

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
CHICAGO, ILLINOIS

IN THE MATTER OF: : Proceedings Pursuant To  
: Section 1431 of the Safe Drinking  
City of Flint, Michigan; Michigan : Water Act, 42 U.S.C. § 300i  
Department of Environmental :  
Quality; and the State of Michigan, : FIRST AMENDMENT TO  
: EMERGENCY  
Respondents. : ADMINISTRATIVE ORDER

1. On January 21, 2016, EPA issued an Emergency Administrative Order (“Order”) to the City of Flint, Michigan (“City”), the Michigan Department of Environmental Quality (“MDEQ”), and the State of Michigan (“State”) (“Respondents”) under Safe Drinking Water Act (“SDWA”) Section 1431, 42 U.S.C. § 300i. Consistent with Paragraph 73 of the Order, all provisions of the January 21, 2016 Order are incorporated herein, remain unchanged and in effect, except to the extent specific paragraphs are revised and superseded as follows by this First Amendment to the Order (“First Amendment”).
2. Consistent with Paragraph 75 of the Order, the First Amendment shall be effective on the date received by the Respondents.
3. The City has the responsibility to choose an appropriate source of drinking water. In doing so, the City must ensure that it can comply with the SDWA and National Primary Drinking Water Regulations (“NPDWRs”). The City has stated it intends to switch from the Great Lakes Water Authority (“GLWA”), its current source, to treating raw water from the Karegnondi Water Authority (“KWA”), its proposed new source of drinking water.

4. According to the September 26, 2016 letter from the State to the City, access to water from the GLWA as a primary water source is unlikely to be available to the City as of October 2017. This is because the 72-inch transmission pipe currently providing GLWA water to the City will be in use by the Genesee County Drain Commissioner to serve KWA water to its customers as of October 2017.
5. Progress has been made in protecting public health with the City providing increasingly reliable and safe drinking water to the citizens of Flint. Any change in source water or treatment has the potential to cause corrosion and leaching of lead if the water system and the primacy agency have not appropriately planned for the change. This First Amendment establishes the tasks and timeframes to make a water source switch in compliance with the provisions of the SDWA and the NPDWRs, including State-designated optimal corrosion control treatment and State-established water quality parameters for compliance monitoring. The following provisions apply to any water source identified by the Respondents under Paragraph 60 and any subsequent change in water source made by the Respondents.
6. **Paragraph 60 in the January 21, 2016 Order shall now read:**

60. Respondents shall comply with all requirements of this Paragraph for any new water source.

*a. Confirmation of Water Sources*

The City shall confirm in writing to EPA its intended new water source and emergency back-up water source within five days of the effective date of the First Amendment. Nothing in this First Amendment prevents the City from identifying a different new water source. The City must notify EPA in writing within five

days if there are any changes in its initial, or any subsequent, new water source designation.

**b. Development and Implementation for New Water Source Treatment**

**i. Pipeline Plan**

It is necessary to complete the KWA pipeline connection to the Flint water treatment plant (“WTP”). Respondents shall submit to MDEQ for its review and approval, to EPA for its review, and post to the public website under Paragraph 51, a written plan for completing the KWA pipeline connection to the Flint WTP (“Pipeline Plan”), within twenty-one days of the effective date of this First Amendment. The Pipeline Plan shall specify dates for major milestones, including at a minimum, the following:

- A. Complete engineering drawings;
- B. Submit permit applications and receive approvals;
- C. Request contract bidding and award; and
- D. Develop construction time table, including final completion date.

Upon MDEQ’s written approval of the Pipeline Plan, Respondents shall implement the Pipeline Plan, which must provide for pipeline completion and operation at least three months before the planned distribution date from any new water source.

**ii. Water Treatment Plant Modification Plan (“WTPMP”)**

Respondents shall submit to MDEQ for its review and approval, to EPA for its review, and post to the public website under Paragraph 51, by February 1, 2017, a

written WTPMP that provides a preliminary evaluation for Flint's treatment of its identified new source water. The WTPMP shall include:

- A. An assessment of the treatment processes for the new source water;
- B. Identification of necessary Flint WTP infrastructure improvements, including the assessment of associated operation and maintenance needs; and
- C. A schedule with completion dates for major milestones, including, at a minimum, the following: (1) identifying, securing and utilizing funding source(s) and (2) implementing the necessary infrastructure upgrades and other identified improvements.

Upon MDEQ's written approval of the WTPMP, Respondents shall implement the WTPMP.

**iii. New Source Treatment Plan ("NSTP")**

Respondents shall submit to MDEQ for its review and approval, to EPA for its review, and post to the public website under Paragraph 51, as soon as available and no later than the dates set forth below, a written plan to treat the new source water. The NSTP shall address the City's technical, managerial, and financial capacity to operate its PWS in compliance with the SDWA and NPDWRs, including requirements for optimal corrosion control treatment and water quality parameter monitoring. The NSTP shall be developed in consultation with appropriate experts and the public through adequate advanced notice and opportunity for comment. Prior to submittal of the NSTP, Respondents shall develop a corrosion control study for the new source water and submit the study

to MDEQ for its review and approval, and to EPA for its review, by February 1, 2017. The NSTP shall be submitted by March 1, 2017, and shall specify a schedule with completion dates for major milestones, including, at a minimum, the following:

- A. Finalizing necessary standard operating procedures (“SOPs”) for each aspect of the water treatment process for the Flint WTP;
- B. Implementing infrastructure upgrades that were identified under the WTPMP;
- C. Conducting a corrosion control study for the new source water, including the analysis and testing of the impacts on corrosion control treatment under various circumstances to ensure a safe transition; and
- D. Developing and implementing a "performance period," which shall begin after the completion of the KWA pipeline connection to the Flint WTP, addressed in Paragraph 60(b)(i), and after the completion and implementation of all applicable requirements in Paragraph 60(b)(ii) and (iii). The performance period shall last as long as necessary, but no less than three months, to allow for the demonstration of the adequacy of treatment of the new water source to meet all SDWA and NPDWRs before it can be distributed to consumers.

Upon MDEQ’s written approval of the NSTP, Respondents shall implement the NSTP. After completion of the approved NSTP, and at least five days before the

proposed distribution of the new source water, Respondents shall: (1) certify in accordance with Paragraph 60(c)(iv) that all elements of the NSTP have been implemented and (2) notify the public in accordance with Paragraph 51.

iv. *Use of the Current Water Source*

Respondents must continue to use the current GLWA source to provide drinking water to the City until the City has demonstrated that all requirements of Paragraph 60 are met and EPA has concurred. Respondents shall provide documentation to EPA, and make publicly available under Paragraph 51, within thirty days of the effective date of the First Amendment, that Respondents have made arrangements to have continued access to its current GLWA source water until its transition to a new source water is complete.

c. *Reporting and Notification Requirements*

- i. Respondents shall provide monthly updates regarding schedules and milestones, including amount of funds committed, by whom, and when funds will be available for disbursement under Paragraph 60, on the 1<sup>st</sup> day of each month on the public website under Paragraph 51. Respondents shall continue to report monthly until all necessary requirements of Paragraph 60 are met.
- ii. If any event occurs, or has occurred, that may delay Respondents' ability to meet any schedule or milestone in Paragraph 60, Respondents shall notify EPA of that event within five days. If Respondents anticipate any reason they may be delayed in meeting any schedule or milestone in Paragraph 60, Respondents shall notify EPA within five days of the date they become aware of that reason for delay. Within 10 days of providing such notice to EPA regarding a delay in

meeting schedules or milestones, Respondents shall provide contingency plans to address each delay to MDEQ for its review and approval and to EPA for its review.

- iii. If at any point the City decides to change its water source specified under Paragraph 60(a), the City shall notify EPA in writing within five days of such decision. All provisions of Paragraph 60 will apply to any change in water source.
- iv. Respondents shall provide to EPA a written certification, as specified under Paragraph 67 of the Order, each time a plan, schedule, or milestone required under Paragraph 60 is fully implemented, until EPA has concurred that all requirements under Paragraph 60 have been fully implemented.

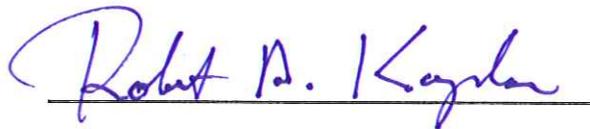
**7. Paragraph 66 in the January 21, 2016 Order shall now read:**

66. All submittals and inquiries pursuant to this Order shall be addressed to:

Christopher Korleski  
Director, Water Division, Region 5  
U.S. Environmental Protection Agency  
77 W. Jackson Blvd. (W-15J)  
Chicago, Illinois 60604  
(312) 353-8320  
[korleski.christopher@epa.gov](mailto:korleski.christopher@epa.gov)

11/17/14

Date



ROBERT A. KAPLAN  
Acting Regional Administrator  
Office of the Regional Administrator  
U.S. Environmental Protection Agency  
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Chicago, Illinois 60604