



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



KEITH CREAGH
DIRECTOR

January 22, 2016

VIA E-MAIL

Ms. Gina McCarthy, Administrator
United States Environmental Protection Agency
Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW (1101A)
Washington, DC 20460

Dear Ms. McCarthy:

SUBJECT: Emergency Administrative Order – In the Matter of City of Flint, Michigan,
et al.

First and foremost, let me say the State of Michigan and the Michigan Department of Environmental Quality (collectively, the State), look forward to working cooperatively with the United States Environmental Protection Agency (USEPA) and the City of Flint in our mutual efforts to protect the health, safety, and welfare of Flint residents and to ensure the drinking water in Flint is safe for all.

On behalf of the State, we acknowledge receipt of the USEPA's January 21, 2016, Emergency Administrative Order (Order) issued pursuant to Section 1431 of the Safe Drinking Water Act. At Paragraph 50 of the Order, the USEPA asks all Respondents to inform it within one day as to whether or not they intend to comply with the Order.

As you are aware, the State has previously requested federal aid to assist with responding to public health problems arising out of the drinking water crisis in the City of Flint. We are appreciative of the USEPA's declaration that it intends to commit additional resources to address those issues. The State is committed to working cooperatively with the USEPA and the City of Flint on those initiatives.

The State is also committed to working cooperatively with the USEPA and the City of Flint to implement their respective duties under the Safe Drinking Water Act. However, the State does have some concerns that the Order, as currently drafted, contains factual omissions and legal errors. For example, the Order does not reference the tens of millions of dollars expended by or in the process of being expended by the State for water filters, drinking water, testing, and medical services. The Order demands that the State take certain actions, but fails to note that many of those actions, including those set forth above, have already been undertaken. Finally, although the Order states that

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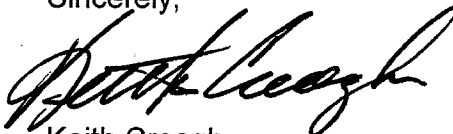
the State has failed to take adequate measures or comply with the USEPA's demands, to our knowledge, the State has complied with every recent demand or request made by the USEPA.

The above is not an exhaustive list of the concerns that the State has with the justification for the Order, but is simply an illustration of some of the important factual points that still must be addressed. We would note that under Section 1431, the Administrator has the authority to "consult with the State and local authorities in order to confirm the correctness of the information on which [the order] is based and to ascertain the action which such authorities are or will be taking." We would welcome such a consultation.

From a legal perspective, we also question whether the USEPA has the legal authority to order a State and its agencies to take the actions outlined in the Order. We will fully outline our legal and factual concerns with the Order in writing or would be happy to host a meeting in Lansing or Flint. If neither is convenient for you, please let us know where you would prefer to meet.

Subject to the above comments, we are committed to implementing the measures in the Order in order to protect the Flint drinking water supply and we look forward to working with the USEPA as it identifies additional steps to improve or enhance our response to the current crisis.

Sincerely,



Keith Creagh
Director
517-284-6700

cc: Governor Rick Snyder
Mayor Karen Weaver, City of Flint
Ms. Cynthia Giles, USEPA Headquarters
Mr. Mark Pollins, USEPA Headquarters
Ms. Susan Shinkman, USEPA Headquarters
Mr. Bill McBride, Governor's Washington Office