



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 11 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Keith Creagh
Director
Michigan Department of Environmental Quality
Constitution Hall
525 West Allegan Street
P.O. Box 30473
Lansing, Michigan 48909-7973

RE: EPA Emergency Order Paragraph 60

Dear Director Creagh:

This letter confirms our recent conversation concerning compliance with Paragraph 60 of the January 21, 2016 Safe Drinking Water Act (SDWA) 1431 Emergency Order (Order). Paragraph 60 states:

Respondents shall not effectuate a transition to a new water source for the City's PWS (e.g., from KWA) until such time as they have submitted a written plan, developed through consultation with appropriate experts and after providing adequate advanced notice and an opportunity for public comment, to MDEQ and in accordance with Paragraph 51, demonstrating that the City has the technical, managerial and financial capacity to operate its PWS in compliance with SDWA and the NPDWRs and that necessary infrastructure upgrades, analysis, and testing have been completed to ensure a safe transition.

In light of recent meetings and presentations¹ at the Flint Water Interagency Coordinating Committee (FWICC), it appears discussions about the City's source water will be undertaken in the near future. EPA understands that on May 13, 2016 the FWICC is scheduled to receive the KWA Subcommittee's report on its findings of the financial implications of primary and backup source water options and forecasted water rates for the City, and possibly its recommendations for how Respondents should proceed to ensure the safe operation of the City's PWS.

In light of Respondent's obligations under Paragraph 60 of the Order, as Respondents engage in their discussions about primary and backup water source options, EPA requests Respondents consider the following in evaluating their options:

- 1) That the primary criterion for evaluating options is protection of public health and compliance with SDWA and the National Primary Drinking Water Regulations (NPDWRs), and

¹ April 22, 2016 FWICC Presentation – KWA Subcommittee Task 3 -- Flint must soon decide two related issues: Primary water source and Back-up water source. http://www.michigan.gov/documents/snyder/KWA_Subcommittee_Presentation_Status_Update_4-22-16_522786_7.pdf

April 29, 2016 FWICC Presentation – KWA history --
http://www.michigan.gov/documents/snyder/FWICC_KWA_Wright_Slides_Gov_523209_7.pdf

- 2) That the selected options must comply with all provisions of the Order, and provide sufficient time to:
 - a. make any necessary process improvements for the Flint Water Treatment Plant and distribution system;
 - b. address personnel staffing levels and training; and
 - c. allow for implementation, including time to correct any problems found, of a successful “performance period” to demonstrate adequacy of treatment and distribution of the new water source so as to meet all NPDWRs; and
- 3) That the selected options identify the long term funding source that make such options sustainable for the protection of health and assuring compliance with the SDWA and the NPDWRs.

EPA recognizes the importance of regular communication with Respondents to ensure the City of Flint is able to operate a reliable PWS and to provide safe drinking water to its residents. EPA continues to engage on a weekly basis with Respondents in an effort to have them come into full compliance with the Order. If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Mark Pollins
Director
Water Enforcement Division

cc: The Honorable Karen Williams Weaver
Mayor, City of Flint