



CITY OF FLINT, MICHIGAN

Dr. Karen W. Weaver
Mayor

August 14, 2018

Ms. Linda Holst
Acting Director, Water Division
United States Environmental Protection Agency-Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: City's Response to USEPA Region 5 letter supporting entry of an ACO

Dear Ms. Holst:

I am in receipt of your August 8, 2018 letter regarding the USEPA Region 5's ("Region 5") support of an Administrative Consent Order ("ACO") between the Michigan Department of Environmental Quality ("MDEQ") and the City of Flint ("City"). In part, this letter outlines the chronology of Region 5's support for the State of Michigan's—through the MDEQ—proposed ACO.

The City does not dispute the MDEQ's authority as the primacy agency for enforcement under the Safe Drinking Water Act ("SDWA"). However, the MDEQ has already provided specific, measurable goals for the City's compliance with that enforcement, for which the City has made—and continues to make—real progress. Specifically, the MDEQ's correspondence to the City on March 21, 2018 provided detailed information and agreement with the City's identification of significant deficiencies, and more importantly on how to resolve them. Further, this March 21, 2018 correspondence was in response to the City's own letter from September 8, 2017. This was more than one hundred and eighty (180) days after the City's letter was originally issued, yet during that gap, there was no indication by either the MDEQ or Region 5 of a specific timeframe that would detrimentally impact the City's progress, necessitating the entry of an ACO. Instead, the letter outlined specific steps in the MDEQ's plan and the deadlines for the City to be successful. Further, the MDEQ's own March 21, 2018 letter also provided a schedule of deadlines for the City to correct any deficiencies, for which the City has and continues to work diligently.

Thus, the MDEQ's May 31, 2018 letter—stating its intent to issue an ACO—came as a surprise. This letter, followed by the City's receipt of the proposed ACO on June 2, 2018, was contradictory to the MDEQ and Region 5's original concern of compliance within one hundred and twenty (120) days, because both agencies had already allowed six (6) months to pass without further orders regarding deficiencies or lack of progress by the City in addressing those original concerns.

With all of that being said, your August 8, 2018 letter omits important information that demonstrates the City's progress made on these identified issues in the proposed ACO. This progress is further highlighted by the lack of action by the MDEQ and Region 5 while the City has attempted to narrow the number of issues outlined in the ACO and resolve them.

By way of background, on June 11, 2018, I submitted a letter in response to the MDEQ's proposed ACO. On June 15, 2018, both the City and the MDEQ were together for the Flint Water Interagency Coordinating Committee ("FWICC") meeting. The City then met with the MDEQ, along with the Michigan Attorney General's office, immediately after the FWICC meeting to discuss the ACO and both the MDEQ and City's concerns. Based on this meeting, on June 27, 2018, the City submitted another letter to the Attorney General's office, describing compliance points and requesting that the MDEQ eliminate certain unnecessary paragraphs from the ACO. On June 28, 2018, the City received a response from the Attorney General's office, stating that it would review the City's letter and determine what issues can be removed from the proposed ACO.

We had been waiting to hear from the MDEQ regarding such removals from the proposed ACO to no avail. Nevertheless, on Friday, August 10, 2018, after going a month without receiving a response, the City once again requested a response from the Attorney General's office. That same day, we were informed that on Thursday, August 9, 2018, the Attorney General's office had met with MDEQ staff and would follow up with the City next week. As a result of the City's follow-up, just today we received a revised, draft ACO from the MDEQ that we are now reviewing.

The City will not be coerced into entering formal agreements that include requirements for which that the City is already in compliance. Such clauses would muddle the record of compliance and may confuse the public regarding the status of the City's progress on this important issue. And on the originally-proposed ACO, the majority of those paragraphs included such redundancies, and others included matters already under the authority of Region 5.

Therefore, the City will review the details of the MDEQ's revised draft ACO and evaluate based on the City's compliance.

Sincerely,



Dr. Karen W. Weaver
Mayor

Cc: Dr. Karen W. Weaver, Mayor, City of Flint
Mr. Mark Adas, City Engineer, City of Flint
Mr. Steve Branch, City Administrator, City of Flint
Dr. Pamela Pugh, Chief Public Health Advisor, City of Flint
Ms. Candice Mushatt, Communications and Public Information Officer, City of Flint
Mr. Robert Bincsik, Director of Public Works, City of Flint
Mr. Hughey Newsome, Chief Financial Officer, City of Flint
Ms. Makini Jackson, Human Resources and Labor Relations Director, City of Flint
Mr. Herbert Winfrey, City Council President, City of Flint
Mr. Tom Poy, USEPA
Mr. Anthony Ross, Deputy Project Manager, Region 5, USEPA
Ms. C. Heidi Grether, Director, MDEQ
Mr. Eric Oswald, Director, Drinking Water Municipal Assistance, MDEQ
Ms. Amy Epkey, Administration Deputy Director, MDEQ
Mr. Aaron Keatley, Chief Deputy Director, MDEQ
Mr. Michael McClellan, Environmental Deputy Director, MDEQ
Mr. Keith Creagh, Director, MDNR
Mr. Richard Baird, Governor's Office
Mr. S. Peter Manning, Division Chief, Michigan Department of Attorney General
Mr. Gary Peters, U.S. Senator
Ms. Debbie Stabenow, U.S. Senator
Mr. Dan Kildee, U.S. Congressman
Mr. Jim Ananich, State Senator