own water as a primary water source in Flint.

–CONTINUE–

City Hall
1101 S. Saginaw Street - Flint, Michigan 48502
810-766-7346 FAX: 810-766-7218 www.cityofflint.com



Darnell Earley
ICMA-CM, MPA
Emergency Manager

Dayne Walling
Mayor

Even with a proven track record of providing perfectly good water for Flint, there still remains lingering uncertainty about the quality of the water. In an effort to dispel myths and promote the truth about the Flint River and its viability as a residential water resource, there have been numerous studies and tests conducted on its water by several different independent organizations. In addition to what has been found in independent studies, it is also the responsibility of the City of Flint Water Service Center to continually test the water provided to city residents. Michael Prysby of the Michigan DEQ Office of Drinking Water verified that “the quality of the water being put out meets all of our drinking water standards and Flint water is safe to drink.”

For nearly 10 years Mike Glasgow has worked in the laboratory at the City of Flint Water Service Center. He has run countless tests on our drinking water to ensure its safety for public use. Mike has not only conducted tests on water provided to us by Detroit, but also on local water from nearby rivers, lakes and streams including the Flint River. When asked if over the last decade if he has seen any abnormalities of major concern in the water, his response was an emphatic, “No.” In his words, “there has been nothing seen that was of major concern,” during his ongoing tenure working in the lab. “The tests results have shown that our water is not only safe, but of the high quality that Flint customers have come to expect,” announced DPW Director Howard Croft, “we are proud of the end result.”

Apart from the water plant’s devotion to ensuring that our water is good, Flint is doubly blessed in having the Flint River Watershed Coalition as a separate organization

–CONTINUE–



Darnell Earley
ICMA-CM, MPA
Emergency Manager

Dayne Walling
Mayor

dedicated to monitoring the overall welfare of local bodies of water, overseeing more than 30 different nearby locations. Rebecca Fedewa has been director of the watershed coalition since 2008. By virtue of her passion for her work and her position on the board, she is very conversant with the condition of the Flint River. In her words, "The Flint River is increasingly healthy, and completely suitable as a drinking water source." Fedewa and FRWC are working closely with the city "to monitor flows and habitats between the intake and the waste water treatment plant to ensure there are minimal to no impacts to the overall health of the river."

FRWC also invites city residents to be a part of their monitoring exercises during this spring in order "to gain firsthand knowledge in the health and vitality of our Flint River." Mayor Dayne Walling invited everyone at today's event to toast to Flint's water. "It's regular, good, pure drinking water, and it's right in our backyard," said Mayor Walling, "this is the first step in the right direction for Flint, as we take this monumental step forward in controlling the future of our community's most precious resource."

–END–

Attachment 9

**Email from Darnell Earley to Harvey Hollins and
Attached Memorandum 9.17.2014**

From: Darnell Earley <dearley@cityofflint.com>
Sent: Wednesday, September 17, 2014 7:55 AM
To: Hollins, Harvey (GOV)
Subject: Fwd: Boil Water Advisory Review
Attachments: Boil Water Advisory Advisory_Memorandum.pdf; Boil Water Advisory Review_White paper.docx

Harvey,

Take a look at the attached information and let me know if this will work for you. This is a start. If you need any additional information about this matter we can get that for you as well.

DE

----- Forwarded message -----

From: "Howard Croft" <hcroft@cityofflint.com>
Date: Sep 16, 2014 11:02 PM
Subject: Boil Water Advisory Review
To: "Darnell Earley" <dearley@cityofflint.com>
Cc:

Mr. Earley,

The Public Works committee meeting ran a little long and I had a late start on this but was able to complete a bullet point overview of the boil water advisory. One copy is in white paper format and the other is an official memorandum. I tried to condense this into a comprehensive overview that focused on the main aspects.

I can add further details if this is not sufficient.

Thank you,

--

Howard Croft
Public Works Director
City of Flint
1101 S. Saginaw Street
Flint, MI 48502
PH# 810.766.7346 Ext.2043
hcroft@cityofflint.com



Dayne Walling
Mayor

CITY OF FLINT
Department of Public Works

Darnell Earley, ICMA-CM, MPA
Emergency Manager

Howard Croft
Director

MEMORANDUM

TO: Darnell Earley, Emergency Manager
FROM: Howard Croft, Public Works Director
DATE: September 16, 2014
RE: Recent Boil Water Advisory

Mr. Earley,

I have compiled a bullet point list of the pertinent events surrounding the recent boil water advisory in the City of Flint. I have separated the events into five categories and attempted to condense them into a comprehensive sequence for your review.

OVERVIEW

- On Friday September 5th the City of Flint issued a boil water advisory to residents in two of ten test areas around the city.
- The advisory was due to multiple positive tests for “total coliform” and the area covered approximately 9 square miles.
- On Sunday September 7th the City expanded the advisory to include another of the ten test areas due to a subsequent positive test.
- The boil water advisories were lifted on Tuesday September 9th at 5:00 after consultation with the DEQ.

BACKGROUND

- State of Michigan Regulations requires that the City of Flint Water Treatment Plant perform testing of its water distribution system on a routine basis in ten different locations around the City.
- The tests take twenty four hours to produce valid results and are sent directly to the Department of Environmental Quality for review.
- Test results which show positive for “Ecoli” or “fecal coliform” trigger boil water notices for the test area and the advisories usually remain in effect until three consecutive tests return negative results.
- A single positive test for “total coliform” does not generally result in a boil water advisory, rather it indicates that the environment is conducive for bacteria.
- Typically, investigation into possible causes followed by corrective measures such as flushing the affected area with open hydrants will cleanse the system.
- This process is overseen by an employee who is required to hold an F-1 State License and is listed as the Operator in Charge of the Water Plant and an employee who holds an S-1 State License which is required to maintain distribution systems of this municipal size.
- The City of Flint has over 500 miles of pipe in its distribution system, much of which is over 70 years old.
- The City of Flint has over ten-thousand valves throughout its distribution system.
- The City of Flint has a professional reliability study of its system, that was updated in December 2013.

PROBLEM

- ❖ After detecting the initial positive test for total coliform, normal procedures did not clear the condition and multiple positive tests ensued.
- ❖ The continued positive total coliform tests were the cause for issuing the boil water notice.
- ❖ Additional discoveries showed that residual chlorine levels in the affected area were considerably lower than normal.

SOLUTION

- ✓ On Monday September 8th the City convened all licensed personnel, Utility Supervisors, and DPW Director to a single meeting location and held a brainstorming session with the DEQ on conference call.
- ✓ It was agreed that while not totally isolated, the concern was mainly present in a specific large transmission line that ran through all positive testing areas.
- ✓ It was determined to expand the hydrant flushing outside of the immediate impact area.
- ✓ It was found that a 24" valve which feeds this transition main was broken in the OFF position outside of the immediate impact area.
- ✓ The broken valve was preventing fresh water from being pushed directly into the impacted area while causing water to travel from the water plant around the entire city and preventing adequate circulation of fresh water.
- ✓ In repairing the broken valve, virtually all of the symptoms were erased over a 24 hour period and the chlorine count has steadily risen back to normal levels throughout the transmission main.

CONCLUSION

- ✓ The City was in direct contact with DEQ personnel daily.
- ✓ The positive tests were for "total coliform" only.
- ✓ The following statement about total coliform was approved by the DEQ and made in writing to the public as part of the recent boil water.

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.

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. If we had, we would have notified you immediately. However, we are still finding coliforms in the drinking water.

- ✓ The City of Flint is in the first year of strategic budgetary investment in an infrastructure strategy.
- ✓ The City of Flint infrastructure strategy has been, and will continue to be developed with state licensed employees, industry experts, and proven experienced consultants.

Howard D. Croft
Public Works Director

Attachment 10

**Letter from Flint Advisory Task Force to
Governor Snyder 12.29.2015**

December 29, 2015

Dear Governor Snyder:

The Flint Water Advisory Task Force, which you appointed on October 21, 2015, has devoted considerable effort and countless hours to our review of the contamination of the Flint water supply: what happened, why it occurred, and what is needed to prevent a recurrence in Flint or elsewhere in the state. We have also been assessing ongoing mitigation efforts to help assure that short- and long-term public health issues and water management concerns will be properly addressed to safeguard the health and well being of the Flint community.

Shortly after we began our work, we recognized the immediate need for better coordination of the state's response to the ongoing public health issues in Flint, and for assignment of a single person to provide this coordination. We addressed these concerns in a letter to you on December 7, 2015, and you responded with immediate adoption of these recommendations. We thank you for the commitment your response demonstrates.

In our continuing efforts, we have now interviewed numerous individuals at state and local levels; reviewed many documents, articles, and emails; and deliberated repeatedly as a group. Both individually and as a group, we have visited Flint several times during the past several weeks to meet with citizens, public health officials and healthcare providers, individuals who have water management responsibilities at the city and county levels, and other public officials.

It is clear to us, particularly as we listen to the people of Flint, that it is both critical and urgent to establish responsibility for what happened in their community and to ensure accountability. This is a first step in a long process to re-establish the trust they no longer have in their government and the agencies whose responsibility it is to protect their health. It is urgent because this deep distrust of government continues to compromise the effective delivery of protective services designed to address ongoing public health issues. It is for these reasons that we are sending this letter at this time.

We believe the primary responsibility for what happened in Flint rests with the Michigan Department of Environmental Quality (MDEQ). Although many individuals and entities at state and local levels contributed to creating and prolonging the problem, MDEQ is the government agency that has responsibility to ensure safe drinking water in Michigan. It failed in that responsibility and must be held accountable for that failure.

The Safe Drinking Water Act (SDWA) places responsibility for compliance with its requirements on the public water system. In this instance, the City of Flint had the responsibility to operate its water system within SDWA requirements, under the jurisdiction of the MDEQ. The role of the MDEQ is to ensure compliance with the SDWA through its regulatory oversight as the primary agency having enforcement responsibility for the Flint water system.

The MDEQ failed in three fundamental ways.

Regulatory Failure

We believe that in the Office of Drinking Water and Municipal Assistance (ODWMA) at MDEQ, a culture exists in which "technical compliance" is considered sufficient to ensure safe drinking water in Michigan.

This minimalist approach to regulatory and oversight responsibility is unacceptable and simply insufficient to the task of public protection. It led to MDEQ's failure to recognize a number of indications that switching the water source in Flint would—and did—compromise both water safety and water quality. The MDEQ made a number of decisions that were, and continue to be, justified on the basis that federal rules "allowed" those decisions to be made. ODWMA must adopt a posture that is driven not by this minimalist technical compliance approach, but rather by one that is founded on *what needs to be done to assure drinking water safety*.

A culture change must occur within ODWMA. It must be driven by a mission that is aspirational regarding the role of the MDEQ in ensuring the safety and the quality of Michigan's drinking water. We believe, and have expressed to MDEQ Director Dan Wyant, that as a Great Lakes State, Michigan should aspire to have the safest drinking water in the nation, rather than merely aiming for technical compliance with regulatory requirements.

Failure in Substance and Tone of MDEQ Response to the Public

Throughout 2015, as the public raised concerns and as independent studies and testing were conducted and brought to the attention of MDEQ, the agency's response was often one of aggressive dismissal, belittlement, and attempts to discredit these efforts and the individuals involved. We find both the tone and substance of many MDEQ public statements to be completely unacceptable. In a real way, the MDEQ represents the public, including the very individuals it treated dismissively and disrespectfully in public statements. We recognize that the agency might disagree with the opinions of others on a variety of issues, including testing protocol, interpretation of testing results, the requirements of federal law and rules, and other matters. What is disturbing about MDEQ's responses, however, is their persistent tone of scorn and derision. In fact, the MDEQ seems to have been more determined to discredit the work of others—who ultimately proved to be right—than to pursue its own oversight responsibility.

Failure in MDEQ Interpretation of the Lead and Copper Rule

The federal Lead and Copper Rule (LCR) is central to what happened in Flint, because that rule, at least theoretically, is designed to prevent lead and copper contamination of drinking water. The federal LCR calls for "optimized corrosion control treatment," which the MDEQ did not require in the switch to the Flint River. Prior to the switch, MDEQ staff instructed City of Flint water treatment staff that corrosion control treatment (CCT) was not necessary until two six-month monitoring periods had been conducted. The need for CCT would be evaluated after the results from those two monitoring periods were reviewed. The decision not to require CCT, made at the direction of the MDEQ, led directly to the contamination of the Flint water system.

The MDEQ seems to have taken different positions on whether it faithfully followed the LCR in the Flint situation. It first maintained that it followed the LCR, then stated that it did not follow the rule properly, and most recently claimed that a federal memorandum issued by the US EPA in early November 2015 suggests that the original MDEQ interpretation was possibly correct.

We are not convinced. Even the MDEQ's latest interpretation of the US EPA's November memorandum is overly legalistic and misunderstands the intent of the LCR, which is to minimize risks of lead and copper exposure for human health.

We believe ODWMA's single-minded legalistic focus is the heart of the problem, and it is part of the "technical compliance" culture described above. ODWMA should not be basing its actions solely on a

legally possible interpretation of the LCR. It should be focusing on how to protect Michigan's citizens from lead in drinking water.

We met with MDEQ Director Wyant on December 16, 2015, to discuss these issues, as well as many others. We note his substantial agreement with many of our conclusions, particularly as it relates to the regulatory failure and the abysmal public response of his agency. It is our understanding that he has drawn similar conclusions in his own evaluation of the MDEQ's role in the Flint water crisis. At the same time, it was disappointing to hear his weak defense of the CCT decision based on the EPA's November 2015 memorandum.

We are not finished with our work. Other individuals and entities made poor decisions, contributing to and prolonging the contamination of the drinking water supply in Flint. As an example, we are particularly concerned by recent revelations of MDHHS's apparent early knowledge of, yet silence about, elevated blood lead levels detected among Flint's children. We also feel it important to further review local government decision processes under emergency management. Our final report will highlight and discuss those concerns, among many others, to provide some context to a comprehensive series of recommendations. **As stated earlier in this letter, however, we believe that establishing responsibility is a critical and urgent need, and one that should not wait for our final report in 2016. Individuals and agencies responsible must be held accountable in a timely fashion.**

It is our hope that the heightened awareness of the dangers of lead poisoning can be an opportunity to make Michigan safer, particularly for its children. Drinking water must be recognized as a potential source of health risk exposure when water lines and fixtures containing lead are disturbed or compromised. Proper testing, not only in high-risk areas but also in facilities serving children (e.g., schools), must be considered. Facilitating long-term financing of a model public health program, and also replacement of lead-containing water service lines and fixtures, would enable Michigan to realize a positive lasting legacy from the tragedy of the Flint water crisis. Our final report will address some of these issues.

The City of Flint's water customers—fellow Michigan citizens—were needlessly and tragically exposed to toxic levels of lead through their drinking water supply. They deserve a commitment to properly assess responsibility and ensure accountability. They also deserve a commitment to needed mitigation in both the short and long term. The Flint water crisis never should have happened. Having failed to prevent it, state government should coordinate a sustained, public-health-focused response to remedy, to the fullest extent possible, the impacts on the Flint community.

Respectfully yours,

Flint Water Advisory Task Force:

Matt Davis
Chris Kolb
Larry Reynolds
Eric Rothstein
Ken Sikkema

Attachment 11

**Press Release: Governor Snyder Awards Flint \$2
Million for Water System Improvements 2.3.2015**



Governor Rick Snyder
REINVENTING MICHIGAN
 Getting It Right. Getting It Done.

NEWSROOM

(/SNYDER/0,4668,7-277-57577_57657---,00.HTML) / NEWSROOM (/SNYDER/0,4668,7-277-57577---,00.HTML)
 / PRESS RELEASES (/SNYDER/0,4668,7-277-57577_57657---,00.HTML)

PRESS RELEASES
 (/SNYDER/0,4668,7-277-57577_57657---,00.HTML)

Gov. Rick Snyder awards Flint \$2 million in 'distressed municipalities' grants for water system infrastructure improvements

Funding to be used for leak detection, waste incinerator replacement

APPOINTMENT PRESS RELEASES
 (/SNYDER/0,4668,7-277-57577_57657_59871---,00.HTML)

Tuesday, Feb. 3, 2015

REINVENTION BLOG
 (/SNYDER/0,4668,7-277-57577_60279---,00.HTML)

LANSING, Mich. – Gov. Rick Snyder today awarded Flint \$2 million in grants for water system infrastructure improvements, part of an overall \$8 million plan to help municipalities through the Financially Distressed Cities, Villages, and Townships Grant Program.

PHOTOS
 (/SNYDER/0,4668,7-277-57577_57627---,00.HTML)

Flint is among eleven municipalities receiving grants through the program. The city will use the funding to detect leaks in its water lines and replace its Water Pollution Control Facility Incinerator.

EXECUTIVE ORDERS
 (/SNYDER/0,4668,7-277-57577_57632---,00.HTML)

"There are opportunities for state government to assist Flint city leaders as they address issues related to the city's water system," Snyder said. "These grants will help recovering cities improve public services and infrastructure, improving the quality of life for all residents."

PROCLAMATIONS
 (/SNYDER/0,4668,7-277-57577_59874---,00.HTML)

The grants to Flint were announced today at the Haskell Community Center by Harvey Hollins, director of the state's Office of Urban Initiatives, and Wayne Workman, the state's deputy treasurer. They were joined by Dan Wyant, director of the Michigan Department of Environmental Quality, Flint Emergency Manager Jerry Ambrose, Mayor Dayne Walling, and state Rep. Sheldon Neeley.

FEATURED DOCUMENTS
 (/SNYDER/0,4668,7-277-57577_59873---,00.HTML)

EXECUTIVE DIRECTIVES
 (/SNYDER/0,4668,7-277-57577_57630---,00.HTML)

Flint was awarded \$900,000 to allow the city to hire a contractor to perform a leak detection survey of the city water lines. The city will receive a map of leak locations and an assessment of leak severity, allowing the city to prioritize leak repair. The project also covers the expense of conducting a water pipe line wall thickness condition assessment on a portion of the city's pipes. The assessment will guide the city's water main replacement program.

VIDEOS
 (HTTP://WWW.YOUTUBE.COM/USER/SNYDER/FEATURE=WATCH)

The city also was awarded \$1.1 million to shut down its current Water Pollution Control Facility incinerator and replace it with new facilities which will allow for the disposal of waste in landfills. The existing facilities are not up to federal Environmental Protection Agency standards.

FLAG HONORS
 (/SNYDER/0,4668,7-277-57577_28502---,00.HTML)

Flint Mayor Dayne Walling said he appreciates the state support.

"This announcement comes at the perfect time for Flint as we continue with repairs and upgrades to our water service infrastructure that are in accordance with our new Capital Improvement Plan," Walling said. "This significant funding opportunity from the State will allow us to move forward with two projects that will mean long term cost savings for the City of Flint."

Municipalities are eligible for the grants if they are experiencing one or more conditions indicative of "probable financial stress," as defined by Public Act 436 of 2012, the Local Financial Stability and Choice Act.

Under the grant program, funding may be used to pay for specific projects, services, or strategies that move a city, village, or township toward financial stability. There was \$8 million appropriated for the program with a \$2 million cap, per local unit.

####

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Videos
(<http://www.youtube.com/user/2012GovSnyder>)

Half-staff Flag Alerts
(</flaghonors>)

Help & Contacts

Share Your Opinion
(<https://sombgovweb.state.mi.us/GovRelations/ShareOpinion.aspx>)

Scheduling Requests
(<https://sombgovweb.state.mi.us/GovRelations/SchedulingEventRequest.aspx>)

Internships
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Request Recognition
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Request Assistance
(<https://sombgovweb.state.mi.us/GovRelations/CitizenAssistanceRequest.aspx>)

Contact the Governor
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Services

Order a Flag
(<https://sombgovweb.state.mi.us/GovRelations/FlagOrderForm.aspx>)

State of MI Mobile Apps
(<http://www.mimobileapps.com>)

Talent Connect
(<http://www.mitalent.org/>)

State Job Openings
(<http://agency.governmentjobs.com/michigan/default.cfm>)

A to Z Online Services
(/som/0,1607,7-192-29929_31966---,00.html)

Michigan Locator

Search any location for services, state parks and recreation or educational entities.

Weather

Radar | Lansing

(<http://www.accuweather.com/radar?play=1>)

Michigan.gov Home (/) ADA (/adaform) Michigan News (/minewswire)
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Attachment 12

Order Number 15 - Mayor Walling's Increased Responsibility and Compensation



**EMERGENCY MANAGER
CITY OF FLINT
GENESEE COUNTY MICHIGAN**

ORDER No. 15

**MAYOR DAYNE WALLING'S INCREASED RESPONSIBILITIES AND
COMPENSATION**

BY THE POWER AND AUTHORITY VESTED IN THE EMERGENCY MANAGER ("EMERGENCY MANAGER") FOR THE CITY OF FLINT, MICHIGAN ("CITY") PURSUANT TO MICHIGAN'S PUBLIC ACT 436 OF 2012, LOCAL FINANCIAL STABILITY AND CHOICE ACT, ("PA 436"); DARNELL EARLEY, THE EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

Pursuant to PA 436, the Emergency Manager has broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the City and its capacity to provide or cause to be provided necessary services essential to the public health, safety and welfare; and

Pursuant to PA 436, the Emergency Manager acts in place of local officials, specifically the Mayor and City Council, unless the Emergency Manager delegates specific authority; and

Pursuant to PA 436, the Emergency Manager has broad power to manage the local government, and may issue orders to elected and appointed officials necessary to accomplish the purpose of the Act. An Order issued under PA 436 is binding on the person to whom it is issued; and

Emergency Manager Edward Kurtz assigned additional responsibilities and partially restored compensation to Mayor Dayne Walling by way of Order No. 1, dated April 12, 2013; and

Emergency Manager Darnell Earley further increased Mayor Walling's responsibilities under Order No. 17, dated June 2014; and

In correspondence dated June 3, 2014, Emergency Manager Darnell Earley advised the Flint City Council that Mayor Walling would now be responsible for the day-to-day operations of the Department of Planning and Development and the Department of Public Works.

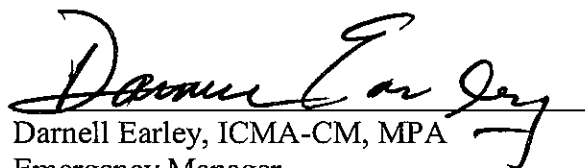
The Emergency Manager hereby authorizes the increased responsibilities of Mayor Dayne Walling set forth above and sets his annual compensation rate at \$82,500.00, in conjunction with the Biennial Budget for fiscal years 2015 and 2016.

This Order is effective immediately.

This Order may be amended, modified, repealed or terminated by any subsequent Order issued by the Emergency Manager.

Dated: 6-20-14

By:



Darnell Earley, ICMA-CM, MPA
Emergency Manager
City of Flint

xc: State of Michigan Department of Treasury
Mayor Dayne Walling
Flint City Council
Inez Brown, City Clerk

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