



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 08 2018

REPLY TO THE ATTENTION OF:

W-15J

The Honorable Karen W. Weaver, Mayor
City of Flint
1101 South Saginaw Street
Flint, Michigan 48502

Re: Mayor Weaver's Letter to EPA Providing Additional Information to Supplement MDEQ's June 11, 2018 Update of Progress on EPA's Emergency Administrative Order

Dear Mayor Weaver:

Thank you for providing the Environmental Protection Agency with the Michigan Department of Environmental Quality (MDEQ) March 21, 2018 letter which contains additional information regarding the collaboration between the City of Flint (the City) and MDEQ on the correction of significant deficiencies, deficiencies, and recommendations identified in the 2017 sanitary survey of the City's water system. The purpose of this letter is to explain why EPA supports MDEQ's request to enter into an Administrative Consent Order (ACO) with the City and to clarify that EPA's Unilateral Emergency Order (Emergency Order) does not cover all elements MDEQ seeks to include in the ACO.

Sanitary surveys are routinely conducted to assess the capability of a public water system (PWS) to supply safe drinking water. MDEQ, as the primacy agency implementing the Safe Drinking Water Act (SDWA), performed a sanitary survey of the City's PWS in the summer of 2017 and identified fifteen issues with five of these being significant deficiencies, which are serious issues that are causing or may cause problems with the system's ability to provide safe water to its customers. On August 11, 2017, MDEQ sent the City a Significant Deficiency Violation Notice (SDVN). The SDVN required the City to contact MDEQ within 30 days to discuss an appropriate corrective action plan, provide any further written information for MDEQ's consideration by September 8, 2017, and to have either corrected the deficiencies or be under a State-approved corrective action plan within 120 days of the date of the letter, i.e., by December 9, 2017.

The City sent a response to MDEQ on September 8, 2017, assuring the State that the City would have certain deficiencies corrected by the end of 2017 with dates for mid-2018 and 2019 for correction of the other deficiencies. This response was not a State-approved corrective action plan. In the March 21, 2018 MDEQ response to Flint's September 8, 2017 letter, MDEQ indicated where Flint had resolved deficiencies and where it had not yet resolved deficiencies.

The 120-day period Flint had to correct deficiencies or enter into a State-approved corrective action plan had passed.

On May 31, 2018, MDEQ sent the City a letter stating its intent to issue an ACO to Flint to define timelines agreeable to both parties for the completion of corrective actions, and the draft ACO was sent to the City on June 4, 2018. Of the deficiencies that need to be corrected, only two are related to EPA's Emergency Order: 1) the City's lack of technical, managerial, and financial capability to run its PWS, and 2) the signing, dating, and implementing of fourteen standard operating procedures (SOPs). EPA's Emergency Order does not cover the remaining items in MDEQ's SDVN. Therefore, EPA fully supports MDEQ's primacy agency authority to issue an ACO for all deficiencies the City has not corrected, per its state-wide policy. It is appropriate for an ACO to have mutually agreed upon correction dates which could very well be the dates contained in the MDEQ March 21, 2018 letter.

I appreciate the efforts that both sides have put into resolving the deficiencies identified in the sanitary survey. The City has made and continues to make good faith efforts to resolve the identified issues. It is good to see that some of the issues have already been resolved. While other issues are being worked on, they are not completed yet. I hope that the City and State can resolve the ACO issue, so the parties can focus on resolving the rest of the sanitary survey deficiencies.

Please do not hesitate to contact me at (312) 886-6758 or holst.linda@epa.gov if you have any questions or concerns regarding this letter.

Sincerely,



Linda Holst
Acting Director, Water Division

cc: Mr. Robert Bincsik, Director of Public Works, City of Flint
Mr. Hughey Newsome, Chief Financial Officer, City of Flint
Mr. Herbert Winfrey, City Council President, City of Flint
Ms. C. Heidi Grether, Director, MDEQ
Ms. Amy Epkey, Environment Deputy Director, MDEQ
Mr. Eric Oswald, Director, Drinking Water and Municipal Assistance Division (MDEQ)
Mr. Michael McClellan, Environmental Deputy Director, MDEQ
Mr. Aaron Keatley, Chief Deputy Director, MDEQ
Mr. Richard S. Kuhl, Michigan Department of Attorney General
Ms. Cathy Stepp, Regional Administrator, EPA
Mr. Tom Poy, USEPA

Mr. Anthony Ross, USEPA
Mr. Gary Peters, U.S. Senator
Ms. Debbie Stabenow, U.S. Senator
Mr. Dan Kildee, U.S. Congressman
Mr. Jim Ananich, State Senator
Mr. Phil Phelps, State Representative
Mr. Sheldon Neeley, State Representative
Mr. Steve Branch, City Administrator, City of Flint
Mr. Hughey Newsome, Chief Financial Officer, City of Flint
Mr. George Krisztian, Assistant Chief, Drinking Water and Municipal Assistance
Division, MDEQ