

**EXAMINING FEDERAL ADMINISTRATION OF THE
SAFE DRINKING WATER ACT IN FLINT, MICHIGAN,
PART III**

HEARING

BEFORE THE

**COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES**

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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**EXAMINING FEDERAL ADMINISTRATION OF
THE SAFE DRINKING WATER ACT IN FLINT,
MICHIGAN, PART III**

Thursday, March 17, 2016

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
Washington, D.C.

The committee met, pursuant to call, at 9:00 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Walberg, Amash, Gosar, Desjarlais, Massie, Meadows, DeSantis, Buck, Walker, Hice, Grothman, Palmer, Cummings, Maloney, Norton, Clay, Connolly, Cartwright, Duckworth, Kelly, Lawrence, Watson Coleman, DeSaulnier, Boyle, Welch, and Lujan Grisham.

Also Present: Representative Conyers.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order.

Without objection, the chair is authorized to declare a recess at any time.

We have the third in a series of hearings that we are doing examining the Federal administration of the Safe Drinking Water Act, dealing with the crisis in Flint, Michigan.

Appreciate the witnesses here today. I also appreciate the strong public participation and interest in this hearing. I would remind those that are participating that this is a congressional hearing. We would appreciate your proper—the proper decorum in this room. There are to be no shows of expression, positive or negative, and we would appreciate your help in that way.

Let me make just a few observations, and then we will turn it over to the ranking member and get right to the questioning here.

There are people still today in Flint, Michigan, who are waking up this morning, they can't drink the water. And they can't take a shower. They are using a bottle of water to drink and using a bottle of water to take a shower. And I can't even imagine my family having to go through that here in the United States of America.

I was able to visit Flint with a number of members here on this past Saturday, and this is a crisis, and it affects a lot of people. And I think these hearings have been very productive.

There are people that have been exposed to drinking lead-laced water for more than a year, and this is, I believe, a failure at every level. And I think most everybody has acknowledged that.

Let us remember that Flint City was a city in crisis. Financial situation was dire at best. The people of Michigan made a decision, and emergency managers were put into place, save dollars. And I think the idea, desire to reduce the rate of the cost of water, as well as improve the quality of water, was where this started, but it is not where it ended up.

At every level in Michigan, from the city to the Department of Public Works, to the emergency manager, to the Michigan Department of Environmental Quality, there were failures. And there are questions about the accuracy of the data that was provided.

Some of those people were responsible and reported to the Governor of Michigan, and I appreciate the Governor volunteering and suggesting that coming here and testifying before Congress to tell his version of the story was an appropriate thing. And Governor, I appreciate your willingness to come talk to this body because there are some serious questions, and we do want to get to the bottom of it.

The Congress also has responsibility and jurisdiction over the EPA. The funding of the EPA, obviously, being a Federal organization, we have jurisdiction, and it is proper and important that we look at things from that perspective as well.

In February, LeeAnne Walters, who is here in the audience with us today, finally got fed up with what was going on, where she managed to get a hold of the EPA, and Miguel Del Toral from the EPA showed up on the scene and started to test the water. He should be highly commended for his actions and the things that he did, and I appreciate LeeAnne Walters and her family for stepping forward and can't even express—I just can't even imagine what her and her family and her son, who I met, got a picture with, what they have been through.

By June, the EPA clearly knew that this was a crisis. They absolutely knew that this was a problem. And Susan Hedman is the administrator for the Region 5. She definitively knew that there was a problem.

The Mayor at the time in Flint asked what had happened. Is the water safe to drink? He was told don't pay no attention to the report that was written by the EPA and actually went on local television and told people it was safe to drink the water.

Move forward, it is September 24th. One of the more troubling things—I want to put up this graphic. This is an internal email within the EPA talking about Susan Hedman. "Perhaps she"—Susan Hedman—"already knows this, but I am not so sure Flint is the community we want to go out on a limb for."

You can take that down. It is one of the more offensive, concerning things I have seen. That there were people, more than one, that were making decisions and thinking that, well, maybe Flint isn't who we should go out on a limb for. Are you kidding me?

Of all the communities out there, Flint is the number-one place that they should have been going out on a limb for. It is depressed economically. They are going through their own economic crisis, and there is internal discussion at the EPA deciding whether or not we should go out on a limb for.

Days later, the EPA Administrator said Ms. Hedman's work was "very encouraging." Gina McCarthy said, "They are making great

progress.” But it wasn’t until January of 2016 that the EPA actually took definitive action. The day after that, Susan Hedman, the Region 5 administrator, resigns.

Later asked about that action, Gina McCarthy, the EPA Administrator, said that that resignation was courageous, courageous. That is something we are going to talk about here today.

I have seen a lot of things before this committee, but I have got to tell you, this—the lack of action here, the lack of letting people know so they can make an informed decision, is very concerning. It is very concerning.

Let us now recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

And I, too, agree that this is a tragic situation. But let us be clear, this is not just on the EPA. It is much bigger than that. And so I take a moment, first of all, to thank LeeAnne Walters, Professor Edwards, and to the people of Flint, many of whom have come here today. They are lined all outside these walls, unable to get in and probably feeling left out.

But they probably felt left out for a long time. And so, Mr. Chairman, I take this moment to thank you. You didn’t have to do this. I asked you for a hearing, and you granted us three hearings, and I really appreciate that.

You see, because I lived in a neighborhood where lead is a problem, I am very sensitive to this issue.

Governor Snyder has been described as running the State of Michigan like a business. Well, what if this was a business? What if a CEO ran a company that sold toys laced with lead that children put in their mouths? What if those children were poisoned as a result? And what if that CEO ignored warnings for more than a year as those kids got sicker and sicker and sicker?

There is no doubt in my mind that if a corporate CEO did what Governor Snyder’s administration has done, he would be hauled up on criminal charges. The board of directors would throw him out, and the shareholders would revolt.

This is similar to what is happening now to Governor Snyder. The special counsel for the State attorney general’s office has launched an investigation, and he says—I didn’t say this—he says that State officials could face charges including breach of duty, gross negligence, or even manslaughter, charges he says are, and I quote, “not far-fetched.”

On our committee, we have obtained documents showing that people all around the Governor, including his chief of staff, were sounding the alarms, but he either ignored them or didn’t hear them. So we are talking about quotes. Let us talk about them.

In October 2014, the Governor’s top legal adviser had warned that Flint should, and I quote, “get back on the Detroit system as a stopgap as soon as possible before this thing is too far out of control.” That is the chief of staff.

In March of 2015, the Governor’s own chief of staff—no, that was his legal adviser. But his chief of staff said in March of 2015, “If we procrastinate any longer in doing something direct, we will have real trouble.” That is from the chief of staff.

And in July, his chief of staff again warned that Flint residents, and I quote, “are concerned, and rightfully so, about the lead level

studies they are receiving. They are basically getting blown off by us.”

The documents reveal failures at every level, led by Governor Snyder’s handpicked appointees, and the Governor’s fingerprints are all over this. His Department of Environmental Quality, his Department of Health and Human Services, his inner circle of top aides, his press staff, and his chief of staff. And of course, the emergency managers the Governor put in charge of Flint.

There will now be an entire generation, an entire generation of children who suffer from brain damage, learning disabilities, and many other horrible effects of lead poisoning that were inflicted on them by Governor Snyder’s administration. There will be many children, Mr. Chairman, who will sit in the second and third grade and will not be able to read the words “See Spot run” and won’t know why. But the reason why is because there is lead in their veins.

Now Republicans are desperately trying to blame everything on the EPA. So let me say this. I agree that the EPA should have done more. They should have rushed in sooner to rescue the people of Michigan from Governor Snyder’s vindictive administration and its utter incompetence at every level.

Governor Snyder’s administration had primary responsibility for enforcement under the Safe Drinking Water Act, not the EPA. Governor Snyder’s administration chose to switch to the Flint River for the source of water, not the EPA. Governor Snyder’s administration ignored warnings from the Flint water treatment plant supervisor not to go forward with the switch, not the EPA.

Governor Snyder’s administration falsely told the City of Flint that corrosion control was unnecessary, not the EPA. Governor Snyder’s administration delayed corrosion control for months and harmed thousands of additional people in the process, not the EPA. Governor Snyder’s administration overruled the Flint city council’s vote to return to clean Detroit water, not the EPA, as I close.

So, yes, I agree the EPA should have snatched control out of Governor Snyder’s hands even sooner than they did. But Governor Snyder’s administration caused this horrific disaster and poisoned the children of Flint. On the Governor’s Web site, his motto is, and I quote, “Reinventing Michigan: Getting it right. Getting it done.”

It is hard to imagine a more misleading slogan. It also says this, and I quote, “We will learn from this experience.”

And so, as I said earlier in the other hearing, these children, when we are dead—when we are dead and gone, these children will suffer for what we failed to do. And so, Mr. Chairman, as I have said to you before, we have to be the last line of defense. We have to be it. Because generations yet unborn will suffer, but we have got to do everything in our power to mitigate that.

I look forward to the hearing, and I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We will hold the record open for 5 legislative days for any Members who would like to submit a written statement.

Chairman CHAFFETZ. We will now recognize the first and only panel. Pleased to welcome the Honorable Rick Snyder, who is the Governor of the State of Michigan. We also have the Honorable

Gina McCarthy, Administrator for the Environmental Protection Agency.

Pursuant to committee rules, if you will both rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Ms. MCCARTHY. I do.

Governor SNYDER. I do.

Chairman CHAFFETZ. Thank you.

Let the record reflect that both witnesses answered in the affirmative. We normally have a 5-minute rule, but you are welcome to take the time that you need for your verbal comments, and your entire written statement will be made part of the record.

Governor Snyder, you are now recognized.

WITNESS STATEMENTS

STATEMENT OF HON. RICK SNYDER

Governor SNYDER. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for the opportunity to speak with you today about the crisis in Flint and the actions we are taking to ensure that nothing like this ever happens again.

Let me be blunt. This was a failure of government at all levels. Local, State, and Federal officials, we all failed the families of Flint.

This isn't about politics, nor partisanship. I'm not going to point fingers or shift blame. There's plenty of that to share, and neither will help the people of Flint.

Not a day or night goes by that this tragedy doesn't weigh on my mind—the questions I should have asked, the answers I should have demanded, how I could have prevented this. That's why I'm so committed to delivering permanent, long-term solutions and clean, safe drinking water that every Michigan citizen deserves.

Today, I'll report what we've done, what we're doing, and what we will do to deliver real results and real relief to the families of Flint. But before going through the facts, I want to express my profound gratitude for the help and heroism of Professor Marc Edwards, Dr. Mona Hanna-Attisha, and Flint resident LeeAnne Walters.

They were among the first to sound the alarm about the failures of government in the crisis afflicting the Flint community. Here are the facts. From the day the City of Flint began using the Flint River as an interim water supply on April 25, 2014, and repeatedly after that, the Department of Environmental Quality assured us that Flint's water was safe.

It wasn't. A water expert at the Federal EPA tried to raise the alarm in February 2015, and he was silenced. It was on October 1, 2015, that I learned that our State experts were wrong. Flint's water had dangerous levels of lead. On that day, I took immediate action.

First, we quickly reconnected to the Detroit water supply to begin sealing the damaged pipes. Second, I ordered the immediate

distribution of water filters and extensive blood level testing in schools and homes to identify those at highest risk so they could receive healthcare, nutrition, and additional support.

Third, we deployed \$67 million to address both short-term needs and long-term solutions. Our focus and our priority is on both short-term health and long-term safety. This includes diagnostic testing, nurse visits, and environmental assessments in the home to treat any child with high lead levels.

This is only the beginning. Right now, we're in the appropriations process for an additional \$165 million to deliver permanent, long-term solutions. I urge Congress to pass the bipartisan bill for aiding Flint immediately so we can further protect the health and safety of Flint residents and families.

From identifying every pipe that must be replaced to providing long-term medical support, we're working with local leaders, like Mayor Karen Weaver, and our representatives here in Washington to deliver the assistance our citizens deserve.

We are holding those who failed accountable, and we're being open with the public about how these failures came about, including releasing my emails and my staff emails relating to this water crisis. We are in the process of publicly releasing relevant documents from the State agencies involved so the people will have an open, honest assessment of what happened and what we're doing to fix it.

We also began a thorough investigation of what went wrong. We've uncovered systematic failures at the Michigan Department of Environmental Quality. The fact is bureaucrats created a culture that valued technical competence over common sense, and the result was the lead was leaching into the residents' water.

That's why I'm committed to a complete and comprehensive change in State government that puts public health and safety first and why I've called for a thorough investigation of the Michigan Department of Health and Human Services by the auditor general and inspector general. We're taking responsibility in Michigan, and we're taking action. And that's absolutely essential here in Washington, too.

Inefficient, ineffective, and unaccountable bureaucrats at the EPA allowed this disaster to continue unnecessarily. I'm glad to be sitting next to the Administrator from the EPA because all of us must acknowledge our responsibility and be held accountable.

I do want to thank Miguel Del Toral, a water specialist at the EPA who spoke up early about the crisis. Tragically, his superiors at the EPA told local leaders in Flint to ignore his call for action.

The truth is there are many communities with potentially dangerous lead problems, and if the EPA and the DEQ do not change and if the dumb and dangerous Federal lead and copper rule is not changed, then this tragedy will befall other American cities. Professor Edwards has been sounding this alarm for years, and I look forward to joining with him to address this failure of government.

I'm grateful to have been elected to serve the people of Michigan. I understand their anger. I've been humbled by this experience, and I'm going to make Flint and every community in Michigan a better place to live. We have a lot to learn, and we have a lot to do.

I close with a simple plea. Partner with me in fixing this, not just for the people of Flint, but for the people all over the country. Ranking Member Cummings is right. The American people—this is America, and this should never have happened. The American people deserve rules that make sense and professionals to enforce them who know that health and safety are urgent matters.

I can make sure that happens in Michigan. You can make sure it happens for every American.

Thank you, and I look forward to your questions.
[Prepared statement of Governor Snyder follows:]

Governor Rick Snyder
Opening Statement

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee. Thank you for the opportunity to speak with you today about the crisis in Flint and the actions we are taking to ensure that nothing like this ever happens again.

Let me be blunt. This was a failure of government at all levels. Local, state, and federal officials – we all failed the families of Flint.

This is not about politics or partisanship. I am not going to point fingers or shift blame; there is plenty of that to share, and neither will help the people of Flint.

Not a day or night goes by that this tragedy doesn't weigh on my mind...the questions I should have asked... the answers I should have demanded... how I could have prevented this. That's why I am so committed to delivering permanent, long-term solutions and the clean, safe drinking water that every Michigan citizen deserves.

Today, I will report what we've done, what we're doing, and what we will do to deliver real results and real relief for the families of Flint.

But before going through the facts, I want to express my profound gratitude for the help and heroism of Professor Marc Edwards, Dr. Mona Hanna-Attisha, and Flint resident LeeAnne Walters. They were among the first to sound the alarm about the failures of government and the crisis afflicting the Flint community.

Here are the facts.

From the day the City of Flint began using the Flint River as an interim water supply on April 25, 2014 – and repeatedly after that – the state Department of Environmental Quality assured us that Flint's water was safe.

It wasn't. A water expert at the federal EPA, tried to raise an alarm in February 2015, and he was silenced.

It was on October 1, 2015, that I learned that our state experts were wrong. Flint's water had dangerous levels of lead.

On that day, I took immediate action.

First, we quickly reconnected to the Detroit water supply to begin sealing the damaged pipes.

Second, I ordered the immediate distribution of water filters and extensive blood-level testing in schools and homes to identify those at the highest risk so they received healthcare, nutrition and additional support.

Third, we deployed \$67 million to address both short-term needs and long-term solutions.

Our focus, and our priority, is on both short-term health and long-term safety. This includes diagnostic testing, nurse visits and environmental assessments in the home to treat any children with high lead levels.

That is only the beginning.

Right now we are in the appropriations process for an additional \$165 million to deliver permanent, long-term solutions. I urge Congress to pass the bipartisan bill for aiding Flint immediately so we can further protect the health and safety of Flint families. From identifying every pipe that must be replaced to long-term medical support, we are working with local leaders like Mayor Karen Weaver and our representatives here in Washington to deliver the assistance our citizens deserve.

We are also holding those who failed accountable. And we are being open with the public about how these failures came about – including releasing my emails and my staff's emails relating to this water crisis.

And we are in the process of publicly releasing relevant documents from the state agencies involved, so that the people have an open, honest assessment of what happened and what we're doing to fix it.

We also began a thorough investigation of what went wrong. We have uncovered systemic failures at the Michigan DEQ. The fact is, bureaucrats created a culture that valued technical compliance over common sense – and the result was that lead was leaching into residents' water.

That's why I am committed to a complete and comprehensive change in state government that puts public health and safety first. And it's why I called for a thorough investigation of the Michigan Department of Health and Human Services by the auditor general and the inspector general.

We are taking responsibility and taking action in Michigan, and that is absolutely essential here in Washington, too. Inefficient, ineffective, and unaccountable bureaucrats at the EPA allowed this disaster to continue unnecessarily.

I am glad to be sitting next to the Administrator from the EPA, because all of us must acknowledge our responsibility and be held accountable. I do want to thank Miguel del Toral, a water specialist at the EPA, who spoke up early about the crisis. Tragically, his superiors at the EPA told local leaders in Flint to ignore his call for action.

The truth is, there are many communities with potentially dangerous lead problems. And if the DEQ and EPA do not change ... and if the dumb and dangerous federal lead and copper rule is not changed ... then this tragedy will befall other American cities. Professor Edwards has been sounding this alarm for years. I look forward to joining with him to address this failure of government.

I am grateful to have been elected to serve the people of Michigan. I understand their anger. I've been humbled by this experience. And I'm going to make Flint and every community in Michigan a better place to live. We have a lot to learn, and a lot to do.

I close with a simple plea ... Partner with me in fixing this – not just for the people of Flint, but for people all over the country. Ranking Member Cummings is right. This is America, and this never should have happened. The American people deserve rules that make sense and professionals to enforce them who know that health and safety are urgent matters. I can make sure that happens in Michigan. You can make sure it happens for every American.

Thank you, and I look forward to your questions.

Chairman CHAFFETZ. Thank you, Governor.
I recognize the Administrator of the EPA, Ms. McCarthy. You are now recognized.

STATEMENT OF HON. GINA MCCARTHY

Ms. MCCARTHY. Good morning, Mr. Chairman, Ranking Member Cummings, distinguished members of the committee. I want to thank you for the opportunity to testify about EPA's response to the drinking water crisis in Flint, Michigan.

I want to start by saying that what happened in Flint should never have happened and can never be allowed to happen again. The crisis that we are seeing is a result of a State-appointed emergency manager deciding that that city would stop purchasing treated water that it had been successfully relying on for 50 years and instead switched to an untreated source for the simple reason that they wanted to save money.

The State of Michigan approved that decision without requiring corrosion control treatment. Without corrosion control, lead leached from the pipes and fittings and fixtures in homes and businesses and industries, and it leached into the drinking water. These decisions are what resulted in Flint residents being exposed to dangerously high levels of lead.

Now under the Safe Water—the Safe Drinking Water Act, Congress gives States the primary responsibility to enforce drinking water rules for the Nation's approximately 152,000 water systems. But EPA has oversight authority. Typically, EPA has strong relationships with our States, and we work with them under this act.

But looking back on Flint from day one, the State provided our regional office with confusing, incomplete, and absolutely incorrect information. Their interactions with us were intransigent, misleading, and contentious. And as a result, EPA staff had insufficient information to understand the potential scope of the lead problem until more than a year after that water supply was switched.

While EPA did not cause the lead problem, in hindsight, we should not have been so trusting of the State for so long when they provided us with overly simplistic assurances of technical compliance rather than substantive responses to our increasingly growing concerns.

Although EPA regional staff repeatedly asked the Michigan Department of Environmental Quality to address the lack of corrosion control, we missed the opportunity late summer to quickly get EPA's concerns on the radar screen. That, I regret.

Since October, EPA has been providing technical advice to the city. Additionally, as part of the Federal response led by the Department of Health and Human Services, an EPA response team of scientists, water quality experts, community involvement coordinators, and support staff have been on the ground every day since late July.

The EPA team has visited hundreds of homes and collected thousands of samples to assess the city's water system. And we're encouraged by these test results, but our enhanced efforts with Flint will not cease until the system is fully back on track.

Now we've also been engaging Flint residents, visiting places of worship, schools, libraries, community centers, and senior living facilities to hear their concerns and share information. I have also taken several concrete steps at the agency to address some of the systemic issues raised during the crisis.

I directed a review of MDEQ and its ability to implement the Safe Drinking Water Act for the very reasons that the Governor has also so clearly articulated. I called on EPA's inspector general to investigate EPA's response to the Flint crisis. No, we didn't cause it, but could we have acted sooner to correct the situation?

I issued an EPA-wide elevation memo, encouraging staff to raise issues of concern to managers and for managers to be welcoming of staff concerns and questions. Too much back and forth went between EPA and the State when it should have gone up so that we could have raised the red flag earlier.

I also recently sent letters to every Governor and every State environmental and health commissioner in the country, asking them to join EPA in taking action to strengthen our safe drinking water programs, to ensure that they're looking and working with their own communities.

Additionally, we're actively working on revisions to the lead and copper rule. The lead and copper rule was revised under the prior administration to streamline the monitoring and reporting requirements. We know that it needs to be strengthened.

While the contours of this situation are unique, the underlying circumstances that allowed it to happen are really not. As a country, we have a systemic problem of underinvesting in environmental justice communities, and make no mistake about it, this is an environmental justice community. Not only are these underserved populations more vulnerable to impacts of pollution, but they often lack the tools and the resources and the voice to do something about it.

That's what stacks the deck against a city like Flint. That's what creates an environment where a crisis like this can happen. In many areas across our country, water infrastructure is aging, antiquated, and several communities are severely underfunded, particularly low-income communities, which may have the most difficulty securing funds through rate increases or municipal bonds.

This threatens citizens' access to safe drinking water, and we need to start having a serious conversation with Congress and others about how we advance the technologies and investments necessary to keep delivering clean water to American families.

I'm personally committed to doing everything possible to make sure a crisis like this never happens. Going to—having been to Flint, having met with the families, having met with faith leaders, having looked at where we're distributing waters, having worked hard to make sure that communities have the information that they need to stay safe, you cannot do anything but be personally committed.

But we know that no one portion of government can do it alone. None of us can do it alone. We need the cooperation of all of our colleagues at every level of government and every branch of government and beyond.

Thank you. I look forward to answering your questions.

[Prepared statement of Ms. McCarthy follows:]

**Testimony of
Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Before the Committee on Oversight and Government Reform
U.S. House of Representatives
March 17, 2016**

Good morning, Mr. Chairman, Ranking Member Cummings, distinguished Members of the Committee. Thank you for the opportunity to testify about EPA's response to the drinking water crisis in Flint, Michigan.

I want to start by saying what happened in Flint should not have happened and can never happen again. The crisis we're seeing was the result of a state-appointed emergency manager deciding that the City would stop purchasing treated drinking water and instead switch to an untreated source to save money. The State of Michigan approved that decision, and did so without requiring corrosion control treatment. Without corrosion control, lead from pipes, fittings and fixtures can leach into the drinking water. These decisions resulted in Flint residents being exposed to dangerously high levels of lead.

Under the Safe Drinking Water Act, Congress gives states the primary responsibility to enforce drinking water rules for the nation's approximately 152,000 water systems, but EPA has oversight authority. Typically, EPA has a strong relationship with states under the Act. But looking back on Flint, from day one, the state provided our regional office with confusing, incomplete and incorrect information. Their interactions with us were intransigent, misleading and contentious. As a result, EPA staff were unable to understand the potential scope of the lead problem until a year after the switch and had insufficient information to indicate a systemic lead problem until mid-summer of 2015.

While EPA did not cause the lead problem, in hindsight, we should not have been so trusting of the State for so long when they provided us with overly simplistic assurances of technical compliance rather than substantive responses to our growing concerns. Although EPA regional staff repeatedly urged the Michigan Department of Environmental Quality, or MDEQ, to address the lack of corrosion control, we missed the opportunity late last summer to quickly get EPA's concerns on the public's radar screen.

Since October, EPA has been providing technical advice to the City. Additionally, an EPA response team of scientists, water quality experts, community involvement coordinators, and support staff has been on the ground every day since late January. EPA's efforts are part of a broader Federal response to the community, led by the Department of Health and Human Services. The EPA team has visited hundreds of homes and collected thousands of samples to assess the City's water system. We're encouraged by these test results, but our enhanced efforts with Flint will continue until the system is fully back on track.

We've also been engaging Flint residents - visiting places of worship, schools, libraries, community centers, and senior living facilities - to hear their concerns and share information.

I have also taken several concrete steps at the agency to address some of the systemic issues raised during this crisis. I directed a review of MDEQ and its ability to implement the Safe Drinking Water Act. I called on EPA's inspector general to investigate EPA's response to the Flint crisis. I issued an EPA-wide elevation memo encouraging staff to raise issues of concern to managers and managers to be welcoming of staff concerns and questions. I also recently sent letters to every governor and every state environmental and health commissioner in the country asking them to work with EPA on infrastructure investments, transparency, technology, oversight, risk assessment, and public education. And I have asked the states to join EPA in taking action to strengthen our safe drinking water programs, to ensure drinking water programs are working for our communities. Additionally, we are actively working on revisions to the Lead and Copper Rule.

While the contours of this situation are unique, the underlying circumstances that allowed it to happen are not. As a country, we have a systemic problem of underinvestment in "environmental justice" communities. Not only are these underserved populations more vulnerable to the health impacts of pollution, but they often lack the tools and resources to do something about it. That's what stacks the deck against a city like Flint. That's what creates an environment where a crisis like this can happen.

There are many missteps along the way that can tip the scales toward a crisis. In many areas across our country, water infrastructure is aging, it is antiquated, and it is severely underfunded – particularly in low-income communities, which may have the most difficulty securing traditional funding through rate increases or municipal bonds. This threatens citizens' access to safe drinking water. We need to start having a serious conversation about how we advance the technologies and investments necessary to deliver clean water to American families.

I'm personally committed to doing everything possible to make sure a crisis like this never happens again. But EPA can't do it alone. We need the cooperation of our colleagues at every level of Government and beyond. Thank you and I look forward to answering your questions.

Chairman CHAFFETZ. Thank you.

We will now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

And as we start this, I remind Members, we have votes that will happen earlier today. I really do need everybody to stick to the 5 minutes so that we can get the maximum number of people to participate here. Both of these people have pressing schedules as well. So if we can adhere to the 5 minutes, I will start to gavel you down right then.

But we will start by recognizing Mr. Walberg for 5 minutes.

Mr. WALBERG. Mr. Chairman, thank you, and I will take that certainly to heart. But I do want to thank you for the intentional method by which you have carried on these investigations and these hearings.

Mr. Chairman, you didn't have to do it, but you have done it well. I am a proud Michigander, and I am proud of my State. I am proud of the things that are taking place. This is a problem, but I am proud of Michigan.

And for you to take serious attention to this, I thank you.

And Governor Snyder, we appreciate you voluntarily coming today. We appreciate you voluntarily releasing all your emails so they could be part of the record. We appreciate the fact that you are willing to answer tough questions that this committee will offer today and outline the steps you are taking to solve the crisis and help Flint recover. Because we want Flint to recover.

It is a great city. It has great workers. I have driven great cars made in Flint, and to now have the opportunity to look in the eyes of Flint citizens who have experienced this tragedy, a human-made tragedy.

Governor, let me ask you, when did you first learn of the instances of—a question here that was brought up just the other day as well, and there is a concern—instances of Legionnaire's disease in Flint?

Governor SNYDER. Yes, in terms of Legionnaire's, I didn't learn of that until 2016. And as soon as I became aware of it, we held a press conference the next day. That was clearly a case where the Michigan Department of Health and Human Services should have done more to escalate the issue, to get it visible to the public and to me.

Mr. WALBERG. I have documents here today that show your staff was receiving information about Legionnaire's in March of 2015. In an email on March 13th of 2015, a senior DEQ staff member, Brad Wurfel, emailed another member of your staff, Harvey Hollins, stating that there was a, and I quote, "significant uptick in cases of Legionnaire's disease in Flint."

There is also an email to your spokesperson, Sara Wurfel, showing that she was aware of the issue. And in another email, Brad Wurfel indicated that he wanted to raise the issue with your chief of staff, Dennis Muchmore.

The information was in the highest levels of your executive office 10 months before you knew. Did you speak with them about it?

Governor SNYDER. No. I don't recall any mention of that to me. And I don't recall seeing those emails or being part of any of those discussions.

Mr. WALBERG. If that is the case, what can you tell us about whether there is a connection between an outbreak of Legionnaire's and the Flint River?

Governor SNYDER. Well, obviously, given the change in water source, it's a concern, and we're going through the investigation at this point, and all parties are cooperating. The Federal Government, State government, outside experts are all working this issue.

We actually brought in expertise from Wayne State University that I know you're familiar with, Congressman Walberg—an outstanding institution—in terms of an additional researcher to look at the causation connection.

I'm happy to share some information with you that will give some perspective on the number of cases and what we have information on so far. I actually have a chart. I don't know if it's available to people, but I'd be happy to share that in terms of seeing some of the numbers themselves.

Mr. WALBERG. I would ask the chairman if we could have that submitted for the record.

Chairman CHAFFETZ. Without objection, so ordered.

Chairman CHAFFETZ. We'll get a copy and distribute it to Members as soon as we can photocopy it. If staff could come down and get that piece of paper, that would be great.

Mr. WALBERG. Okay.

Governor SNYDER. What I would also say is I've also asked for an investigation by the inspector general and the auditor general of the State of Michigan, which is an independent organization, to go look at the Department of Health and Human Services with respect to this whole discussion of what was disclosed, the processing of this, because this should have been handled better.

Mr. WALBERG. Yes. Administrator McCarthy, does the Safe Drinking Water Act provide you with the authority to act in a situation like Flint?

Ms. MCCARTHY. It does when we have the appropriate information, sir. Yes.

Mr. WALBERG. Upon receipt—it says, "Upon receipt of information, the EPA Administrator may take any action she deems necessary to protect human health." On September 26, 2015, you wrote an email to an EPA official that appeared in the AP last night, in fact, a report. You said the situation in Flint could, and I quote, "get very big quickly."

You didn't act until January 21, 2016. Why?

Ms. MCCARTHY. Well, sir, the action that we were recommending or would have taken was action that was already happening. It was only until January did I realize that the State wasn't continuing and the city wasn't moving forward quickly enough to address the issue. But that was very late in the game, sir.

Chairman CHAFFETZ. The gentleman's time has expired. Members are advised that the piece of paper the Governor was referring to is evidently already in all of the packets. I believe it is the last page.

Thank you.

I will now recognize the gentleman from Pennsylvania, Mr. Cartwright, for 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

Governor Snyder, I would like to ask you some simple questions, and I remind you that you are under oath today.

First, I think you said this in your testimony, but you do admit here today before this committee that you and your administration failed the people of Flint?

Governor SNYDER. I've made that clear in terms of my "state of the State" address, where I said —

Mr. CARTWRIGHT. And your own task force found that your Department of Environmental Quality was "primarily responsible for the crisis in Flint." Do you also admit that here today?

Governor SNYDER. Yes, and I took actions immediately based on their recommendations.

Mr. CARTWRIGHT. Your task force found that your officials at MDEQ did not implement corrosion control, which "led directly to the contamination of the Flint water system." Do you admit that here today?

Governor SNYDER. The lack of corrosion controls led to this issue.

Mr. CARTWRIGHT. And you admit that it was your officials at MDEQ that did not implement corrosion control, which led to that, right?

Governor SNYDER. They did not instruct the City of Flint to do corrosion controls.

Mr. CARTWRIGHT. Is that a yes?

Governor SNYDER. Again, they wouldn't be doing the corrosion controls. That's a city responsibility. But they failed in what I deem would have been common sense to say they should have.

Mr. CARTWRIGHT. Governor Snyder, do you admit that you personally received a letter on January 18, 2015, from Flint's Mayor, begging you to take action and warning, "There is nothing more important in Flint right now than fixing the water problems." On January 18, 2015, do you admit receiving that letter?

Governor SNYDER. I received a letter from the Mayor dated that, and I took action on items within that letter.

Mr. CARTWRIGHT. I am asking you about January 18, 2015. This is Exhibit D that we have marked for you.

Governor SNYDER. Yes. Could you share the letter with me so I could confirm that?

Mr. CARTWRIGHT. Would you hand him the letter, please? It is marked as Exhibit D. We will ask that this be made part of the record, Mr. Chairman.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CARTWRIGHT. January 18, 2015, from Dayne Walling, the Mayor, last paragraph on the second page, it is directed to you specifically, and he says, "There is nothing more important in Flint right now than fixing the water problems." Do you see that?

Governor SNYDER. I do.

Mr. CARTWRIGHT. Do you admit getting that letter?

Governor SNYDER. Yes.

Mr. CARTWRIGHT. All right. The Mayor asked you repeatedly to come to Flint during the crisis. Do you admit today you didn't show up for more than 7 months after he asked you?

Governor SNYDER. Actually, I'm not familiar. I'd have to check my schedule.

Mr. CARTWRIGHT. Well, that is what he says. You didn't go to Flint until October 2015. Is that right?

Governor SNYDER. I don't know if that's correct or not.

Mr. CARTWRIGHT. You don't know. You admit here today to seeing headline after headline about health problems, hair loss, rashes, ecoli, bacteria, sewage, Legionnaire's disease. Did you read any of those stories, Governor Snyder?

Governor SNYDER. Congressman, I read a number of those stories. What I would tell you is those stories, we would follow up on them and continue to get reaffirmation from career bureaucrats that the water was safe. That was wrong. That was not correct information.

Mr. CARTWRIGHT. Do you admit here today that more cases of Legionnaire's disease were reported since the switch to the Flint River than "all the cases in the last 5 years or more combined?" Do you admit that?

Governor SNYDER. Yes. And that's why I provided a table that shows a number of these cases —

Mr. CARTWRIGHT. You do?

Governor SNYDER.—were at healthcare facilities. In terms of the numbers, there were 87 cases in a 2-year period.

Mr. CARTWRIGHT. You admit here today that even after the whole world knew that Flint residents were exposed —

Governor SNYDER. Congressman, I —

Mr. CARTWRIGHT.—to unimaginable levels of lead, you did not declare a state of emergency until January 2016. Isn't that true?

Governor SNYDER. I took immediate action as soon as I learned there was a lead issue. We started issuing filters to people, doing water testing, doing blood testing, and to be honest with you, I wish more would have been done.

Mr. CARTWRIGHT. Governor Snyder, plausible deniability only works when it is plausible, and I am not buying that you didn't know about any of this until October 2015. You were not in a medically induced coma for a year.

And I have had about enough of your false contrition and your phony apologies. Susan Hedman, from the EPA, bears not one-tenth of the responsibility of the State of Michigan and your administration, and she resigned. And there you are, dripping with guilt, but drawing your paycheck, hiring lawyers at the expense of the people, and doing your dead-level best to spread accountability to others and not being accountable.

It is not appropriate. Pretty soon, we will have men who strike their wives, saying "I am sorry, dear, but there were failures at all levels."

People who put dollars over the fundamental safety of the people do not belong in government, and you need to resign, too, Governor Snyder.

I yield back.

Chairman CHAFFETZ. The gentleman yields back.

We will now recognize the gentleman from Michigan, Mr. Amash, for 5 minutes.

Mr. AMASH. Thank you, Mr. Chairman.

Thank you, Administrator McCarthy. And I would like to welcome you, Governor Snyder, and thank you for your willingness to appear before this committee.

Governor, you spoke about the broken culture at many of the agencies in State government. How are you working to change the culture within the agencies, specifically the Michigan Department of Environmental Quality, that were negligent or reckless and failed the citizens of Flint?

Governor SNYDER. I began by changing leadership. I accepted the resignation of the department director, and to put it in perspective, this was a department director that had served under two prior Governors with distinction.

But we had this issue. It was time to accept his resignation. Essentially, under civil service rules, we've terminated the head of the water division. That was the one that made the terrible decisions with her team to say it should be two 6-month studies instead of doing corrosion control. She was a 28-year veteran of the department.

We're going to spend time. We are going to change this culture. A bureaucratic culture that focuses on technical compliance and doesn't have a sense of urgency should not be serving our citizens. There are many good, hard-working people that do work for the State of Michigan. There are 47,000.

But I am committed to finding the instances where these people who haven't gotten the idea that we work for the citizens, and I am going to be relentless in following up to make sure we make the changes necessary that this never happens again, whether it's in a water area or any area of our State.

Mr. AMASH. Governor, did State employees intentionally withhold information from you?

Governor SNYDER. I don't believe that was the case. What I would also say is we had a report from the Office of Auditor General that responded to Senator Ananich, and I know you're familiar with Senator Ananich, that one of their conclusions was is I don't believe they found any willful misrepresentation.

Mr. AMASH. And what are you doing to make sure that State employees communicate with you, especially regarding issues of great importance like the people of Flint?

Governor SNYDER. I stood up in front of the entire State of Michigan in my "state of the State" address and said these people that made these terrible decisions that showed a clear lack of common sense failed us. But since they work for me, I am responsible for their actions, and I take that responsibility. And I kick myself every single day about what I could have done to do more.

But I told the people of Michigan that there's a commitment, a passionate commitment to say we are going to change the culture in these places. I apologized to the people of Flint. They deserve that. I understand why they are angry. It's terrible what they're having to go through.

But I made a commitment to fix the problem. I can't take some damage that's been done, as Ranking Member Cummings said, but there's a lot we can do to help the people of Flint address so many issues. And I am absolutely committed to do that, and we are following through and getting that done.

And I'm going back to Flint tomorrow to roll up my sleeves and keep working that issue.

Mr. AMASH. Governor, what is the State's expected budget surplus, and how much of that money will be spent on helping the people of Flint?

Governor SNYDER. In terms of—I presented the budget in February for the State. In terms of surplus, we're actually going through two or three steps. I've asked for a total, including two supplementals or three supplementals have already been passed. But a total of \$232 million to help address issues in Flint, covering all areas from the water system and infrastructure to nutrition, to health, to well-being, to economic development.

All these fields, to do whatever we can possible in terms of improving things in Flint. Several of these have already passed our legislature. In addition, I asked for \$165 million that would have been a rainy day fund deposit to go into a State infrastructure fund to say this is not an issue just for Flint, but let's start putting aside the long-term resources to say we have an infrastructure problem in the State of Michigan that's a national problem.

Let's get these lead pipes out of the ground. Let's look at setting the right standards. That's why I called the Federal lead and copper rule dumb and dangerous. It is.

And in Michigan, I'm making a commitment. I will be proposing legislation. I will be pushing to do everything to put a much more stringent standard in because the people of our State and our country deserve better than they're getting today.

Mr. AMASH. I have a question for Administrator McCarthy. If Susan Hedman had not resigned, would you have fired her?

Ms. MCCARTHY. That was an issue I didn't need to face, sir. As you know, Susan took the choice to submit her resignation, knowing that people would question whether that meant she accepted some type of guilt or responsibility for this.

She fully accepted responsibility for the situation, and she resigned, and I accepted that resignation. I thought it was the right step for her to take.

Mr. AMASH. So the question remains, though. Would you have fired her?

Ms. MCCARTHY. I—I—I didn't have to face that decision, sir.

Mr. AMASH. I yield back.

Chairman CHAFFETZ. The gentleman's —

Mr. AMASH. Yield back.

Chairman CHAFFETZ. The gentleman's time has expired.

I now recognize the gentlewoman from the District of Columbia, Ms. Norton, for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman.

I very much appreciate this hearing, and I appreciate both of you coming.

I went to Flint, Michigan, especially since the District of Columbia had its own corrosion, lead corrosion crisis about 15 years ago. I was impressed with the many Federal agencies that were there.

But I see responsibility on the part of the Federal and the State levels, and I think this House has found this, and I commend the House for passing a bill from the Energy and Commerce Committee that says that—and is pending in the Senate—that the EPA must

notify residents when water samples show lead levels for the highest 10 percent of homes at above 15 parts per billion, if State and local agencies don't do it.

So this protocol, this banter between the State and the Federal agencies is very distressing when you're talking about irreversible lead in the water. But Governor Snyder, you appointed your own task force. It appears not to have minced any words. It is a task force that, to your credit, you appointed in December 2015.

And it says that the State of Michigan bears, and here I am quoting their words, "primary responsibility," for the water crisis in Flint. Do you accept this conclusion from your own task force, the people you, I take it, appointed?

Governor SNYDER. Congresswoman, I appreciate you referencing that group. Actually, I appointed them in October within 2 weeks of learning of this crisis because I believe we needed outside —

Ms. NORTON. Well, this—I have to give you credit because this task force, this task force seems to have operated very independently. And here I am quoting them again.

I believe—"We believe the primary responsibility for what happened in Flint rests with the Michigan Department of Environmental Quality. Although many individuals and entities at State and local levels contributed to creating and prolonging the problem, the MDEQ is the government agency that has responsibility to ensure safe drinking water in Michigan. It failed that responsibility."

Governor SNYDER. And I accepted the report, and I took immediate action —

Ms. NORTON. Thank you very much. I am just trying to make clear, and to your credit, you ought to want to spread this on the record because this task force—and here is what is really interesting to hear them say, and here I am quoting them, found that there was "aggressive dismissal, belittlement, and attempts to discredit those efforts and the individuals involved."

Do you agree with this finding of your own task force?

Governor SNYDER. I do. And those things never should have happened, and those folks are no longer with us.

Ms. NORTON. Thank you, Governor.

This quote seems to—this quote seems to indicate that there was an attempt to discredit the work of others who apparently ultimately proved to be right. And again, I am giving you credit for this task force, but I think this task force shows that the State has accepted the responsibility.

The most serious finding was that the task force found that Michigan actually caused this poisoning. It said officials, and I quote, "did not require" switch—require—the task force found that "the lead and copper rule required corrosion control treatment." That is to keep lead from leaching into the water, which your officials, and I quote them, said it was "not required" when the switch to the Flint River.

They are saying that they found it was "not necessary," according to the task force report, and that this failure "led directly to the contamination of the Flint River water system."

It seems to me, Governor, that your administration has already taken responsibility for what happened and that your own task force takes that responsibility. It seems to me here today, each and

every response should be to echo your own task force, that the responsibility lay with the State of Michigan. It knew what—the State knew what to do in time, and it did not know—and it did not do what it knew had to be done.

And I thank you, Mr. Chairman.

Chairman CHAFFETZ. The gentlewoman yields back.

I now recognize the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. Mr. Chairman, members of the committee, I think a lot more failed in Flint than the water. It is a failed city. We have many of them not only in Michigan, but across the country.

Since we started these hearings, it is amazing. I have talked to staff, and we have gotten information that probably dozens of communities are facing the same thing. And they are coming forward and saying that they have unsafe drinking water and high levels of lead, and their kids are being poisoned.

Governor, you did take some action, and some people have been fired. Is that correct?

Governor SNYDER. Correct.

Mr. MICA. I guess the Flint water head, several others, and you suspended other people. Is that correct?

Governor SNYDER. Correct.

Mr. MICA. And you said everyone shares some blame, including yourself, right?

Governor SNYDER. Correct.

Mr. MICA. What disturbs me is—well, first of all, Administrator McCarthy, you had the ability to act when you find out that things aren't going right in these systems. You have the compliance authority under law, don't you?

Ms. MCCARTHY. Yes, sir. Yes, sir.

Mr. MICA. And who was fired or held accountable in EPA?

Ms. MCCARTHY. Well, sir, you have to look at whether or not

Mr. MICA. Was anyone fired?

Ms. MCCARTHY. No, sir.

Mr. MICA. In fact, what disturbs me, I checked to see like Hedman, who was in charge. She was underneath you as a regional administrator.

Ms. MCCARTHY. Regional Administrator Hedman, yes.

Mr. MICA. She was getting vacation time bonuses, got the last one May 28th while—the regional administrator is getting vacation time bonuses while the kids are getting poisoned. She finally resigned herself. You never fired anyone.

You have great people working at EPA.

Ms. MCCARTHY. Thank you.

Mr. MICA. This Mr. Del Toral should get a Congressional Gold Medal. Mrs. Walters blew the whistle. She came to the local authorities. We had the Mayor in here. She told me in March of 2015, she met the Mayor at the library, and he promised to do everything.

She went to City Hall April 3rd or at the beginning of April, and no one would see her. She was put off. And to the day of the hearing the other day, the Mayor had never talked to her after that.

This—and I said this, now you are pretty experienced. You head the EPA. You can read Del Toral's report. It is incredibly accurate.

Ms. MCCARTHY. Which one, sir?

Mr. MICA. This is dated in June, and not a damned thing was done until—really until January of this year.

Ms. MCCARTHY. I think —

Mr. MICA. And I went back and asked Mrs. Walters, I said, well, when did they finally come in? Because the Mayor and others and your EPA administrator from the district said that, "Oh, we acted immediately." They didn't act. They gagged Mr. Del Toral.

Did you ever see this report, Administrator?

Ms. MCCARTHY. I did see that report, sir, yes.

Mr. MICA. When did you see the report?

Ms. MCCARTHY. I don't recall the exact day.

Mr. MICA. Well, in the June, last summer?

Ms. MCCARTHY. Sir, I would suggest —

Mr. MICA. Did you see this report?

Ms. MCCARTHY. Of course —

Mr. MICA. Again, a high school student could take this report and determine that kids were getting poisoned. He confirmed it. He went in and tested everything, the pipes in the building. He looked at the lead lines. He did a thorough examination. Then he detailed all the things we have heard about, this calendar of failure of Flint—the Legionella, et cetera, violations going back.

And you told me you had the authority. You have the compliance authority. Did you ever shut these programs down or go after them?

Ms. MCCARTHY. Sir, we went —

Mr. MICA. You did not.

Ms. MCCARTHY. Okay.

Mr. MICA. You did not. No one acted. Now I heard calls for resignation. I think you should be at the top of the list.

Ms. MCCARTHY. Mm-hmm.

Mr. MICA. Again —

Ms. MCCARTHY. Well, sir, if you'd let me answer, I might be able to answer —

Mr. MICA.—our job, the local job that they failed at the local level, they failed at the State level, and we failed at the Federal level, and who is in charge? The district head gets a vacation bonus. The kids get lead poison. And you are still in office.

Mr. Chairman, I yield back.

Chairman CHAFFETZ. The gentleman yields back.

Ms. MCCARTHY. Thanks for opportunity to answer.

Mr. MICA. You are welcome.

Chairman CHAFFETZ. Did you have something you wanted to say?

Ms. MCCARTHY. It would be good if I could, sir. If you wouldn't mind?

Chairman CHAFFETZ. Sure.

Ms. MCCARTHY. Well, I think it's important to know that when we found out finally because the MDEQ told us on April 24th prior to that, that there was no corrosion control treatment, reversing what they had earlier told us that they did corrosion control in this system, that we had already told MDEQ that they actually had to

require the City of Flint to move ahead with corrosion control treatment well in advance of that memo.

Mr. MICA. This is —

Chairman CHAFFETZ. Let her finish.

Ms. MCCARTHY. Thank you.

And we consistently said the same thing. That is a report on three homes in the same area. Because of the complexity of lead, we did not and could not have made a concerted judgment about whether it was a systemic problem.

When we had the information, when we received it from MDEQ, which wasn't until July 21st, we told them we're done talking. We now know it's a systemic problem. You do it, or we'll do it. They said, "We'll do it."

And since that point in time, MDEQ slow-walked everything they needed to do. That precluded us from being able to jump in to the rescue. That is what—that is what happened.

And if people are worried about whether we silenced Miguel Del Toral, Miguel is a hero in this. He remains a central part of our decision-making. He is one of our experts we rely on. The simple fact is that MDEQ was the one who told everybody outside that he was a rogue employee to discredit him, just as the MDEQ was doing, as the Governor's task force said, in trying to discredit anybody who said there was a problem with that drinking water system.

We were strong-armed. We were misled. We were kept on arm's length. We couldn't do our jobs effectively.

Mr. MICA. Mr. Chairman, I just ask that Mr. Del Toral's report of June be included in the record at this point.

Thank you, and I yield back.

Chairman CHAFFETZ. Without objection, so ordered.

Chairman CHAFFETZ. Wow, you just don't get it. You just don't get it. You still don't get it.

I will now recognize the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Well, Mr. Chairman, thank you.

I get it. We are trying to make sure that blame is shifted here. It is interesting, for a committee that has practiced Alice in Wonderland techniques with management, "Off with your head." So when there is a problem at OPM, off with the head of the head of OPM. Off with the head of the CIO at OPM. Off with the head of John Koskinen, the head of IRS. Off with the head of Lois Lerner.

But Governor Snyder, apparently my friends on the other side of the aisle want to make sure your head is securely on your shoulders.

Governor Snyder, do you believe in the philosophy of government that says we ought to push responsibility and power to the lowest level we can, as close to the people as we can?

Governor SNYDER. As a general rule, yes.

Mr. CONNOLLY. So in November 2012, the citizens of your State rejected the emergency manager law you had advocated in a referendum. Is that correct?

Governor SNYDER. Correct.

Mr. CONNOLLY. And yet, 6 weeks later, you reintroduced legislation that was approved by the Republican-controlled legislature for a new emergency manager law, PA-436. Is that correct?

Governor SNYDER. There was a law that took into account the concerns of the citizens, and it was passed by a duly elected legislature that represents the people of the State of Michigan.

Mr. CONNOLLY. So that law then allowed you to bypass the local governance of the City of Flint and to appoint an emergency manager to act for and in the place and stead of the government—of the governing body and the Office of Chief Administrative Officer of the local government “from the law.” Is that correct?

Governor SNYDER. Going back to your original question, you said “generally.” This is a case where there was failure in terms of city management —

Mr. CONNOLLY. I appreciate it, but I am just asking a yes/no here. Did you appoint an emergency manager, pursuant to that law?

Governor SNYDER. Yes.

Mr. CONNOLLY. Yes. And that meant the Mayor and city council could not exercise any powers unless your handpicked emergency manager let them. Is that correct?

Governor SNYDER. Initially, yes.

Mr. CONNOLLY. Last week, our committee staff traveled to Flint, and they conducted a transcribed interview of the last emergency manager appointed—you appointed, Gerald Ambrose. By the way, you appointed, not Ms. McCarthy. We asked him if he considered the city council impotent during his tenure. His answer on the record was “absolutely.”

Do you know how many pages of edicts were issued by your appointed emergency managers in this tragic time period, Governor?

Governor SNYDER. No, but also let me respond to your comment about Ambrose.

Mr. CONNOLLY. Well, hold on. Let me just show you because I only got 5 minutes. Ladies and gentlemen—hold them up, please.

These are the stacks of edicts issued by your emergency managers, not by the city council of Flint. Now do you how many of those 8,000 pages dealt with meaningful steps to protect the citizens of Flint from lead flowing through their pipes, Governor? Your appointees?

Governor SNYDER. No.

Mr. CONNOLLY. Not one. Not one.

Governor SNYDER. Congressman, I encourage you to look at —

Mr. CONNOLLY. Now wait a minute. Wait a minute, Governor. It is my 5 minutes. I am sorry. I wish I had 10. Then I could give you all the time in the world.

This is a failure of a philosophy of governance you advocated. There is no evidence—even after you were warned by the Mayor of Flint they had problems and he begged you to come to Flint, you ignored him. We have no evidence of you traveling to Flint for 7 months, Governor. Seven months.

I am glad you are sorry now. I am glad you are taking action now. But it is a little bit late for the kids in Flint whose health has been compromised, for people whose health and immunity systems were already compromised, for a city in America that is on its knees because of your emergency manager’s decision to save \$4 million.

And now it is going to cost a lot more to clean up, and the taint and the stain that State government has put on this country in the form of Flint will be a long time being erased.

You know, at some point, the buck stops at your office, Governor, with your Department of Environmental Quality that collapsed, with your emergency managers who were guilty of hubris. They knew better than the local elected officials of Flint, and they ignored all the warning signs.

That is the record, Governor. That is your record. And at some point, the buck has to stop at your desk.

I yield back.

Chairman CHAFFETZ. The gentleman's time has expired.

We will now recognize the gentleman from Tennessee, Mr. Desjarlais, for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

And before I yield my time to my good friend from Michigan, Mr. Walberg, I would respectfully ask Administrator McCarthy to consider scrapping the waters of the U.S. rule, as it is clear that EPA cannot currently handle the issues on its plate.

And I now yield my time to the gentleman from Michigan.

Mr. WALBERG. I thank the gentleman from Tennessee.

On September 26, 2015, Ms. McCarthy, you received an email from Peter Grevatt, Director of the EPA's Office of Groundwater and Drinking Water. The whole point of the email was actually to share Marc Edwards' documentation of the Flint drinking water problems.

Mr. Edwards ends the email asking the EPA to, and I quote, "immediately take decisive action on this issue to protect the public." Did you read the September 25th email that included Marc Edwards' request for action?

Ms. MCCARTHY. I did.

Mr. WALBERG. Dr. Edwards is very familiar to this committee and the people of Flint. Do you know who Marc Edwards is?

Ms. MCCARTHY. Yes. Yes, we've met.

Mr. WALBERG. You have met?

Ms. MCCARTHY. We had a meeting, yes.

Mr. WALBERG. How long have you known of Dr. Edwards and his work on the water quality?

Ms. MCCARTHY. It's just related to Flint, sir. We actually have a contract with him to do work with us right now.

Mr. WALBERG. Do you believe Marc Edwards is an expert on water treatment and corrosion?

Ms. MCCARTHY. I think he is one expert, yes. I would also acknowledge that EPA has a number of others.

Mr. WALBERG. The Edwards email gives—including Mr. Del Toral. The Edwards email gives key points, summary at the end documenting that there is no corrosion control treatment. The people can't afford bottled water. MDEQ is continuing to insist the water is safe and that they know of a child with elevated blood levels already.

If you received an email documenting all these problems on September 25th, including the fact that children have elevated blood lead levels, why didn't you act until January 21, 2016?

Ms. MCCARTHY. Sir, you're incorrect in saying —

Mr. WALBERG. I am not incorrect.

Ms. MCCARTHY. You are incorrect in saying that we did not act.

Mr. WALBERG. We have emails to do this. We have records as well.

Ms. MCCARTHY. Can I point out —

Mr. WALBERG. You continue to not take responsibility, including writing articles about it. Dr. Edwards is an expert on this issue.

Ms. MCCARTHY. Yes.

Mr. WALBERG. The people of Flint understand that. He has been there. You didn't even show up until February of this year, and I remind the Members on the other of the aisle the Governor has been there many days. This Administrator of EPA didn't show up until February.

Dr. Edwards said in testimony before this committee that Susan Hedman, who you won't fire, you wouldn't fire. You wouldn't even give an answer if you would. That Hedman's response was completely unacceptable and criminal. That is what Mr. Edwards said.

Ms. MCCARTHY. Yes.

Mr. WALBERG. Please tell the people of Flint sitting behind you and this committee why Marc Edwards is wrong.

Ms. MCCARTHY. Well, Marc Edwards is a good scientist, and I respect him. If you look at the timeline of when we received that email, you will find that the city and county health advisory about the Flint water went out on the same day. You will find that October 1, they were noticed to have no drinking of that water without protection.

You will find that on October 2nd, the Governor put out a 10-point plan. On October 3rd, the filters were being distributed. I cannot—there is no switch that I can turn on that would have —

Mr. WALBERG. And I am hearing nothing of your action on that, and you have the law on your side that says in any, any event of imminent danger or health risk, you have the responsibility to act. You wrote —

Ms. MCCARTHY. At that point in time, the damage had been done

Mr. WALBERG. You wrote an op-ed. Excuse me.

Ms. MCCARTHY. Okay. Okay.

Mr. WALBERG. I will give you a chance.

Ms. MCCARTHY. Okay. Thank you.

Mr. WALBERG. You wrote an op-ed in the Washington Post —

Ms. MCCARTHY. Yes.

Mr. WALBERG.—which stated the EPA's regional office was also provided with confusing, incomplete, and incorrect information.

Ms. MCCARTHY. Yes.

Mr. WALBERG. As a result, EPA staff members were unable to understand the scope of the lead problem until more than a year after the switch to untreated water. Did the EPA confirm in early 2015 that Flint's water pipes lacked corrosion control?

Ms. MCCARTHY. In early—no, sir. I did not know that. The staff were unaware of that.

Mr. WALBERG. They were unaware of that?

Ms. MCCARTHY. Yes. In fact, they were told directly by MDEQ on February —

Mr. WALBERG. What about Mr. Del Toral?

Ms. MCCARTHY.—that Flint has optimized corrosion ———

Mr. WALBERG. He was disciplined.

Ms. MCCARTHY. He was not disciplined.

Mr. WALBERG. Oh, yes, he was.

Ms. MCCARTHY. Okay. Well, he was not.

Mr. WALBERG. That is a matter of record as well.

Ms. MCCARTHY. No, I'm sorry, sir. It isn't. It's a matter of record that he was not.

Mr. WALBERG. At Tuesday's hearing, Dr. Edwards said some of the documents he received from EPA through FOIA requests are nearing 90 percent redacted. Dr. Edwards waited 10 years in some cases to receive a response to EPA FOIA requests. How is this acceptable from an expert?

Chairman CHAFFETZ. The gentleman's time has expired, but the Administrator may answer.

Ms. MCCARTHY. Well, I wanted you to be all clear that the emergency order that I issued in January was because of continued failure to address the issue. If there was anything that I could have done, any switch that I could turn on that would have precluded us or allowed us to go further than what was already happening at that time, I would have pulled that switch.

What we needed was exactly starting. Were we late in getting it done? Yes. Are there consequences to that? Absolutely. We have—actually, our regional administrator worked very hard to get MDEQ to do their job to get these actions in place. So when you're asking did I receive an email on a given date, I did. The actions were moving. There was nothing else I could have ordered that would have made that move faster.

But I did issue an order in January because even after all of this, the order that I issued was questioned by this State, by MDEQ, by this State as was that really legally solid. Up until today, they continue to drag their feet.

Chairman CHAFFETZ. The—go ahead, Governor. Go ahead, if you want to.

Governor SNYDER. Yes, I'm sorry, Mr. Chairman. But you can only take so much at some point, and all I would do is go to the record. And what I would suggest is people look at three emails.

There's an email going back to June 8th '15 from Jennifer Crooks from the EPA. It's an agenda for Michigan's semi-annual call. There's an email on July 21st '15 from Tinka Hyde. A briefing paper with the MDEQ talking about the Federal lead and copper rule, including Flint water. On 9/10/15, there is an EPA email talking about coming up with a joint strategic action plan about the EPA and the MDEQ working together.

They were in regular dialogue. They're talking about how to do things together. And when I read these things, I'm ready to get sick. We need urgency. We needed action, and they keep on talking.

And it's not about fighting. They're just not getting the job done. We messed up in Michigan to begin with by doing two studies instead of corrosion controls. That fundamentally caused this problem. I have accepted responsibility because those people work for me.

But it's something different to have this continuing dialogue to say it was solely us. This could have been stopped sooner if other people could have also spoken up. I'm always going to kick myself that our people should have spoken up. I should have asked tougher questions. I should have done more.

But to also say the EPA just didn't get information, I just ask you to take the time to go look at those three emails, and that will clear the record up.

Chairman CHAFFETZ. Thank you. Appreciate it.

We now recognize the ranking member, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. Let us talk about emails, Governor Snyder. You have represented to the public that you were unaware of the disaster building in Flint until September 2015. I find it hard to believe that a crisis of this magnitude completely escaped your attention for so long.

It is clear that your senior staff, people who report directly to you daily, were very aware of what was taking place in Flint. October 12, 2014, one of your top advisers wrote an email to your chief of staff Dennis Muchmore, saying this, and I quote.

"As you know, there have been problems with the Flint water quality since they left the DWSD system, which was a decision by the emergency manager there. I think that we should ask the emergency manager to consider coming back to the Detroit system in full or in part as an interim solution to both the quality and now the financial problems that the current solution is causing. I see this as an urgent matter to fix."

Governor, did your chief of staff, who I assume reports directly to you, your right-hand man, did he tell you these concerns urgently needed to be fixed in October 2014? Did he tell you that?

Governor SNYDER. I don't recall. I recall during that time period we had issues, and I got briefings, and we discussed issues about color and odor of the water.

Mr. CUMMINGS. Okay.

Governor SNYDER. There was also a concern about E. coli.

Mr. CUMMINGS. Okay. You said —

Governor SNYDER. So there were several issues, but none of them related to lead because these —

Mr. CUMMINGS. But you knew—you know there was a problem with the water?

Governor SNYDER. Again, I —

Mr. CUMMINGS. You didn't get the email, did you?

Governor SNYDER. I did not get that email.

Mr. CUMMINGS. Okay.

Governor SNYDER. Right now.

Mr. CUMMINGS. I remind you you are under oath.

Governor SNYDER. To my knowledge, I did not receive that email.

Mr. CUMMINGS. Okay, I hear you. In February 2015, your chief of staff made the following statement, and I quote, "After all, if the GM refuses to use —" GM, GM as in General Motors—"refuses to use the water in their plant and our own agencies are warning people not to drink it, the differential between what we now collect and what we would pay DWSD is not significant. We look pretty stupid hiding behind some financial statement."

Did you talk to him about the concerns in February 2015?

Governor SNYDER. I can't recall specific discussions, but we had continuing dialogue about color, odor issues in the water. We were tracking issues that were resolved on E. coli, on TTHM. The GM issue was a matter of chloride in the water. It was acceptable, according to our experts, for human consumption. It did create issues

Mr. CUMMINGS. Although it was rusting away brand new—the water was rusting away brand new parts at GM, it was okay for human consumption? Is that your—and I don't think that was Mr. Earley's testimony, by the way.

Governor SNYDER. To put it in perspective, Ranking Member Cummings, these are the kind of red flags, though, that I kick myself.

Mr. CUMMINGS. Okay.

Governor SNYDER. Where you wish you would have asked more questions.

Mr. CUMMINGS. Well, let me—you got some more kicking to do.

Governor SNYDER. I was getting advice that the —

Mr. CUMMINGS. Oh, no, no, no. I want you to finish your kicks. On March 2, 2015, your chief of staff offered the following assessment about Flint. "It is tough for everyday people to listen to financial issues and water mumbo-jumbo when all they see is problems. If we procrastinate much longer in doing something direct, we will have real trouble."

Governor, did your chief of staff, your right-hand man, talk to you back in March?

Governor SNYDER. My chief of staff, we had ongoing discussions. I can't recall a specific discussion in March. We had ongoing discussions, and he was right to raise concerns.

Mr. CUMMINGS. All right.

Governor SNYDER. We took actions, including the maximum grant we are allowed to do is a \$2 million we did earlier in the year to help Flint with water infrastructure. We also were working on getting filters. Concerned pastors came to us, and we got —

Mr. CUMMINGS. All right. I am running out of time, and I want to be obedient to the time restraints.

The next day, Mr. Muchmore complained of the lack of—"lack of empathy for the residents." Again, this is your right-hand man, and he subsequently said this on your DEQ director, Dan Wyant, and I quote, "I really don't think people are getting the benefit of the doubt. Now they are concerned, rightfully so, about the lead level studies they are receiving from the DEQ samples. These folks are scared and worried about the health impact, and they are basically getting blown off by us."

Governor, did you talk to your chief of staff about those concerns?

Governor SNYDER. I had continuing dialogues with my chief of staff, and he went out and sought advice or expertise from the career bureaucrats not just in one department, but in the Department of Environmental Quality.

Mr. CUMMINGS. All right.

Governor SNYDER. Our experts continued to reaffirm the water was safe. The people in the Department of Health and Human

Services kept on saying they didn't see an elevation in blood lead levels, and they were wrong. That was the problem.

Mr. CUMMINGS. Governor, it seems like there are two basic possibilities. Either your chief of staff told you about these concerns and you did nothing, or he didn't tell you and you are an absentee Governor.

I yield back.

Chairman CHAFFETZ. I thank the ranking member.

I will now recognize myself for 5 minutes.

Governor, you have apologized. Correct?

Governor SNYDER. Correct.

Chairman CHAFFETZ. There have been people that have been fired?

Governor SNYDER. Correct.

Chairman CHAFFETZ. Anybody also dismissed or otherwise retired?

Governor SNYDER. Yes.

Chairman CHAFFETZ. Did the State of Michigan do something wrong?

Governor SNYDER. Yes.

Chairman CHAFFETZ. Administrator McCarthy, did the EPA do—in your mind, did the EPA do anything wrong?

Ms. MCCARTHY. I don't know whether we did everything right. That's the challenge that I'm facing.

Chairman CHAFFETZ. The challenge you are facing right now is my question. And my question is did the EPA do anything wrong?

Ms. MCCARTHY. I think we could have been—I would hope that we would have been more aggressive. I would hope that we would have escalated this issue. If we could have done absolutely anything to stand on a rooftop and scream about the challenges we're having —

Chairman CHAFFETZ. Okay. So you are just not—here is the fundamental difference. First of all, we have jurisdiction here in Congress on the EPA. I don't have jurisdiction on the Governor. I don't have jurisdiction. I have jurisdiction to call him up here, and Republicans did call him up here. He volunteered to be here.

And we are investigating. This is our third hearing on this topic. But here is the fundamental difference, and I hope you and I hope everybody understands this. I see responsibility. I see people that are getting fired. I see changes. I see admission that there was fundamental wrongs that happened in the organization.

But then when I turn to the EPA, has anybody been fired? That is a question.

Ms. MCCARTHY. No, sir.

Chairman CHAFFETZ. Has anybody been dismissed?

Ms. MCCARTHY. No, sir.

Chairman CHAFFETZ. When the EPA Region 5 administrator there, Susan Hedman, the day you finally did take decisive action, when you were questioned about that, you said that her act of stepping down was courageous.

Ms. MCCARTHY. I did.

Chairman CHAFFETZ. I am going to ask you again. Did the EPA do anything wrong?

Ms. MCCARTHY. The EPA worked very hard. Let me make one statement —

Chairman CHAFFETZ. Okay. No.

Ms. MCCARTHY. Let me make one statement.

Chairman CHAFFETZ. No, no, no. Because I have another question for you. No, hold on.

Ms. MCCARTHY. Okay.

Chairman CHAFFETZ. Did the—Marc Edwards has testified here twice. He doesn't have a dog in this fight other than he wants good quality health for people, and he wants good, clean water. And he happens to know the science behind the water.

On those two hearings, did Mr. Edwards say anything that you think was wrong or maybe, you know—or inaccurate? Do you think Mr. Edwards said anything that was inaccurate or wrong in those two testimonies?

Ms. MCCARTHY. I think he was not at all informed about what EPA did. I think he knows nothing about the law, which he readily admits.

Chairman CHAFFETZ. He knows —

Ms. MCCARTHY. He doesn't know how we're supposed to work in the system. He doesn't understand that the problem itself was the responsibility of the States. Oversight was our responsibility. We took that seriously, and we conducted it.

Does that mean I don't have regrets? Because I'd really like to

Chairman CHAFFETZ. Well, that is a whole different standard. Everybody—that is a cheat. Oh, yeah, we just got regrets. That is a cheat. That is cheap.

Ms. MCCARTHY. Well, sir, you have to look at how the law works, and we did —

Chairman CHAFFETZ. You know what? And it failed. You failed. You said, "If there is any—anything I could do, if there was any switch I could pull," you had that under the law, and you didn't do it.

Ms. MCCARTHY. No, sir. I did not have that under the law.

Chairman CHAFFETZ. Yes, you did. If there is an imminent threat

Ms. MCCARTHY. I was given authority —

Chairman CHAFFETZ. If there is an imminent threat, you can pull that switch.

Ms. MCCARTHY. Only if we are —

Chairman CHAFFETZ. Administrator, you are wrong.

Ms. MCCARTHY. There's two parts to that, sir. You skipped the second.

Chairman CHAFFETZ. What is the second part?

Ms. MCCARTHY. You need to have the information to determine an imminent substantial threat —

Chairman CHAFFETZ. So why do we even need an EPA? If you can't do that —

Ms. MCCARTHY. I'm sorry.

Chairman CHAFFETZ.—you are in those homes. No, I am asking the questions.

Ms. MCCARTHY. Okay.

Chairman CHAFFETZ. Yes, okay. In February is when you first arrived on the scene, and it wasn't until January of the next year that you actually did something. That is the fundamental problem.

Don't look around like you are mystified. That is what happened. Miguel Del Toral showed up in February. You didn't take action. You didn't. And you could have pulled that switch.

Ms. MCCARTHY. We consistently took action from that point forward. Consistently.

Chairman CHAFFETZ. There are a lot of people in this audience from Flint.

Ms. MCCARTHY. Sir —

Chairman CHAFFETZ. Nobody believes that you took action. You had those levers there. Marc Edwards from Virginia Tech, bless his heart —

Ms. MCCARTHY. Sir, we —

Chairman CHAFFETZ. No, just listen for a second. Had the opportunity. They have said things like we failed to get EPA to take lead in the water risk seriously. It is possible—another quote of his, and this is possible because the EPA has effectively condoned cheating on the lead and copper rule monitoring since 2006.

He read your op-ed that you put out that was one of the most offensive things I could possibly imagine, and he says about you, EPA Administrator Gina McCarthy, that effectively absolved EPA of any wrongdoing or any role incurring the Flint disaster.

If you want to do the courageous thing, like you said that Susan Hedman did, then you, too, should resign. Nobody is going to believe that you have the opportunity, you had the presence, you have the authority, you had the backing of the Federal Government, and you did not act when you had the chance. And if you are going to do the courageous thing, you, too, should step down.

My time is expired.

We will now recognize the gentlewoman from Illinois, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman.

I think that if the EPA Administrator should do the courageous thing and resign, then so should the Governor.

You know, as a mom, I have been deeply troubled by the testimony and revelations that have been raised in this series of hearings on the water crisis. It is a kind of human suffering that should not happen anywhere, let alone the greatest nation on the face of the earth.

The failures at every level of government in this disaster are alarming. I don't think there is any debate at this point or any question that it is the Snyder administration's Department of Environmental Quality that created this crisis in the first place.

However, as a Member from Illinois and one of the States that falls under the EPA's Region 5 alongside Michigan, I am also extremely troubled by how the EPA also failed in its duty to serve as the last line of defense for the children of Flint. And while the Flint crisis has rightfully garnered the most attention lately, I am deeply concerned that communities all around this country are at similar risk.

In Chicago, we have one of the greatest—we have one of the better quality water systems in the Nation, but we are also learning

that under the deficiencies in the lead and copper rules testing protocols, our Department of Water Management is conducting testing that in high-risk instances, and I quote, “systematically misses the high lead levels and potential human exposure.”

Furthermore, a report from the Chicago Tribune found that since 2003, more than half of the sampling sites tested by the Chicago Department of Water Management were in homes owned by department employees and might not be located in high-risk areas.

So, Administrator McCarthy, when water systems, such as in Flint or Chicago, elect to use their own employees’ homes as sampling test sites with the employees themselves administering the test, what safeguards are in place to ensure that the results are not corrupted or skewed?

Ms. MCCARTHY. Well, there are protocols for this, and one of the things that—things that I have done is to send a letter to every Governor and every agency that has primacy on this across the U.S. to have them post their protocols to explain what they should do again and to make sure that they’re following that.

We’re also looking at how we can strengthen the lead and copper rule. It clearly needs to be strengthened. And I have never suggested that the system didn’t feel or that EPA isn’t looking at its own place in this.

The Office of the Inspector General is looking and investigating at my request to make sure that we did everything we could with the information available to us. But the one thing I’m just trying to make very clear is we did not create this problem. The question is did we run in and try to solve it and work it as quickly as we possibly could, and what else could we possibly have done?

And I’ve been trying to look and answer that question. And anybody who can tell me what else we could have done under the law, I want to hear it, or even under common sense. Because this is an area in which I agree with the Governor —

Ms. DUCKWORTH. Well, let me answer that for you because I am not on your side in this.

Ms. MCCARTHY. I realize that.

Ms. DUCKWORTH. I am certainly not on the Governor’s side. I am not on your side. The answer to you is would you not rather have jumped in too soon, despite the law, to protect the children of Flint and be hauled into Congress or testify and explain why you stepped in too quickly to safeguard health, as opposed to why you didn’t act soon enough?

Ms. MCCARTHY. Congresswoman, we actually didn’t understand or know the full extent of the problem until July, July of last year.

Ms. DUCKWORTH. But you still did nothing.

Ms. MCCARTHY. No, that is —

Ms. DUCKWORTH. Let me make—let us go back to —

Ms. MCCARTHY. Congresswoman —

Ms. DUCKWORTH. No, no, no. I am talking here.

Ms. MCCARTHY. Okay.

Ms. DUCKWORTH. Let us go back to the law. You said—earlier, you said that MDEQ was telling you that they were taking action.

Ms. MCCARTHY. Yes.

Ms. DUCKWORTH. So you waited for them to take action, and they slow-rowed everything.

Ms. MCCARTHY. No. No, Congresswoman, just let me explain. There's two tests that Congress has given us because Congress was very clear in the law and also in the Congressional Record that they wanted us to keep in our lane, and they didn't want us to step on States' rights.

Ms. DUCKWORTH. Okay.

Ms. MCCARTHY. Two things. I had to have the data, which I told you I didn't have until July 21st, and I had to show that the State wasn't taking appropriate action. On the 21st, they said they would. I had no justification legally.

So what we tried to do was to get information into the community's hands. We tried to tell the public there is a problem here.

Ms. DUCKWORTH. Okay. I only have 30 seconds left. So I am going to take my 30 seconds. Do we need to change the law? Do we need to change the statute so that you will step forward sooner when you have an epic failure on the part of the Governor of a State, as is in the case of Governor Snyder's absolute failure in protecting his citizens in Michigan?

Do we need to change the law?

Ms. MCCARTHY. Well, it's a very—a very high hurdle.

Ms. DUCKWORTH. Because we asked this question of the EPA as recently as yesterday, and you didn't answer it. And so, tell me, do you need to change—do we need to change the law so that you step in sooner?

Ms. MCCARTHY. It is a very high hurdle, but I will say in 35 or 36 years almost of working in this business, this is the first time that I have seen a State fail to abide by the recommendations we're giving them.

Ms. DUCKWORTH. You are not answering my question.

Ms. MCCARTHY. But most States work collaboratively with us. We have to strengthen the lead and copper rule for sure.

Chairman CHAFFETZ. The gentlewoman's time—the gentlewoman's time has expired.

Members are advised that there is a vote on the floor. It is the first of probably two votes. We are going to stand in recess and reconvene no sooner than 10:45 a.m.

The committee stands in recess.

[Recess.]

Chairman CHAFFETZ. The committee will come to order. We will now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Administrator McCarthy, I am sure I am assuming that you either saw or you were briefed on the hearing that was held by this committee this past Tuesday. Is that correct?

Ms. MCCARTHY. I was brief on it, yes, sir.

Mr. HICE. Okay. Then I am sure you are aware that Susan Hedman, of course, former head of Region 5, testified under oath that she acted immediately upon the findings regarding the present high level of lead in the water.

However, in the same hearing, Dr. Edwards, whom you just referred to moments ago as both an expert and a hero in this whole matter, he repeatedly, time and again, refuted her testimony and

thereby, obviously, the entire region's actions to this thing. And so let me start right here.

Do you believe that Susan Hedman provided this committee with false testimony on Tuesday?

Ms. MCCARTHY. To the best of my knowledge, no, she did not.

Mr. HICE. Okay. Governor, let me ask you the same question. How do you feel about the testimony from Ms. Hedman?

Governor SNYDER. Um —

Mr. HICE. In regard to the EPA acting immediately upon getting information?

Governor SNYDER. Congressman, I appreciate—oh, I'm sorry. Congressman, I appreciate your question. That's why I had that moment where I cited three emails in particular that were EPA emails to the DEQ, and it was talking about their partnership to work these issues, and no flag was going up.

And I heard this. I'm sorry. For a moment, I heard this entire discussion about the law and this issue about saying you couldn't do things or couldn't do this or that because of the law. I have a really simple question. Why didn't Susan Hedman just call Dan Wyant?

Why didn't Administrator McCarthy just get on the phone and call me? This is now technical compliance again. This is that culture that got us in this mess to start with. Where is common sense?

Mr. HICE. All right. Let me continue on. Thank you for your answer.

Ms. McCarthy, so is it your testimony then today under oath that you believe that Susan Hedman and Region 5 did act immediately and do everything they could upon hearing the information?

Ms. MCCARTHY. They did, and they sought additional information. They did reach out. They consistently, from April on, when they found out there was no corrosion control, they consistently

Mr. HICE. All right. We have conflicting info on that. But that is your testimony under oath. Let me ask you this.

Ms. MCCARTHY. Mr. Hice, I'd just like everybody to look at the entire email record and not just a few.

Mr. HICE. We are. Speaking of emails, in September of last year, you were praising Susan Hedman and other EPA officials for their work on the Flint water crisis. Do you believe that that praise of Ms. Hedman was warranted?

Ms. MCCARTHY. I do.

Mr. HICE. Okay. I have here two letters, one written to—well, written from, in fact, Mr. Kildee, written to you in September, and it was asking you, begging you, please get involved in this situation. Are you familiar with that letter?

Ms. MCCARTHY. Yes, sir.

Mr. HICE. Okay. You did not respond to that letter. Susan Hedman responded, I am assuming on your behalf.

Ms. MCCARTHY. Yes.

Mr. HICE. Did you authorize her to do so?

Ms. MCCARTHY. Yes, I did.

Mr. HICE. Okay. Her response basically just fluffed off the entire thing, and by the way, Mr. Chairman, I would like both of these letters to be submitted for the record.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. HICE. And all of this is taking place in September at a time when you praising—did you at the same time praise Del Toral?

Ms. MCCARTHY. I actually did not know Miguel Del Toral at that point in time.

Mr. HICE. So you were not aware of the report or any—in September?

Ms. MCCARTHY. I was aware of the report. I did not know him in particular.

Mr. HICE. Okay. But you were aware of what he had brought forth, and you have referred to him as a hero —

Ms. MCCARTHY. And my email to Susan was her whole team.

Mr. HICE.—but you were not praising him, but you were praising Susan Hedman at the time?

Ms. MCCARTHY. Well, if you read it, it's to her and her team, and he was a vital member of that team.

Mr. HICE. So are you aware of any retaliation against Del Toral?

Ms. MCCARTHY. No, I'm not, sir.

Mr. HICE. So, and yet we have testimony or we have records that reflect that he certainly was retaliated against and was fearful of greater retaliation. But you are saying you have no knowledge of that whatsoever?

Ms. MCCARTHY. I do not believe that he was retaliated against. I have no information that indicates that he was.

Mr. HICE. Okay. Mr. Chairman, I will cede with further questioning. My time has expired. But thank you, and I will submit these.

Chairman CHAFFETZ. I thank the gentleman.

We will now recognize the gentlewoman from Illinois, Ms. Kelly, for 5 minutes.

Ms. KELLY. Thank you, Mr. Chair.

Thank the witnesses for being here.

Governor, I just had a question. Are there any arrangements being made for the people of Flint to get their money back for paying for water that obviously is damaging?

Governor SNYDER. Yes, Congresswoman. That process has already been set up. The appropriation has been made.

Ms. KELLY. Okay.

Governor SNYDER. We made a calculation. And again, people shouldn't have to pay for that water in terms of —

Ms. KELLY. I agree.

Governor SNYDER. So what we did is we did an analysis to show—there is a water and sewer bill. The sewer piece is a separate issue, but with respect to the water bill, we tried to do a calculation and we roughly said about half the water was for drinking, cooking, those kind of activities. The rest is for flushing your toilet, doing your laundry.

We rounded up to 65 percent. We went back in the records to April of 2014 through the period, and again, we—for our math, we used the end of April 2016. I'm not saying it will be done by then, and we'll add months if we need to. We did a calculation, and 65

percent of the water portion of the water and sewer bill amounted to \$30 million, roughly.

I went and asked for a supplemental appropriation. The legislators were very supportive. We've got that in place. Now we're working with the city, which actually runs the utility, to have some software programming done so we can apply it as a credit on their bill.

And the way it should work is as we get this set up —

Ms. KELLY. Okay. I just wanted to know that.

Governor SNYDER. I'm sorry. Just we are working hard to get this taken care of.

Ms. KELLY. As the chair of the Health Braintrust for the Congressional Black Caucus, you know, part of my mission is to look out for healthcare for underserved communities, low-income communities, and communities of color. And I have to tell you this really reeks of environmental discrimination, in my opinion.

Administrator McCarthy —

Governor SNYDER. Could I —

Ms. KELLY.—I want to ask about the State's repeated refusal to implement corrosion control, which the Governor's own task force concluded led to the mass poisoning of Flint residents. Let us walk through this quickly.

Governor Snyder's administration made the switch to the Flint River in April 2014. They initially told the EPA they had corrosion control in place. Is that right?

Ms. MCCARTHY. That's correct.

Ms. KELLY. Okay. But that was wrong. They didn't have it. According to the Governor's own task force, they told the city it was "not necessary." EPA discovered this, and on April 24, 2015, EPA official Miguel Del Toral sent an email to Governor Snyder's administration expressing concern that they had not started implementing corrosion control.

He wrote, and I quote, "As far as treatment determination, there are only two scenarios for a large system to be deemed to have optimized corrosion control without treatment, and Flint does not appear to meet either." Is that correct?

Ms. MCCARTHY. That is correct.

Ms. KELLY. Okay. Here is where I get really concerned. Even though the EPA told Governor Snyder's administration to implement corrosion control, they didn't do it. Months went by with no action by the State.

Finally, on August 17, 2015, the Michigan Department of Environmental Quality told Flint, and I quote, "The city must now recommend a treatment to fully optimize corrosion control treatment within 6 months."

So the State's response didn't happen until August. That was 4 months after the EPA warned Governor Snyder's administration that they had to do something. Is that right?

Ms. MCCARTHY. That's correct.

Ms. KELLY. Also, to me, 6 months seems ridiculously long time to wait when lead has been leaching from the pipes for over a year, and people throughout Flint were getting poisoned. Do you agree?

Ms. MCCARTHY. Yes, I do.

Ms. KELLY. That 6 months is way too long to wait. As it turns out, the State never implemented corrosion control prior to the

switch back to the Detroit River in October. And in December, the Governor's own task force, as we have heard, concluded that the actions of Governor Snyder's administration, and I quote, "led directly to the contamination of the Flint water system."

Do you agree with that finding?

Ms. MCCARTHY. Yes.

Ms. KELLY. I know people have asked you if you have any regrets or if you wish EPA had done anything differently. In this case, it seems like Governor Snyder and his administration were fighting you at every turn. They were completely unable to handle the crisis.

Looking back, do you regret that you didn't recognize the utter dysfunction in the State sooner so you could step in and take away control from Governor Snyder and his administration?

Ms. MCCARTHY. I think there were dots that we could have connected. I think we spent way too long trusting the State that they were doing the right thing. We begged to provide them technical assistance beginning in March. We begged them beginning in April to do corrosion control.

We begged them at the city level and the State level with personal communications, as well as professional.

Ms. KELLY. Because you are hearing it today and I have heard that, you know, accusations that EPA was too slow in responding to the Flint crisis. I agree that EPA should have acted more quickly to rescue the people of Flint from this mismanagement of the Governor and his administration, but it is the State that has the primary authority to enforce the Safe Drinking Water Act. Correct?

Ms. MCCARTHY. That's correct. And the hurdle to have done that, we didn't have the data until July 21st to tell us the scope of the problem, and we didn't have an ability then because they kept saying they were going to fix it. That's the way the law requires us to act.

Ms. KELLY. Thank you. And I also feel it is very ironic that Michigan's slogan was "Pure Michigan" because that was not the case.

Thank you. I yield back.

Chairman CHAFFETZ. The gentlewoman yields back.

Now recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes. Mr. Palmer is over here.

Mr. PALMER. Thank you, Mr. Chairman. I need my notebook.

Ms. MCCARTHY. Oh, I'm sorry. Thank you. Couldn't find him.

Mr. PALMER. Mr. Chairman, I just got my notebook back. May I yield and come back later?

Chairman CHAFFETZ. Yes. Let us actually recognize the gentleman from Arizona.

Mr. GOSAR. Thank you, Chairman.

I think Mr. Meadows is first. Okay. Well, Ms. McCarthy, how serious do you consider lead poisoning of humans, especially children?

Ms. MCCARTHY. It's one of the most serious things that we face, sir.

Mr. GOSAR. Wow. Okay. So let us go back because in July of 2015, Flint Mayor Dayne Walling emailed EPA Region 5 administrator Susan Hedman about a leaked internal memo that was sent

by EPA employee Miguel Del Toral to a Flint resident. The memo revealed that Flint's water tested high for lead, and Del Toral recommended that the EPA intervene.

Administrator Hedman replied that the memo should not have been leaked, called it a "preliminary draft report," and did nothing to address the serious threat that lead had created for the citizens of Flint.

When you were made aware of these communications between Ms. Hedman and Mayor Walling, did you ask Ms. Hedman to resign?

Ms. MCCARTHY. I do not believe that she indicated that any memo was leaked. It was actually sent out —

Mr. GOSAR. No, no. This is factual. So I mean —

Ms. MCCARTHY. I'm trying to just get the facts —

Mr. GOSAR. The facts are here. So, I mean, knowing this, did you ask her to resign?

Ms. MCCARTHY. No, sir —

Mr. GOSAR. I mean, so why not fire her?

Ms. MCCARTHY. Sir, her concern —

Mr. GOSAR. I mean, you know the seriousness of this issue, and yet you still don't do that. In fact, I am going to quote you. You praised her when she resigned.

Ms. MCCARTHY. She was not criticizing —

Mr. GOSAR. I mean, that is —

Ms. MCCARTHY. She was not criticizing Miguel's report. She was indicating that it was interim. There was more data to be done, and she was giving a heads-up because she knew that it had gone public because Miguel actually —

Mr. GOSAR. Oh, okay. So you know about the seriousness of the lead poisoning, and yet this is the action you take?

Ms. MCCARTHY. This —

Mr. GOSAR. Once again, I want to step you back. You made another comment here earlier that is insulting to us. Congress is specific on this about States' rights and not stepping on them. I want you to go back and start looking at your edit in regards to waters of the U.S. Let us keep going.

Is that a serious response really in regards to —

Ms. MCCARTHY. What?

Mr. GOSAR.—your response to Ms. Hedman. Is that seriously a response for somebody who understands the complexity and seriousness of lead poisoning? That is an appropriate response?

Ms. MCCARTHY. She did nothing to discredit —

Mr. GOSAR. That is my point. She did nothing. The point is you know better. She knows better. All we—this is not my first rodeo with you. Over and over again we have gone it. Remember Southwest Colorado and an ineptitude that you actually had there, too. There is a responsibility.

I look at the gentleman next to you as taking responsibility. I am looking at somebody else. I want to see responsibility, too, and the American people demand it. I mean, all I seen it, I have seen the chairman—over and over again, you still don't get it. Member after Member, you still don't get it.

You have bred a culture at EPA that is built of fraud, denial, incompetence, and bureaucratic nepotism. That is what you have done.

Ms. MCCARTHY. Well, sir, I'm not trying to shift responsibility or blame. I'm just trying to get facts on the table.

Mr. GOSAR. Yes, you are. This whole hearing that is all you have done is you have never taken accountability for any of the problems at the EPA. It is could we have done something better? Do you admit wrong? Maybe we could have done something a little bit faster. The timelines are very full and very factual.

So let me ask you another question. I want to go back to another thing. The committee has made multiple requests for EPA's documents relating to Flint. When do you expect those requests to be fully complied with?

Ms. MCCARTHY. Sir, we're working on all of the requests as fast

Mr. GOSAR. Give me a date. I mean, you are a professional at slow-walking and delaying information that is pertinent to this investigation over and over again. Some of the document productions have been redacted. Will you provide this committee with the full, unredacted copies of those documents?

Ms. MCCARTHY. Well, we released just 30,000 documents, sir. We'll keep releasing those, and I'm happy to give you a schedule on that when I can —

Mr. GOSAR. I asked you a—no, no, no. I asked you a question, specific terms. Are you going to release unredacted forms of these emails?

Ms. MCCARTHY. Of course, we'll respond to Congress and allow you to do your jobs as well.

Mr. GOSAR. Well, yes.

Ms. MCCARTHY. I just can't give you a schedule, sir.

Mr. GOSAR. That is the same old—same old crap that we hear over and over again. And that is not what the President promised us. He said the most transparent administration, period. And that includes you.

I mean, I am sick of this. And America should be sick of this bureaucratic nepotism, and you are the culture of the problem. I see somebody who is addressing it right here, as Governor of Michigan. But I don't see anything coming from your part of this problem. It doesn't condone that.

Not only am I asking you to be fired, if you are not going to resign, you should be impeached.

I yield back.

Chairman CHAFFETZ. The gentleman yields back.

We now recognize the gentlewoman from Michigan, Mrs. Lawrence, for 5 minutes.

Mrs. LAWRENCE. Thank you, Mr. Chair.

I want to say, as a Member of Congress representing a part of Michigan, this is very personal. It is a sad day for me.

Governor Snyder, you have stated that State officials did not tell you about these problems. As a matter of fact, in your statement—you swore an oath—you said it wasn't until October that you were aware of the problems.

But Governor, despite the huge numbers of news stories that were reported far and wide, let me show you some of those headlines. On June 2, 2014, only months after switching to the Flint water, NBC 25 stated, “Flint residents avoiding the tap, drinking bottled water instead.” On June 30, 2014, NBC 25 read the headline story, “Sewage released into the Flint River due to pump failure.”

It continues. In a little over a month, Detroit Metro Times ran “Flint residents concerned over discolored water.” And it continues. On September 7, 2014, Michigan Live ran “Flint expands boiled water advisory after more positive tests for total bacteria.”

And then it continues, on January 2, 2015, Michigan Live reported, “City warns of potential health risks after Flint water tests reveal too much bacteria.” It continues. March 2015, the Detroit News said, “Flint council votes for Detroit water, Mayor and EM are opposed.”

Did any of these reports and stories ever get reported to you? Did you ever observe them? Because according to your statement under oath, it was not until October that you became aware.

Governor SNYDER. There’s a difference in terms of what I became aware of. I was aware of water problems, and I was involved in having discussions to address those in terms of the resources we had currently available to us.

In terms of going back to your list, the color and odor of this water was not good, and you don’t want to see people drink that if you can help that. But we didn’t have all the resources we needed to do then, and they were working on these issues.

In terms of E. coli, in terms of other issues, we would continually go through in terms of —

Mrs. LAWRENCE. Mr. Snyder?

Governor SNYDER.—my administration and actually ask the experts —

Mrs. LAWRENCE. I want to add another, add another article. The National Journal, which I hold up here.

Governor SNYDER. Yes.

Mrs. LAWRENCE. It says, “Michigan Governor Snyder conceded Monday that his administration’s handling of the Flint water crisis is a stain on his legacy,” and I quote, “I’m not sure of the specific dates in terms of saying there are—there is any lead in the water sometime during 2015.” Again, they presented some of the information about having to do with a second set of tests.

Governor Snyder, we all know that when we are elected to an office, we take an oath, and we are empowered by the electorate to hire staff. Do you have regular staff meetings with those who report to you?

Governor SNYDER. I have regular discussions, and I get briefings from staff meetings.

Mrs. LAWRENCE. During these briefings, are you saying that the people you entrusted and you pay a salary with the taxpayers’ money, that they failed to inform you of a health crisis in your State?

Governor SNYDER. I will actually share the document with you, Congresswoman. This is my briefing of September 28th, ’15. This was after —

Mrs. LAWRENCE. Before that time. Before that time.

Governor SNYDER. This is the briefing —

Mrs. LAWRENCE. All the time these headlines are going, you did not —

Governor SNYDER. This briefing is still saying —

Mrs. LAWRENCE. You did not have any member—when you have Mr. Muchmore, who is your chief of staff, sir—this is dated July 22nd—telling other members of your circle, sir, that “I really don’t think people are getting the benefit of the doubt. Now they are concerned, and rightfully so, about the lead studies.”

Sir, this was January the 22nd. The 22nd. And you are saying under oath that it wasn’t until October. It was not until October.

Governor, you are my Governor. This could have been my city. And Governor, I just—for the life of me, I cannot understand that you, as a Governor, who led on the premise of operating as a business, you are going to operate as a government, that you met with your staff and they refused to bring you up to date, refused to bring you in, or you refused to engage.

This is a sad day in this country, and I am just sad about this, Governor. I am very sad about this. And accountability, accountability for those that you held accountable. You said you fired or they resigned. What does accountability look like for you?

Chairman CHAFFETZ. The gentlewoman’s time has expired, but the Governor may answer.

Governor SNYDER. Congresswoman, this is a sad event.

Mrs. LAWRENCE. It is so sad.

Governor SNYDER. This is a tragedy that never should have happened, and I understand why the people of Flint, they should be angry. In terms of looking at this, I kick myself every day, asking what more questions could I ask, what we could have done. We had a lot of discussions about water during that entire period, in line with the headlines you said.

But as we go back, the experts over and over again, we were told the water was safe. That was wrong, and I didn’t—it wasn’t just one department. As it continued on, we got information not only from the DEQ, but the Department of Health and Human Services that they didn’t see elevated levels in blood. That was wrong.

Dr. MONA SPOKE UP. So we had cases where it took outside experts. That’s tragic. We failed at doing what should have happened in terms of career bureaucrats that were experts, “experts,” that to be open with you, I get so mad that I never should have believed them.

And it ultimately came down to finally saying after those reports came out in September from Dr. Mona Attisha Hanna and from Professor Edwards, I said we have to have a call. That call was on September 28th. I’m happy to have this in the record. It’s tragic to have it in the record.

It’s to say here’s my briefing from the night before, and it’s information from both those departments dismissing people, not talking about the real issue. And when we got on that call, no, that was enough. But it was later than it should have been. I wish it would have been far earlier.

So the issue was, is I took immediate action. DEQ started talking about there could really be a lead problem. We had to confirm the

data on the blood level test. They came back and said Dr. Mona's work was correct.

And then we ramped into action in terms of filters, opportunities to do things, and that still wasn't enough. Every day I get up, and I say what we can do —

Mrs. LAWRENCE. There is a culture —

Chairman CHAFFETZ. The gentlewoman's—the gentlewoman's

Mrs. LAWRENCE.—in the State government that refused to give you information.

Chairman CHAFFETZ. The gentlewoman will suspend.

Mrs. LAWRENCE. And we have to stop that.

Chairman CHAFFETZ. The gentlewoman will suspend. We have been going—I appreciate the emotion and the connection to Michigan, but the gentlewoman's time has expired.

We have dealt with this —

Mrs. LAWRENCE. And I yield back.

Chairman CHAFFETZ. The gentlewoman yields back.

Governor, did you finish that question, or can we go to—yes, okay. We will go now to Mr. Palmer of Alabama for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman.

I want to follow up on some questions that have been asked and a point that was made. And you were asked, Governor Snyder, how did this escape your attention? And I just want to point out that your executive responsibilities include fiscal management and administrative oversight over multiple agencies. I think there are 18 agencies in Michigan.

Among those are education, Medicaid, public safety, health and human services, that sort of thing. This is in no way excusing you from the failure to protect the people of Flint, Michigan. But what I want to ask and I want to know, Ms. McCarthy, you have one agency, one agency, tasked with protecting the public in terms of environmental issues. How did this escape your attention?

Ms. MCCARTHY. The issue was called to my attention on September 3rd. Prior to that, it was called to Susan Hedman's attention, let's see, in late June. And Susan took action. Prior to that, the agency was directly involved.

I don't want anyone to think that January of this year was the beginning of our involvement. We actually heard from people back when the switch was made, and we relied too heavily —

Mr. PALMER. Ma'am? Ma'am?

Ms. MCCARTHY.—on the judgment of MDEQ and the fact that they were acting as a partner with other States, and we shouldn't

Mr. PALMER. Ma'am, I just want to point out, though, that you were—you sent an email February 26th. Actually, it is 2 days before Mr. Snyder made his call to take immediate action. And it appears he took immediate action. And you wrote to—and said this, that these Hedman and Grevatt emails "raised my level of concern," and then you suggested that they take options to intervene. But it wasn't until January 21st that you issued an order demanding action.

Ms. MCCARTHY. There is different levels of engagement and intervention. This agency aggressively intervened from day one.

Mr. PALMER. That is not—that is not the information that we have gotten. That is not what we are hearing from other folks.

Ms. MCCARTHY. I appreciate, sir, that. But that is a feel-safe that is a very high hurdle for the agency to take. We did take that when we thought that all of the other steps weren't working, and we took the step that was available to us in January. But it wasn't as if we didn't offer or intervene or provide advice in a way that the statute directs us to do.

Mr. PALMER. But there wasn't a sense of urgency here.

Ms. MCCARTHY. Oh, there was a sense of greater —

Mr. PALMER. You had—you had a paper. Mr. Mica brought that up. You had a research document.

Ms. MCCARTHY. Yes.

Mr. PALMER. A report from Mr. Del Toral.

Ms. MCCARTHY. Yes.

Mr. PALMER. And you deny that he was treated like a whistleblower, and we believe that happened. We have also seen emails from EPA officials to EPA officials on their personal email, by the way, which apparently that is okay at the EPA. You use your personal email and texting.

And it also went to DEQ, Governor Snyder, saying that the EPA was going to provide cover so that they could literally say they didn't get the report. We have got the email. So it appears to me that not only did you not take action, there was a cover-up going on that involved both the State of Michigan and the EPA.

But I think, fundamentally, the problem is with the EPA and not taking adequate action on revising the lead and copper rule. You guys have a history of covering up. You covered up the toxic release in Georgia. You tried to cover up the toxic release, your responsibility of the toxic release in Colorado. There is a pattern here.

And I just, for the life of me, cannot understand why the Federal Government has the public trust to protect the people of this country and we fail time and time and time again. And again, the State of Michigan is culpable in this, and I appreciate the fact that you have taken responsibility. But there is a whole lot more here, and I am going to ask one question. This is a yes or no. So don't filibuster the answer.

If Susan Hedman had not resigned, would you have fired her? That is a yes or no, Ms. McCarthy.

Ms. MCCARTHY. I didn't need to face that answer.

Mr. PALMER. No, no. It is a yes or no.

Ms. MCCARTHY. That is the best answer I can give you.

Mr. PALMER. That is not a good answer.

Ms. MCCARTHY. Okay.

Mr. PALMER. Would you have fired her? Can you not hold anyone responsible for these actions? Are you incapable of that?

Ms. MCCARTHY. I actually will, but the failures that have been identified —

Mr. PALMER. When?

Ms. MCCARTHY. The failures so far that I understand were a failure on our part because the region actually trusted the State.

Mr. PALMER. You are filibustering.

Ms. MCCARTHY. Instead, we talked too long.

Mr. PALMER. Governor Snyder, I have got one last question for you. Michigan has a \$600 million surplus and over \$380 million emergency fund. Do you have the resources to fix this problem?

Governor SNYDER. We're devoting \$232 million is the appropriation I'm asking for for Flint. There is a huge number of actions. We've already gotten \$67 million of that approved through our legislature. I'm putting for—I'm asking for \$165 million to go in a statewide infrastructure fund to deal with not only Flint, but other communities as a catalyst to start this discussion.

So we've made a huge commitment, and I'm on the ground there, taking actions with a great team of people because they deserve a fix. And I appreciate this committee doing hearings on why. Be open with you. My heart and focus is what can I do every day to make Flint a better place to help make up for this tragedy?

Mr. PALMER. Thank you, Mr. Chairman.

Chairman CHAFFETZ. The gentleman's time has expired.

We will now recognize the gentlewoman from New Jersey, Mrs. Watson Coleman, for 5 minutes.

Mrs. WATSON COLEMAN. Thank you, Mr. Chairman.

One quick statement to Ms. McCarthy. We are finding out that even in the State of New Jersey, we have issues where high lead content exists, and children are being exposed. I don't know what you are doing, but I hope that when I call back to New Jersey, you all are doing something there.

Ms. MCCARTHY. We sure are.

Mrs. WATSON COLEMAN. Thank you.

Governor, how long have you worked with your chief of staff? How long has he been your chief of staff?

Governor SNYDER. I have a relatively new chief of staff.

Mrs. WATSON COLEMAN. Well, the chief of staff that was in the position when all of this occurred, how long had you worked with that chief of staff?

Governor SNYDER. He had joined me when I took office in January of 2011.

Mrs. WATSON COLEMAN. 2011. And before that, did you have any relationship with this chief of staff?

Governor SNYDER. No.

Mrs. WATSON COLEMAN. And do you know the first time this chief of staff had any knowledge of serious water problems in Flint, Michigan? The first time he knew?

Governor SNYDER. I can't answer that question. I don't know a specific date.

Mrs. WATSON COLEMAN. Do you rely upon your chiefs of staff like most of us rely upon ours, almost with our lives, to give us heads-up and to make sure that nothing confronts us that would embarrass us or put us in a bad position? Did you have that kind of relationship with your chief of staff?

Governor SNYDER. I view chiefs of staff as critical people that are part of the team for good, bad, whatever. But they're a key part of the team.

Mrs. WATSON COLEMAN. So would you really have us believe that your chief of staff never pulled your coattail in conversation in your office, on the phone, or whatever about what was happening in Flint, Michigan, and the complaints that were arising from both

the residents, from other officials, as well as what was being reported in the media?

Governor SNYDER. Yes, Congresswoman, as I said before, we actually had discussions on water issues in Flint. In terms of going through issues on topics, none of these issues dealt with the lead issue until much later in the process because our experts continually said there was not a problem.

Mrs. WATSON COLEMAN. But even if you weren't dealing with the lead issue, did you really deal with any other issue that presented a health condition to the people who were drinking that nasty water?

Governor SNYDER. Yes. There was one concern—and there was multiple concerns. The one that rose that actually was a major issue was TTHM, trihalomethanes, in particular.

Mrs. WATSON COLEMAN. I know what it is.

Governor SNYDER. So we had to address that issue, and we tried—we worked to get relief to the City of Flint.

Mrs. WATSON COLEMAN. I see that there is a lot of discussion to take place, but I don't see that a lot of work was done because I don't see that a lot of accomplishment took place.

Let me go to something else. You campaigned on reinventing government, and you said the government should be run like a business. Your administration and the emergency managers you appointed to control the City of Flint gambled with the health and welfare of the people in your city in order to save money. And those people, through no fault of their own, are now paying that price.

Governor, I want to know, I want to know, did that emergency management system fail under your leadership in this instance?

Governor SNYDER. In this instance, it would be much to the case that I have is you wish they would have asked more questions. They would have pushed harder —

Mrs. WATSON COLEMAN. So is that a yes or a no?

Governor SNYDER. In this particular case with respect to the water issue, that would be a fair conclusion.

Mrs. WATSON COLEMAN. It would seem to me that is a very important issue, since it negatively impacts the health and well-being of children perhaps even into their adult lives, impacting their ability to learn and to be successful in life.

Your own former adviser, Dennis Schornack, learned the lesson because he said, "Government is not a business, and it cannot run like one. The people of Flint got stuck on the losing end of decisions driven by spreadsheets of water quality and public health."

Were you wrong to run that government like a business?

Governor SNYDER. In terms of running it like a business, a government is not a business.

Mrs. WATSON COLEMAN. It isn't. So why would you say it should be run like one?

Governor SNYDER. In terms of accountability and measurements and delivering real results to people and in terms of not just Flint, but the State of Michigan, I'm very proud. We did things as Healthy Michigan, bringing Medicaid expansion to citizens, bringing Healthy Kids Dental to help kids with dental care.

Mrs. WATSON COLEMAN. You know what? You know, you can just go right on and just talk about all the things you want to talk about. I am going to ask the questions I want to ask.

When the elected leaders of Flint wanted to switch back to safe water drinking from the Detroit system, your handpicked emergency manager overruled them, saying, "It would be incomprehensible." Do you agree that it would have been incomprehensible, or do you agree that that was a mistake?

Governor SNYDER. In retrospect, you wish it would have been a change back. The challenge would have been funding the cost. It would have resulted in a water —

Mrs. WATSON COLEMAN. Well, let us talk about —

Governor SNYDER. Yes.

Mrs. WATSON COLEMAN. Let us talk about the cost. You had the money. You amassed a budget surplus. So why wouldn't you think that it was worthy to apply those resources in this situation?

Governor SNYDER. I'm sure you're quite familiar, being in Congress, that the chief executive, the Governor or the President, doesn't simply spend money. We need authorization from the legislature. I had no authority to do that.

Mrs. WATSON COLEMAN. Did you go to the legislature and ask for the authority at that time?

Governor SNYDER. We went—we went and got \$2 million, the maximum grant we could, in terms of helping with water infrastructure in Flint.

Chairman CHAFFETZ. The gentle—the gentle —

Mrs. WATSON COLEMAN. You know—you know —

Chairman CHAFFETZ. The gentlewoman's time has expired.

Mrs. WATSON COLEMAN. Well, thank you, Mr. Chairman. Because the only question, the only statement I would like to make is that —

Chairman CHAFFETZ. The gentlewoman's time —

Mrs. WATSON COLEMAN.—it seems to me that the buck stops —

Chairman CHAFFETZ. The gentlewoman will suspend.

Mrs. WATSON COLEMAN.—there, and Mr. Snyder —

Chairman CHAFFETZ. The gentlewoman will suspend.

Mrs. WATSON COLEMAN. Mr. Chairman, I yield back.

Chairman CHAFFETZ. The gentlewoman's time has expired.

We will now recognize the gentleman from North Carolina, Mr. Meadows, for 5 minutes.

Mr. MEADOWS. Thank you, Mr. Chairman.

To both of you, I am troubled today because of the testimony we had just a couple of days ago, which would indicate that even though there is enough blame to go around, there were a number of times where people acted like it wasn't their fault.

Governor, your emergency management testimony from the witness here was troubling because he acted like, "Well, I didn't know." And so, Governor, do you believe that there were people who made mistakes within your agency at multiple levels in terms of addressing the health and welfare of the people of Flint?

Governor SNYDER. Yes.

Mr. MEADOWS. Okay. Thank you.

Ms. McCarthy, I am going to ask you the same question because the witness that resigned indicated that there was nothing that they could have done differently, and there was no fault on her part or the part of the EPA as it related to this unbelievable, horrific event.

So do you believe that the EPA is partially at fault?

Ms. MCCARTHY. I believe that we could have taken different action and been more aggressive, yes.

Mr. MEADOWS. That is not the question. Are you partially at fault, yes or no?

Ms. MCCARTHY. I'm not playing a blame-shifting game, sir. It would be very easy for me —

Mr. MEADOWS. So you do agree that you are partially at fault.

Ms. MCCARTHY.—to do that, but I won't. We—the system failed. We were part of that system.

Mr. MEADOWS. All right. Let me go—both of them indicated that the rules with regards to copper and lead are somewhat ambiguous, that they needed a little bit more clarity. We have heard that. Would you agree with that, Governor?

Governor SNYDER. I would go much farther than that. It's a dumb and dangerous rule.

Mr. MEADOWS. Okay. All right. Ms. McCarthy, would you agree that the rules, the current rules as they are, are ambiguous, need more clarification?

Ms. MCCARTHY. They definitely need clarification. They need to be strengthened, and we're taking a look at that. But they're fairly clear about what should be done in this situation.

Mr. MEADOWS. Okay. So let me stop you there because if you are taking a look at it, here is my concern. Because when anybody says there is nothing at fault, we started doing some research. Clean water safety, Clean Water Drinking Safety Act of 1991 required rules to be updated every 6 years.

Ms. MCCARTHY. Yes.

Mr. MEADOWS. Do you know how many times it has been updated fully since 1991?

Ms. MCCARTHY. I don't know how many —

Mr. MEADOWS. I do. The answer is zero. Zero. In terms of fully updated, it is zero. It was modified slightly in 2007. And so here we have the safe drinking water standards that needed to be updated, and yet the EPA did nothing about it.

Now I could go further to say, well, maybe the EPA didn't know. But we did a little research on that, too, and to quote, the GAO in 2006 said, indeed, that you needed to update your rules. Are you aware that the GAO has a problem with the copper and lead rules?

Ms. MCCARTHY. I am aware that they were last updated in 2007 under the prior administration.

Mr. MEADOWS. Okay.

Ms. MCCARTHY. That's what I'm aware of.

Mr. MEADOWS. All right. So let me ask you even further because I went to your documents, which were actually regulation documents saying when you were going to update the rules. And so, in 2010, you said that you were going to have a proposed rule in 2012 and a final rule in 2013, long before this problem would have happened if you just had stuck with your original timeframe. The prob-

lem is, is I can go through multiple papers here, and I can find that you never—you just kept changing the goalpost in terms of the rules.

And in fact, even as recent as this last fall, you changed it again to say that not only are you going to do a rule sometime in the future in 2018, you don't even talk about a final rule.

Now do you not see a problem with the fact that the law requires you to do a new rule every 6 years, at least revisit it, and that you haven't revisited it in 10 years and that you keep changing the goalpost? Do you not see some fault there?

Ms. MCCARTHY. Well, the revisions actually started in earnest in 2012 or 2013 —

Mr. MEADOWS. But you said—according to your own document, you said you were going to have them done in 2013.

Ms. MCCARTHY. We have—we have a stakeholder group that's very actively told us that we cannot make tweaks to this. We have to make some substantive changes, issues that would have been helpful in this case.

That does take more time than making small tweaks, and that is what we're working on now, and I'm glad we know even more today than we did before. We're going to take a look at it and get it done.

Mr. MEADOWS. Okay. Well, let me tell you why I am concerned with that. In the same time about the small tweaks —

Ms. MCCARTHY. Yes.

Mr. MEADOWS.—the EPA has passed 3,571 rules in that time-frame while the people of Flint and maybe Washington, D.C., are waiting on a final rule. You have the wrong priorities, Ms. McCarthy.

I yield back.

Ms. MCCARTHY. If they had—if they had properly implemented the law as it currently exists, we wouldn't be sitting here today. As it currently exists, we wouldn't be sitting here today.

Chairman CHAFFETZ. But you are in charge. You are the Administrator.

Ms. MCCARTHY. Actually, the State is in charge —

Chairman CHAFFETZ. But you are in charge of the lead and copper rule.

Ms. MCCARTHY.—to fully implement or enforce the rule. Sir?

Chairman CHAFFETZ. You are in charge of the lead—you think the Governor is in charge of the lead and copper rule? You are in charge of the lead and copper rule, writing the rule.

Ms. MCCARTHY. I'm telling you that we didn't need any change to the rule in order to have prevented this problem from happening. It was the way in which MDEQ actually interpreted it and implemented it that was the problem.

MDEQ has said it. The Governor's task force has said it.

Chairman CHAFFETZ. You are wrong. We are going to come back.

Ms. MCCARTHY. The State auditor —

Chairman CHAFFETZ. We are going to come back to this. Let us recognize the gentleman from Pennsylvania, Mr. Boyle, for 5 minutes.

Mr. BOYLE. Thank you, Mr. Chairman.

Governor Snyder, over the past 2 years, you and the individuals you handpicked to carry out your administration's actions missed so many opportunities along the way to protect the people of Flint. When the water changed color to brown and orange, your administration said the water was safe.

When people reported rashes, hair loss, odor, and even sewage, your administration said the water was safe. When E. coli and fecal bacteria were found in the water and boil water alerts were distributed, your administration said the water was safe.

When a harmful byproduct of disinfection in the water began to spike after the switch, your administration said the water was safe. When Legionnaire's disease began to infect and later kill numerous citizens, your administration said the water was safe.

Governor, don't you have a moral responsibility to resign?

Governor SNYDER. My commitment is to fix the problem. This is a case where we should have demanded more answers. I said that in my opening statement. And again —

Mr. BOYLE. And don't you have a moral responsibility, as the Governor of an administration that failed and poisoned its own people, don't you have the moral responsibility to resign?

Governor SNYDER. What I would say is, is when you have experts that you relied on, they failed. They worked for me. So you have a responsibility for that. I kick myself every day, wishing I would have demanded more answers and asked more questions.

But put it in context, when something bad happens—and this is a terrible tragedy, this has been the humbling experience of my life, is —

Mr. BOYLE. I believe for the citizens of Flint, it has been far worse than just a humbling experience.

Governor SNYDER. I believe the right answer is to—to walk away from it, I want a commitment—I'm making a commitment to solve this problem because —

Mr. BOYLE. Let me —

Governor SNYDER.—the Flint people deserve better.

Mr. BOYLE. Let me—I think that answer speaks for itself. I think that, ultimately, when people are at the head of a government, they have to take responsibility for their administration's failures.

But, Ms. McCarthy, I want to switch to you because while this has been possibly the largest and most glaring failure of government since Hurricane Katrina, I am concerned about the extent to which this could be a canary in a coal mine. So let me ask you specifically about my own home State of Pennsylvania.

In 2014, the Pennsylvania Department of Health identified 18 cities in my State that have higher lead exposure than Flint does. So what is the EPA doing now, outside of Flint, to ensure that other localities don't end up in exactly the same situation?

Ms. MCCARTHY. Well, thank you for raising that because that's one of the issues that has a spotlight on it. We should try to make something good happen of this.

We—actually, I have written to every Governor and to every primacy agency, the ones that are responsible for implementing and enforcing the Safe Drinking Water Act, to ask them to look at all their protocols, to look at what their guidance is, to explain to them what we know they should be doing, to actually post their proto-

cols, to relook and confirm to us that they're implementing the law as it has been intended.

We even went further to suggest that every test they take should be posted on the Web. They should post every lead line on the Web.

I know that people have lost faith in government as a result of this. The best way we can help them—in us—is to have everything be so transparent that individuals can hold us accountable.

One of the challenges we faced here, Congressman, is we just couldn't get a straight answer anywhere. People don't deserve that out of their government. I will take responsibility for not pushing hard enough, but I will not take responsibility for causing this problem. It was not EPA at the helm when this happened.

Mr. BOYLE. Thank you, and I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We will now recognize the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Great. I know it is difficult to get government to work for a variety of reasons. That is why some of us like less government because it is very hard to get it to work.

I guess my first question is for Governor Snyder. Like every Governor, you inherit, in your case, you said, what, over 40,000 employees. You didn't pick those employees. Frequently, because of the political clout, even if you have an employee over a period of time who is lazy or not doing their job, it is difficult to get rid of those employees.

You have gotten rid of several of them. I maybe missed a couple of the comments here. But in general, as you go through the five or six employees who you feel were most callous and uncaring, were they your political appointees, or were they civil servants who you inherited?

Governor SNYDER. Now with respect to, again, I use the words in quotes, Congressman, the "experts" that were in the water safety division, I believe on average, you'll find their experience was somewhere between 20, 20-some years to 30 years of government experience.

Mr. GROTHMAN. So, you know, you can be an expert, but if you don't care, doesn't matter how expert you are or how many classes you have taken in school. So in other words, largely, the people that you got rid of were people that had been around there for 20 years, civil service protection, that sort of thing?

Governor SNYDER. Yes, the head of the water division that was terminated had 28 years' experience.

Mr. GROTHMAN. I know it is very difficult for a Governor to come in there and clean house with civil servants, and I am sorry it had to be such a tragedy to bring their incompetence to light.

Question for Gina McCarthy. It seems to me, before this hearing, the most callous Government employee we have had before is Susan Hedman. We found out yesterday that she actually had been reached out and grabbed by your predecessor, Secretary Jackson. I wish Secretary Jackson would be here to explain what in the world she was doing hiring Susan Hedman.

But as you go through the people in your agency that have made huge mistakes—I don't see how you can deny they have made huge

mistakes—could you rattle off the people who you feel are most responsible for this mess?

Del Toral, he wasn't a political appointee. He was an example of a good civil servant, who was around there, you know, fighting to get the answers out here, as far as I can see, when Susan Hedman was trying to keep them in the dark. But would you rattle off the people you feel are most at fault in EPA?

Ms. MCCARTHY. No, sir. I think that that would be one of the easiest things I could do is to find a couple of career bureaucrats to pin the problem on.

Mr. GROTHMAN. I don't think it is career bureaucrats.

Ms. MCCARTHY. That's not my job, and I'm not going to do that.

Mr. GROTHMAN. I think it is Susan Hedman. Well, I don't think it was career bureaucrats. I think it is Susan Hedman. But go ahead.

Ms. MCCARTHY. Well, Susan Hedman didn't know about this issue until late in June. She took immediate action. She actually worked—was it June or July? I forget. I apologize. She took immediate action to reach out. She even put a desk statement out that got picked up in local newspapers about the lead concerns. We did everything according to the numbers.

And the reason why I am so impressed with Susan is that she immediately came and resigned because she could have waited to try to find somebody to blame it on, but instead she wanted full attention on Flint and the ability for EPA to help resolve that situation, and she resigned.

Mr. GROTHMAN. Wait, maybe I missed something. When did she resign?

Ms. MCCARTHY. She resigned in late January.

Mr. GROTHMAN. That is not immediate.

Ms. MCCARTHY. Because she was working the issue.

Mr. GROTHMAN. That is like after 6 months.

Ms. MCCARTHY. I'm sorry, sir. She was working the issue every day. The question was did we have too much interaction with the State, trusting individuals who were not giving us the right information?

Mr. GROTHMAN. Wait a minute.

Ms. MCCARTHY. But she worked really hard. In fact, it was Susan who forced our way onto the task force so we could be helpful in designing a strategy moving forward.

Mr. GROTHMAN. It was —

Ms. MCCARTHY. It was Susan who suggested not—to go back to the Detroit water. It was Susan who suggested that bottled water would be necessary. So she was taking the steps she needed to try to resolve the problem.

Mr. GROTHMAN. It would seem to me that if the Del Toral memo was made public, that would have raised the sense of crisis, that

Ms. MCCARTHY. Sir, it was made public. It was public the day he sent it out. The only thing she was reacting to —

Mr. GROTHMAN. Well, okay —

Ms. MCCARTHY.—was the fact that it was —

Mr. GROTHMAN. Stood with the memo and rather than saying that the memo was, oh, rather than downplaying the memo, highlight it.

Ms. MCCARTHY. Well, sir, if you look at the entire chain of our emails, you will see that Miguel was the person that everybody in that region turned to for advice on how to handle this. He was part of our task force. He was part of the decisions every step of the way.

We in no way sidelined him. It is actually something that MDEQ started by saying he was some kind of a rogue employee. It was Susan Hedman that called MDEQ and said to stop doing that. That is not the case. He's part of our team and a valuable member.

Mr. GROTHMAN. I just think it is incredible that after all these people went through, you can't still identify any people who did a bad job. I mean, it just is amazing to me.

But, okay, I am done with my time.

Ms. MCCARTHY. Sir, I have asked the Office of the Inspector General to give their eyes on it. I can't possibly know everything that happened.

Do I think the system failed? Yes. Do I think EPA could have been more aggressive if we knew we weren't getting the right information? Absolutely.

Even when we figured that out, we talked to the State for too long. It should have been elevated. I would have loved to have an opportunity to intervene in a more aggressive way.

Chairman CHAFFETZ. Well, all right. Mrs. Maloney of New York is now recognized for 5 minutes.

Mrs. MALONEY. Administrator McCarthy, would you please check on the level of lead in New York City's water and get back to me? And I am grateful that there are professional employees working for the health and to protect the health of the American people, and I want to thank you for the job that you are doing.

Ms. MCCARTHY. Thank you.

Mrs. MALONEY. The people, people in Flint were drinking high levels of lead in their water, and Governor Snyder, you utterly failed in your responsibility to protect them. Earlier, you testified that we needed action. We needed action by the EPA. We needed action by the city council.

But even after you found out that there were problems, that it was on paper in front of you, with your staff, once you knew, even when you knew, you delayed, and you put people's lives in danger.

On April 25, 2015, EPA official Miguel Del Toral sent an email to Pat Cook at MDEQ on the State level, expressing concerns that no corrosion control was being used in Flint, and he wrote, and I quote, "I'm worried. I'm worried that the whole town may have much higher lead levels than the compliance results indicated."

And I'd like his note put in the record, please.

Mrs. MALONEY. But Governor Snyder, you didn't add corrosion control in April. You didn't add it in May. You didn't add it all summer long, and you didn't add it in October. And even when you switched back to the Detroit water, you didn't add it then.

So you never added corrosion control the entire time that your citizens were drinking out of the Flint River. And isn't that true, yes or no? Yes or no?

Governor SNYDER. In terms of your —

Mrs. MALONEY. Yes or no? Get back to me in writing if you can't answer a yes or no right now.

Governor SNYDER. There should have been corrosion controls and common sense from day one. They were not there.

Mrs. MALONEY. Okay. They were not there, but —

Governor SNYDER. They were there when —

Mrs. MALONEY. Excuse me. Excuse me. I am asking the questions. I asked for a yes or no. Get back to me in writing, and I can give you a paper trail that for 6 months, you knew, and you didn't do anything about it.

And EPA, it was EPA that warned you. It was EPA that warned the State, and I find that unconscionable. And I am asking you to warn me if there is any problem in the State of New York. Please. And I am grateful we have professionals who can do this, who can act, and they did act.

Now let me turn to another delay. The October 2, 2015, you unveiled your so-called "comprehensive action plan" to address Flint's water crisis. But you didn't declare a state of emergency until January 5, 2016. Isn't that right?

When did you—it was January 16th, and that was 3 months later, and I find that unconscionable. And you absolutely didn't call the National Guard in until even later, until January 12th.

And Governor Snyder, on November 13, 2015, the Deputy State Director of Michigan State Police sent an email to one of your legal counsels with the subject line, "Declaration Questions." He wrote, and I quote, "As you know, the Governor can declare at any time for any reason a state of emergency."

That email was sent in November, yet you still waited 2 more months before you declared the emergency. And how can you explain that to the people of Flint, who are now incredibly sick?

The truth is, is that you dragged your feet because you didn't want to take responsibility. In fact, that very same email from that last November lays out clearly, it states, and I quote, "The State will formally own the event if we put a Governor's declaration in place. This could be viewed as the State having owned up to how the water issue was caused."

And Governor Snyder, your people knew in April that you should be using corrosion control, but you did nothing for 6 months. You dragged your feet in declaring an emergency, based on political and financial concerns. And say whatever you want, say whatever you want about being in the dark, about the warning signs, but even when you did know, even when you did know, you did nothing.

So your delay sickened an untold number of additional people. I believe this is a national disgrace and a national scandal. And I think we all should learn from it.

Chairman CHAFFETZ. The gentlewoman yields back. The gentlewoman's time has expired.

We will now recognize the gentleman from Georgia, Mr. Carter, for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman.

Ms. McCarthy, I am a freshman. I have been here for 16 months now, and I struggle sometimes with acronyms. Can you help me out? EPA, what does that P stand for?

Ms. MCCARTHY. Protection.

Mr. CARTER. Protection. Protection?

Ms. MCCARTHY. Yes.

Mr. CARTER. I thought that was the case. So just a second ago, I looked up the definition of “protection.” It says, “A person or thing that prevents someone or something from suffering, harm, or injury.” You would agree with that?

Ms. MCCARTHY. Yes. Sounds right.

Mr. CARTER. Sounds right. So Environmental Protection Agency.

Ms. MCCARTHY. Correct.

Mr. CARTER. Ms. McCarthy, I am correct when I say that EPA has the authority to warn the public when there is contamination in the drinking water that poses immediate threat to human health. Is that correct?

Ms. MCCARTHY. Yes.

Mr. CARTER. Yes. So you are aware of the June 2015 memo from Miguel Del Toral. You are aware of that, correct, of that memo?

Ms. MCCARTHY. Yes.

Mr. CARTER. Yes. Okay. So Mr. Del Toral, who we have established, and we established it 2 days ago when Ms. Hedman was here, he is a drinking water specialist. In fact, he was a member, a key member of the Region 5 safe drinking water task force.

Yet when Mr. Del Toral reported the high levels of lead in Flint’s drinking water, the EPA, the Environmental Protection Agency, they didn’t do that. They didn’t protect the public. They didn’t warn the public.

Instead, Ms. Hedman, she had a bunch of excuses, none of them which I believe. But she had a lot of excuses as to why the EPA, the Environmental Protection Agency, didn’t take any action.

None of them would have prevented, none of them would have prevented EPA from standing up and saying, “Hey, don’t drink that water. It has got lead in it. Stop. Don’t drink it.”

None of the excuses she had would have prevented EPA from doing that. But EPA did not do that. They did not protect. They did not—they did not prevent someone or something from suffering, harm, or injury.

Mrs. MALONEY. Will the gentleman yield?

Mr. CARTER. I do not yield. Ms. McCarthy, you had an op-ed in the Washington Post.

Ms. MCCARTHY. Yes.

Mr. CARTER. And you stated that EPA repeatedly and urgently told the State of Michigan to act with a sense of urgency and inform the public. Is that correct?

Ms. MCCARTHY. That’s correct.

Mr. CARTER. Yet as I understand it, you mean to say that you repeatedly told the State of Michigan to warn the public about the toxic levels of lead in Flint’s public water, in their water. Is that correct?

Ms. MCCARTHY. We repeatedly told them that they had to begin corrosion control —

Mr. CARTER. You know, a little while ago, you asked—you said, you know, I wished we could have done something different.

Ms. MCCARTHY. Yes.

Mr. CARTER. Whether it would have been by the law or through common sense. Would common sense not have told you, hey, hey, stop drinking the water?

Ms. MCCARTHY. Not at that point in time.

Mr. CARTER. Not at that point in time?

Ms. MCCARTHY. No. No.

Mr. CARTER. At what point in time?

Ms. MCCARTHY. The challenge was that you're referencing a report that if you look at the final clearly indicates that it was most likely a localized issue. I cannot make —

Mr. CARTER. So what Ms. Hedman did, she sought a legal opinion. She—well, that makes us all feel better. My goodness, I mean

Ms. MCCARTHY. That's not what she did, sir.

Mr. CARTER. She did. She sought a legal opinion on this.

Ms. MCCARTHY. No, it —

Mr. CARTER. And I know everybody here feels much better about that because the Environmental Protection Agency, we are going to make sure we got a legal opinion first before we tell these people stop drinking that water.

Ms. MCCARTHY. This report was done after we had been working with the State to tell them consistently that they had to start corrosion control. But I cannot, nor could the region, base the decision

Mr. CARTER. But corrosion, Ms. McCarthy —

Ms. MCCARTHY. Yes.

Mr. CARTER. Corrosion control.

Ms. MCCARTHY. Did I say corrosion control, right?

Mr. CARTER. You did.

Ms. MCCARTHY. Okay.

Mr. CARTER. Okay, but that is not what we are concerned about. Because at this point, we know there is lead in the water.

Ms. MCCARTHY. Well, we knew that it was —

Mr. CARTER. But you have got to stop it.

Ms. MCCARTHY.—a localized area, and we were concerned about it being —

Mr. CARTER. This didn't come from just some member. This came from a drinking water specialist.

Ms. MCCARTHY. Yes, and his advice was heeded.

Mr. CARTER. His advice was heeded immediately?

Ms. MCCARTHY. His—we did everything we have available to us.

Mr. CARTER. Was it heeded immediately? Everything that you had available to you?

Ms. MCCARTHY. Yes.

Mr. CARTER. So you are telling me you got on TV and you said, "Don't drink the water. There is lead in the water. Don't drink it."

Ms. MCCARTHY. No. Because the only thing we knew, there was lead in three in a very localized area. Had I made the assumption, using a presumption like a precautionary principle —

Mr. CARTER. Ms. McCarthy, I am sorry. I am not with you on this because, again, Environmental Protection Agency. You are trying to prevent someone or something from suffering harm or injury

Ms. MCCARTHY. So we will — we will look —

Mr. CARTER. The EPA. Why don't we change the acronym? I mean, come on. Let us just change it to something else. Let us take prevention out of there.

Ms. MCCARTHY. Sir, the State did give the State—the law did give the State primary authority.

Mr. CARTER. The law. The law.

Ms. MCCARTHY. We provided advice and assistance.

Mr. CARTER. Now I don't think anybody here cares about the law.

Chairman CHAFFETZ. The gentleman's—the gentleman's time has expired. The gentleman yields back.

Mr. CARTER. Thank you, Mr. Chairman.

Chairman CHAFFETZ. We will now recognize the gentlewoman from New Mexico, Ms. Lujan Grisham, who is to your far left.

Ms. MCCARTHY. Thank you.

Ms. LUJAN GRISHAM. Thank you, Mr. Chairman.

And this is a really tough hearing for all of us, right? And as both sides try to tackle this problem, because our real issue here is to figure out how we prevent it from happening ever again and, secondly, what we can do about restoring faith to the—our constituents who don't believe either of you. Right? And there is plenty of reason for them not to believe either of you.

Now, Governor, I worked for three Governors. I was—those Governors were just as lucky as I was as their appointee. Two different parties, 17 years, and I will tell you what. I got plenty of emails and calls from Governors who told me to light a fire in my department and move quickly to address problems. So I am having trouble with "I wasn't really sure."

And I will tell you, as a Member of Congress, when there was a veterans wait list, my hospital said, "We don't have that." I didn't believe them. I was right. I went down there and got it myself.

When our Social Security office, I was having millions of complaints—that might be a bit of exaggeration—but thousands. The Social Security office told me everything was fine. So I went down there and got in line. It wasn't fine. They were harming people. All right?

You have an obligation, the both of you. But Governor, particularly you, because these are constituents in your control with your cabinet. I was the health secretary. When we had any alert, we got on it.

You said you were the common sense Governor in your campaign. When you knew in the fall of 2014 that you had fecal coliform was detected in the Flint water, there were boiled water alerts, what caused you with everything else that you saw in the press, in addition to your own staff, not to have a common sense approach and just fix it? Because I don't understand.

Governor SNYDER. That issue did get resolved in terms of the E. coli issue. Again, this is where you look back in hindsight. Again, I wish we would have asked a lot harder questions.

Dan Wyant, the head of the department —

Ms. LUJAN GRISHAM. So what are we going to do with Governors in your situation? Because if they say later, "I wish I had done more. You know what? There were warning signs. We did a little, but not enough."

And the same, the same with the Federal Government. What do we do so that everybody sitting here today is clear that when there is a warning signal, no matter how small—and here, they weren't small. They were not small. They were huge.

Then what do we do as policymakers to make sure that my constituents in my State and all over the country who have similar issues that are ready to have the same consequences, that they are going to believe their State officials and their elected officials and their appointees? Because that is really what I want to do going forward. How do I do that, sir?

Governor SNYDER. In my "state of the State" address, I stood up and said these were failures. We need that urgency. I demand that people bring me these issues. And in terms of issues like Flint, getting daily updates —

Ms. LUJAN GRISHAM. How many staff have been held accountable? How many retrainings have you had? How many water tests are you doing? Look, I got a jet fuel problem in my district. Everybody was working on it.

Well, that isn't enough. I went to the Pentagon. Now they are actually pulling it out of the water and treating it. I mean out of the aquifer. Because I am not a jet fuel expert, but I am pretty sure it shouldn't be in my drinking supply.

So for 15 years, bureaucrats and other leaders just let it sit there while they studied it. So what exactly, give me a list of the things that you are doing right now to address these constituents who have been actually harmed, who could be harmed, every water system in your State. How much money have you identified and appropriated to make sure that you are dealing with it productively?

Governor SNYDER. One of the things included in your exhibits is actually an excerpt from a report that I helped create, and we track information on Flint on a daily basis that gets aggregated. It talks about every active water customer. It talks about how many —

Ms. LUJAN GRISHAM. So tell me the constituents that you responded to based on that report.

Governor SNYDER. The constituents? We're out to talk to every person in Flint in terms of getting their water.

Ms. LUJAN GRISHAM. You are talking to them?

Governor SNYDER. In terms of a visit to their home —

Ms. LUJAN GRISHAM. So that is your response to date is to know who is affected maybe by your report —

Governor SNYDER. No.

Ms. LUJAN GRISHAM.—and then to talk to them?

Governor SNYDER. Not maybe. It's to go to their homes to actually have an opportunity to ask would you like a filter? Would you like a water test? How can we help support you in terms of getting water? Again, we haven't hit every home, but we're actually tracking people in terms of detail.

Ms. LUJAN GRISHAM. So let me ask you this question. I think that is not—and this is my opinion as someone who does this kind of work for my whole career, we would just fix the water system so that it is all safe. But what do you do with someone like my mom, who has got a cognitive impairment, and you go to her house, and you ask her? What about that constituent?

Governor SNYDER. We ask them to dial 211 or get in contact so we can help bring water to them.

Ms. LUJAN GRISHAM. I think I have my answer, sir. I don't.

Chairman CHAFFETZ. The gentlewoman's time has expired.

We will now recognize the gentleman from Tennessee, Mr. Duncan, for 5 minutes.

Mr. DUNCAN. Governor Snyder, I think everyone should respect the apology that you have offered because I believe that everyone realizes there were mistakes made at every level here, local—the local level, the State level, the Federal level. I think, sir, you have accepted far more blame for this problem than you deserve.

I can tell you that several years ago in another committee, I chaired the Water Resources and Environment Subcommittee for 6 years, and I traveled all over this country. And I can assure you that this is a problem with our clean water and waste water infrastructure that has been building up for many, many years.

Many of the systems in the Northeast and Midwest are 75 or 100 years old, and this is—and where it is especially acute is in the people have been moving for many years from the high-tech States to the low-tech States, and they have been moving, I understand that Flint's population was 193,000 in 1970, and now it is 99,000. And what has, unfortunately, happened, not just in Flint, but in many cities, the higher-income people have been the first ones to move, and it has left these cities with not enough money to do all the things that they need to do.

And then I personally have hated to see and have spoken out for years against the fact that we have spent trillions over the last 15 years in a failed effort to rebuild the Middle East, and we haven't done enough for our own country.

But do you realize, sir, that this is a problem, very longstanding, that was there long before you took office?

Governor SNYDER. In terms of we have a number of urban and actually rural areas that have major challenges, and that's why I've tried to work hard to improve those places. And again, that's in short of things getting such as Healthy Michigan to get healthcare to people, in terms of Healthy Kids Dental, a program to bring dental care, in terms of Pathways to Potential, a program where we put caseworkers in the local schools.

Great Start is a program we have to complement Head Start, where we're bringing opportunities for preschool to kids all over Michigan. We created Community Ventures, a program where we've put over 400 and some people in permanent jobs in Flint in terms of people that were structurally unemployed because the Federal programs weren't doing enough.

We're going to add to that, to go to supplement that is we need programs like Early On to help kids when they're born to get an assessment of where they're at, to do developmental childhood. These are all the kind of programs. I appreciate your comment. Some of these are in response to lead. Many of these we were doing.

But the thing is, is let's do things here that not only can help mitigate the lead. We can't take that back, but we can do every mitigation we can. But it can also help with other issues so we can create an environment for success in these communities.

Mr. DUNCAN. Let me mention one other thing.

Governor SNYDER. Yes.

Mr. DUNCAN. You mentioned the, what was it, \$267 million or some figure?

Governor SNYDER. Two hundred thirty-two.

Mr. DUNCAN. Two hundred thirty-two million. My guess is, is that there is very few cities anywhere around the size of Flint that are getting that kind of money or that kind of attention to their systems, and I am glad that it is happening.

But before my time runs out, I do want to say that I chair now in this Congress the Clean Water Caucus, and we have been—everybody has been trying to bend over backwards to place blame someplace or another. And as I said, there are many people who should be accepting responsibility for this other than you.

But there are two bills that I have, H.R. 499, which is the Sustainable Water Infrastructure Investment Act, and H.R. 4468, the Water Infrastructure Trust Fund Act, to set up a trust fund for waste water and clean water systems. If people want to do more than just place blame, but if they want to actually try to do something to help not just Flint, but cities all over this country, then I would appreciate if they would talk to me about these bills.

I yield the balance of my time to the chairman.

Chairman CHAFFETZ. I think we will go to the next speaker unless you have something else?

Mr. DUNCAN. That is all right.

Chairman CHAFFETZ. Given the time, the gentleman yields back. We will recognize the gentleman from Vermont, Mr. Welch.

Mr. WELCH. Thank you very much.

I thank the Administrator for being here. I thank you, Governor, for being here.

You are witnessing the kind of usual scene here in Washington, where we are trying to figure out who to blame the most. But we have got a real problem. We have got a real problem, and Governor, obviously, you have got major responsibility. And I want to focus on the solution.

I mean, a lot of Governors, I think if they had this problem, they would be out there digging trenches and replacing pipes. You have requested from the Michigan legislature a little over \$200 million. Is that correct?

Governor SNYDER. Yes, \$232 million, \$67 million of which has already been appropriated.

Mr. WELCH. All right. So you have got \$67 million. Now is it the intention in using this money, in addition to dealing with infrastructure issues, to address the health needs of these children who have been permanently injured as a result of ingesting lead in the water?

Governor SNYDER. Absolutely.

Mr. WELCH. Explain to me what the plan is for mental health. Explain to me what the plan is for cognitive disabilities. Explain to me what the plan is for daycare. Explain to me what the plan is to assist these parents whose kids are in their arms, are not whole like they would be, whose future is compromised, and these parents, in the midst of contending with this, have to figure out how to go work when their kids need them at home.

So my question is if you acknowledge that those are real issues as a result of ingesting the lead, what in the \$238 million is going to address those ongoing needs?

Governor SNYDER. Yeah. And Congressman, what I'd say is it's worse than you stated it, in my view. I appreciate all the things, but —

Mr. WELCH. Yes, I didn't ask —

Governor SNYDER.—in terms of what we're doing, in terms of physical, social, and educational well-being, of the \$232 million, \$63 million is identified that, and the programs break down as follows. And I apologize, the time limits. Early On is a program to help kids from birth, essentially, to have assessments a couple times a year and then have intensive follow-on services to the degree the assessments identify issues. We're talking about adding developmental childcare to help kids beyond that point.

Mr. WELCH. I am going to interrupt. I appreciate it. I only have 5 minutes.

Governor SNYDER. I'm sorry. I thought you asked me to answer —

Mr. WELCH. No, I did. And I am going to let—you can submit that in writing.

Governor SNYDER. Okay.

Mr. WELCH. But here is the apprehension I have. I am a parent, and you have got these programs you just announced. I am trying to figure out today what I do tomorrow. And who does the parent call when things aren't working out? Who does the parent call when they are late for work because their child is having an episode? You know, will there be somebody answering the phone?

Governor SNYDER. My commitment is to get a long-term solution to this.

Mr. WELCH. All right. So let me ask you this. You have got about \$1 billion in Michigan from—partly from a rainy day fund, right, and partly —

Governor SNYDER. No, it's about \$600 million, but it is a significant amount of money.

Mr. WELCH. In the rainy day fund?

Governor SNYDER. Yes.

Mr. WELCH. And then you have some money from your surplus?

Governor SNYDER. That money is also being identified for the State water infrastructure fund.

Mr. WELCH. All right. Let me ask you this. Let us say that when your own assessment reaches the conclusion that to meet those needs that you have acknowledged—I described them, and you said my description didn't actually fully state how bad it really is. If new revenue is required to meet the obligations to these young children years from now that your assessment shows today that money will be needed, and it requires you to promote revenue-raising measures in order to get it, would you do that?

Governor SNYDER. What we're doing already is we've identified ongoing dollars that we think are appropriate to cover the cost of those programs. But to go to your point, one of the things in particular I have in that appropriation is a \$50 million reserve. Because it's too soon to tell all these things.

Mr. WELCH. Yes, but you have asked for \$238 million. We don't know what it is going to cost. We just don't know. We are in the wild blue yonder here. You don't know. We don't know. Let us be fair. None of us really know.

And you wish, and I am sure as we all wish, this didn't happen. But there is an open-ended problem where we are going to be hemorrhaging lives and futures unless we really double down now. And what assurance would I have as a parent that those future and even unknown needs are going to be met if I don't have a State through its Governor saying whatever it takes, we are going to be there?

Governor SNYDER. Well, that's why I've made a commitment to get these resources to start these programs with significant reserves to say we will learn more. I appreciate your comment.

Mr. WELCH. All right. One other—one other question. You know, I actually buy into the argument that a lot of my Republican colleagues make about local control. I think the more things are done at the local level, the better.

But the request now and your request is the \$750 million from the Federal Government —

Chairman CHAFFETZ. The gentleman's time has —

Mr. WELCH. Okay. I appreciate the indulgence.

Chairman CHAFFETZ. Okay. The gentleman's time has expired.

Mr. WELCH. Yield back. Thank you.

Chairman CHAFFETZ. Members are advised that there is a vote on the floor, but it is in the intention of the chair to continue the hearing until its conclusion. Both of these people have a lot of things to do rather than wait around for us to continue to vote.

So Members will have to make a choice, and we will continue until we have run through the questioning.

We will now recognize the gentleman from California, Mr. DeSaulnier, for 5 minutes.

Mr. DESAULNIER. Thank you, Mr. Chairman.

And Governor, one of my favorite quotes from Justice Brandeis is a familiar one that he said that the cure for what ails government is frequently sunshine. So my comments are consistent with that. And if you could be brief so that I won't have to interrupt you, I would appreciate that.

So, as you know, the committee has requested copies of all your records relating to the Flint water crisis. And this week, your attorney told our committee staff that you deleted personally many of your emails. He also said you only started preserving emails in April of 2013 when a litigation hold was placed on your account. Is that true, and have you ever acknowledged that previously in public?

Governor SNYDER. I hope that would have been corrected because that's not accurate.

Mr. DESAULNIER. All right. In your "state of the State" address, you committed only to releasing emails from 2014 and '15. Have you committed since then to release the emails from 2013?

Governor SNYDER. I'm releasing my personal emails related to this going back to 2011. We're releasing executive office emails, and we're going through the process of departmental emails. So far, we've got 43,120 pages up on the Web of documents.

Mr. DESAULNIER. Okay. And in terms of the timeline, the switch to the Flint River, of course, was in March of 2013. That was a month before you stopped deleting your emails. So the question is have you directed any of your staff, given what you just said, to search backup files for any Flint-related emails prior to April of 2013?

Governor SNYDER. Again, Congressman, I thought I mentioned and I thought I communicated that that belief you had about the deletion was inaccurate.

Mr. DESAULNIER. All right. Just want to see if we are being consistent. I am not an attorney. So you don't have to worry about that.

Last week, your lawyer sent us a letter with the first set of documents. He explained that these documents were blacked out or redacted for a variety of reasons, and there are a lot of redactions.

For example, and I think we have a copy of what you sent us or your attorney sent us. There is a document entitled "Governor Rick Snyder, November 6, 2015," your weekend briefing. It includes a line about Flint water, and then 49 pages of redactions. Is there a reason, as far as you can remember, why there were 49 pages of redactions?

Governor SNYDER. Again, I didn't review this specific one. Those would have been issues other than Flint.

Mr. DESAULNIER. Okay. Would you—would you release that information, the redactions then to the committee staff, as we often ask for people to release their information?

Governor SNYDER. To the degree you have that request, I'm happy to go through the process of reviewing it. One of the challenges in particular with much of this information, there is personal, confidential information that if we were release, it would create liability for the State.

Mr. DESAULNIER. Mm-hmm. So you make a commitment to release those things that aren't personally liable —

Governor SNYDER. Again, there is a series of those issues, in addition to legal matters, that we need to be careful about. I'm happy to have the discussion.

Mr. DESAULNIER. Okay. Have you—and there is also an issue from our committee staff about campaign-related emails. Are you also willing to share those emails with us? Because some of them were concerned also overlapped in terms of information about what you were doing on Flint.

So you have your email in your Governor's office that you personally manage and then campaign related.

Governor SNYDER. It wasn't anything related, per se. It was an account originally created for my campaign, and I do some personal emails in. And I believe we've already posted much of that information on the Web.

Mr. DESAULNIER. Okay. As long as you are willing to share what the committee has asked you for, and if you could explain to us why you could not specifically on both accounts, that would be helpful.

And then we have asked your current and former staff to search their personal emails. Are you willing to—in terms of their relationship to this issue. Are you willing to share that with our staff?

Governor SNYDER. Again, I believe we've already done a lot of work on their government emails. I would have to look into the issue with respect to their personal emails.

Mr. DESAULNIER. Okay. And regards to, the last question, texting. Texting, are you equally willing to share that with the staff?

Governor SNYDER. I believe people are already making those reviews.

Mr. DESAULNIER. And just a comment, and this is all due respect to EPA, but in California, with all due respect and we have great regional administrators in Region 9, and I have had the pleasure to work with them. It is sort of hard to—I mean, we look at EPA in California as a threshold.

We are proud of the fact that we go beyond that. And this is decades of both Republican and Democratic administrations. So forgive me politically, but it seems as if, for people who, as Mr. Welch said, believe in States' rights and local control, you would be more willing to accept both responsibility when you slipped up.

And it just seems in terms of this finger pointing, I know in California, we would be very embarrassed, of course, in any of these kind of situation, and you have acknowledged that. But our threshold would be the California threshold, not the EPA threshold.

Do you have any comment on that? Governor Snyder?

Governor SNYDER. Oh, again —

Mr. DESAULNIER. I mean, it seems as if we are working for State rights, but when—when you fail, from my perspective, then the responsibility is the Federal Government. But when you do well, it is because the State has done well.

So there seems to be a disconnect here from my perspective.

Governor SNYDER. Congressman, if you'd like, I'd be happy to provide a copy of my "state of the State" address, where I stood in front of the entire State of Michigan and talked about this failure and how I apologized. I was sorry, and I'm going to fix it.

Mr. DESAULNIER. I understand. Sir, I appreciate that.

Governor SNYDER. So I've been very clear about accepting responsibility for the people that work for me, for the so-called experts that created this crisis that is a terrible tragedy that never should have happened.

Mr. DESAULNIER. Agreed.

Governor SNYDER. And I want to make sure it never happens again, and I want to take care of the people of Flint.

Mr. DESAULNIER. Agreed. And we also have to accept accountability.

Thank you, Mr. Chairman.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize myself, and I will not close this hearing until Mr. Cummings has equal time as well.

But let me go to Administrator McCarthy. The lead and copper rule requires you by law to update it every 6 years, but you did not do that. Correct?

Ms. MCCARTHY. It actually requires us to review it every 6 years to see if it needs to be updated.

Chairman CHAFFETZ. You don't believe that it is required under law to actually update it?

Ms. MCCARTHY. There are many laws that —

Chairman CHAFFETZ. You are just supposed to look at it?

Ms. MCCARTHY. No, sir. We were actively looking at this. We are actively looking at this rule. It is very challenging —

Chairman CHAFFETZ. But you said it is —

Ms. MCCARTHY.—if you want to do a substantive revision to it.

Chairman CHAFFETZ. Well —

Ms. MCCARTHY. If you want to do what the last administration did, just tweak it a bit, it doesn't take that long.

Chairman CHAFFETZ. Don't blame the Bush administration. You have been in office for more than 7 years now. So you said, in your own words, that you were going to have this new rule out in 2013. Correct?

Ms. MCCARTHY. I'm really not aware of that, sir. I know that the schedule that I'm aware of is a 2017 schedule.

Chairman CHAFFETZ. You mean the 2018 is what we heard testimony on.

Ms. MCCARTHY. Well, the draft would be out in 2017. That's what I'm aware of, my timeline.

Chairman CHAFFETZ. See, this is—this is what is so frustrating. You have somebody like an expert like Marc Edwards come and tell us there are so many ways around this and there is so much confusion. Do you believe there is any confusion about the lead and copper rule?

Ms. MCCARTHY. I do believe that it can be strengthened, and I do believe there were weaknesses —

Chairman CHAFFETZ. No, no, no. That is not what I asked, strengthened. I am asking if you think there is any confusion.

Ms. MCCARTHY. Well, I believe there probably is confusion. I'm not the one on the receiving end of it, but we work to clarify that whenever anyone has —

Chairman CHAFFETZ. You are the Administrator. What do you mean, you are not on the receiving end of it?

Ms. MCCARTHY. Well, I meant because we manage the program. The States do the implementation, and they do the enforcement. And in this case, we were very clear to them what their responsibility was under the existing law. So while I understand we should strengthen the law, I agree —

Chairman CHAFFETZ. So when—when —

Ms. MCCARTHY. We had what we needed in place to prevent this from happening.

Chairman CHAFFETZ. Really? But then why did it happen?

Ms. MCCARTHY. Because the State didn't implement and enforce appropriately.

Chairman CHAFFETZ. So you sent Miguel Del Toral in February 2015 out to go do the testing.

Ms. MCCARTHY. That wasn't for a lead and copper rule testing. That was a testing for an individual in their home, which ended up being three houses where there was a localized problem. I did not have information until July 21st that there was a systemic problem with that system. Yet as soon as we knew there was any problem in three houses, we told them to start doing —

Chairman CHAFFETZ. No, you didn't. No, you didn't.

Ms. MCCARTHY.—the proper treatment.

Chairman CHAFFETZ. No, because —

Ms. MCCARTHY. I'm sorry. We did.

Chairman CHAFFETZ. But the timeline is such that Miguel Del Toral goes, does the testing.

Ms. MCCARTHY. Yes.

Chairman CHAFFETZ. The report gets leaked, which he feels he was reprimanded for. It gets released. The Mayor calls the EPA, Susan Hedman, and says is this report true? Should I be worried? The answer is, no, you have nothing to worry about. And the Mayor went on television—we played it before this committee—and says it is safe to drink the water.

Ms. MCCARTHY. Sir, I think I tried to explain that Susan did not dismiss the substance of the report. She indicated that it was interim, the data hadn't been quality controlled, and it wasn't leaked. It was actually sent out. It was in the newspapers.

Chairman CHAFFETZ. That is not —

Ms. MCCARTHY. I mean, so the information was available.

Chairman CHAFFETZ. I know it was in the newspapers, and the ACLU was pushing on it, and the person's home that you came to, it was out there.

Ms. MCCARTHY. And when in April —

Chairman CHAFFETZ. So why—why—why do the testing if you are just going to simply blame the State? I mean, there is no doubt and the Governor has admitted that the people and the information that were happening from the career bureaucrats at the Department of Environmental Quality got it wrong.

But let me read to you this. This is you said they did everything, that you immediately wanted to have everything done on the corrosion control. Correct?

Ms. MCCARTHY. I said by starting April 24th, when we realized that they were not doing corrosion control, we told them under the current law they should do it.

Chairman CHAFFETZ. Okay. Well, I am going to enter into the record an email. Who is Jennifer Crooks?

Ms. MCCARTHY. She is one of our staff people, our managers in the water program in the region.

Chairman CHAFFETZ. Is she competent?

Ms. MCCARTHY. As far as I know. I don't know her personally.

Chairman CHAFFETZ. Okay. Well, on July 1st, she sends, and there are a lot of DEQ personnel on here, and I am going to read part of what she says. You just said that you told them to introduce the corrosion control in April.

This is what she wrote to the Department of Environmental Quality. "The idea to ask Flint to simply add phosphate may be premature. There are many other issues and factors that must be taken into account, which would require a comprehensive look at the water quality and the system before any treatment recommendations can and should be made."

Ms. MCCARTHY. Then let me explain that, if you wouldn't mind?

Chairman CHAFFETZ. Sure.

Ms. MCCARTHY. Because that actual advice came from Miguel. Because when I say you need to do treatment, it does not mean that I have a switch to turn on. He indicated that the agency didn't

have the full water quality data. That's when we demanded and offered and begged to be on their technical advisory —

Chairman CHAFFETZ. You were. This was a conference—it was a summary of the conference call between DEQ and the EPA.

Ms. MCCARTHY. No, there was a Flint technical advisory committee —

Chairman CHAFFETZ. What do you mean, no?

Ms. MCCARTHY. I'm sorry.

Chairman CHAFFETZ. Look, the public can look at this for themselves.

Ms. MCCARTHY. Okay. But it was not as easy as flipping a switch. It did not mean that they didn't need to require to do it. The question was whether we were going to be premature and how best to get that done —

Chairman CHAFFETZ. No, what you did is you came here and you blamed solely the State. And I am here to tell you the State has a big part of this blame. I am not trying to excuse them whatsoever. But you are trying to excuse everything from the EPA saying you told them to put phosphates in the water, and they didn't.

Ms. MCCARTHY. Sir, I'm not trying to shift blame —

Chairman CHAFFETZ. The documents—no.

Ms. MCCARTHY.—I'm trying to get facts on the record.

Chairman CHAFFETZ. Wait until I am done asking you the question. The documentation says that you actually had a conference call from the EPA telling DEQ to not do it yet.

Ms. MCCARTHY. No, we were telling them that they had to do corrosion control. The method and treatment depended on experts to tell them how to do it. We offered that consistently from March on —

Chairman CHAFFETZ. What did you tell them?

Ms. MCCARTHY.—and they actually never even took us up on it until September.

Chairman CHAFFETZ. That is not true. I am going to enter into the record, we entered this before, November 3rd. Who is Peter Grevatt?

Ms. MCCARTHY. He is the manager, our drinking water office in headquarters.

Chairman CHAFFETZ. Yes, he is the Washington, D.C., expert. Here is what he wrote, okay? This is November 3rd. "It appears—it appears there are different possible interpretations of the lead and copper rule with respect to how the rule's optimal corrosion control treatment procedures apply to this situation, which may have led to some uncertainty with respect to the Flint water system."

So here you have a city who is begging for help. They know they are in trouble, okay? They are asking for that help, and I have got email after email from the Environmental Protection Agency saying, you know what, maybe you should hold off because we are not sure. Maybe there is confusion under the lead and copper rule. Maybe we are supposed to do 6 months of testing.

I am not excusing them at all, but you need to take some responsibility because you screwed up and messed up 100,000 people's lives, 100,000 of them. Ten thousand of those people are 6 years old and younger.

And you take no responsibility. You don't think you did anything wrong, right? You don't think there is anybody did anything wrong.

Ms. MCCARTHY. I already indicated that we could have worked more aggressively. I wish we had.

Chairman CHAFFETZ. Yes.

Ms. MCCARTHY. Can I explain the memo? Would you like me to?

Chairman CHAFFETZ. I want you to have an appreciation and an understanding of why the DEQ people are confused by the direction from the Department of Environmental—from the EPA.

Ms. MCCARTHY. There was no confusing signal sent from the agency during this period of time.

Chairman CHAFFETZ. What were they supposed to do? Should they have put the phosphates in the water, yes or no?

Ms. MCCARTHY. Not dumping it in without connecting with the experts, and they did not have the expert voice at the table because they refused to let us to the table.

Chairman CHAFFETZ. They were at the table. This comes from the EPA.

Ms. MCCARTHY. That is not—sir, I'm sorry.

Chairman CHAFFETZ. She starts the email —

Ms. MCCARTHY. That is not the task force we're talking about to provide technical expert.

Chairman CHAFFETZ. Okay. Okay, let us go through the list. Liane Smith, Richard Benzie, Kris Phillip, Carrie Monosmith, Dana—I am going to mispronounce their last name —

Ms. MCCARTHY. It's okay. I don't —

Chairman CHAFFETZ. Going through this. Hold on.

Ms. MCCARTHY. I don't know those individuals. So —

Chairman CHAFFETZ. Yes, they all work for you. And the EPA

Governor SNYDER. Some of them work for the State.

Chairman CHAFFETZ.—here is what it says. Here is what it says. I am sorry, DEQ. But from the EPA—thank you, Governor. The Governor knows who works for him.

“Below are my draft notes from our call last week. Thank you all for participating. I apologize —” first apology I have seen—“for the delay in getting out this draft for you to all review.”

And it says don't simply add the phosphates. Can you—I only want you to acknowledge is that there should be some —

Ms. MCCARTHY. Because it could have created more damage than it cured.

Chairman CHAFFETZ. Exactly. Exactly.

Ms. MCCARTHY. Water systems are difficult and deserve technical experts, which they did not have available. We did. They wouldn't let them at the table.

Chairman CHAFFETZ. They were at the table. They were in the same conversation.

Ms. MCCARTHY. That is not the table. That is a semi-annual call we have with the department where we share information. If you look through the record, we consistently said we have national experts. We want to help. We had worked behind the scenes to figure out how we could do that. We just never got invited, nor were we accepted at the table at this point.

Chairman CHAFFETZ. Okay, I am going to go through my last point, and then we will get to Mr. Clay here.

You said you didn't have the authority to do. I want to read to you part of the law here, okay? This is Section 1431, Part (d). Part (d), Section 1431 of the emergency powers within the Safe Drinking Water Act. It says, "The Administrator —" That would be you.

Ms. MCCARTHY. Yes.

Chairman CHAFFETZ. "— upon receipt of information that a contaminant, which is present in or likely to enter a public water system," and I am skipping ahead because it qualifies for terrorist attacks and all those types of things, "which may present an imminent and substantial endangerment to the health of persons and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons."

So if they weren't doing what you wanted them to do, why didn't you take action earlier?

Ms. MCCARTHY. You know, I'm surprised, Mr. Chairman, the second part is about States' rights, and what we have to do —

Chairman CHAFFETZ. What do you mean, the second part?

Ms. MCCARTHY. There is a two-part process to us actually issuing a 1431. The second is we need to make sure that the States aren't already taking appropriate action. That's what's so infuriating about —

Chairman CHAFFETZ. So when did you know that they didn't do it?

Ms. MCCARTHY. We knew July 21st that there was a systemic problem. The State agreed the next day, and then all they did was slow-walk it. That's why we had to do it the way we did. I wished we had gone further. I wish we had gone farther. I wish we had yelled from the treetops.

But there is no way that my agency created this problem or there was ambiguity in the existing law that wouldn't have done the same thing that the Governor said, which was let them know, use your common sense, don't put people at risk, just because we couldn't figure out that in the life of us, in our guidance, we never thought that anybody would go from a treated system to an untreated system and not treat it.

I didn't think we ever had to say that because I never thought anyone would. That's where we are today.

Chairman CHAFFETZ. You can't have it both ways. You can't have people on the ground testing it, people like Miguel Del Toral doing the types of tests —

Ms. MCCARTHY. That wasn't —

Chairman CHAFFETZ.—sending up the warning flags. No, sending up the warning flags, and then not acting.

Ms. MCCARTHY. Okay, sir.

Chairman CHAFFETZ. I have gone way past my time. We will recognize the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you. Thank you, Mr. Chair.

You know, I have to hand it to my Republican colleagues. They are actually making their argument with a straight face. You know, just to be clear, Republicans here today are claiming that the EPA, the Obama EPA should have been more aggressive in

stepping in, seizing control, and overruling the Republican-controlled State of Michigan.

They are just outraged that EPA wasn't more assertive with Michigan and didn't immediately go public with their complaints about the State's failure to follow the law. Ms. McCarthy, the irony is almost overwhelming, isn't it?

Ms. MCCARTHY. Yes.

Mr. CLAY. And Republicans have been absolutely slamming the EPA for overreaching at every possible turn. Now they criticize the EPA for not doing more when Governor Snyder fell down on the job. You know, let us go through some of these ridiculous Republican statements.

Donald Trump has called for entirely eliminating the EPA and handing power over to the State. He said this, and I quote, "Environmental protection, we waste all of this money. We are going to bring that back to the States. We are going to cut many of the agencies. We will balance our budget, and we will be dynamic again."

Ms. McCarthy, the EPA did ultimately step in here because Michigan was not doing their job, and if you have been criticized for not stepping in sooner—and you have been criticized for not stepping in sooner, right?

Ms. MCCARTHY. Yes.

Mr. CLAY. Another Republican candidate, Senator Ted Cruz, agrees with Donald Trump. He said this, and I quote, "I think States should press back using every tool they have available."

Were you aware of this statement?

Ms. MCCARTHY. Yes.

Mr. CLAY. Marco Rubio, now former Republican candidate, has vowed to scale back the Clean Water Act. He said this, "Regulations in this country are out of control, especially the employment prevention agency, the EPA."

Ms. McCarthy, that was a dig at you, right?

Ms. MCCARTHY. Yes.

Mr. CLAY. Saying that ensuring clean water costs too many jobs. Is that right?

Ms. MCCARTHY. That's how I would read it, sir.

Mr. CLAY. You know, there are many more Republican statements like this. Republican Governor Scott Walker, Wisconsin, has proposed converting the EPA into, and I quote, "an umbrella organization that really is limited to mediating interstate conflicts."

Senator Joni Ernst of Iowa said this, "Let us shut down the Federal EPA and focus on those issues where here in the State, where the State knows best how to protect resources." What about the State protecting people?

Ms. McCarthy, obviously, the State of Michigan did not know best in this case. They poisoned thousands of their own people. Is that correct?

Ms. MCCARTHY. They did not do their job, yes.

Mr. CLAY. You know, House Republicans, including those in this committee, have voted at every turn to gut the EPA's authority to enforce the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and the list goes on. You know, despite all these Republican statements that EPA should be eliminated and

that it overreaches, the main criticism of Republicans here today is that the EPA was not more aggressive in swooping into the State of Michigan.

What do you think, Governor Snyder? Was the EPA aggressive enough?

Governor SNYDER. Congressman, the way I view it is I don't want to get into finger pointing and blame. The State of Michigan, people that worked for me that were the experts made a mistake. They made a huge, tragic mistake in terms of going over to the Flint River.

They called for two 6-month studies to determine optimizing corrosion controls. That was not a good answer. Technically, they believe—I believe they believed they were doing the right thing. To put it in context, where is the common sense? Where is the urgency?

Because we were on Detroit water before, which had corrosion controls in it. Isn't it common sense you should also have them in the water you have coming in?

Mr. CLAY. Before my time runs out, what do we do now? What about—yes, I know they are talking about changing the pipes and the lead and all of that, getting that out of there. What do we do for the people who have been impacted negatively? Do we have a plan? Do you have a plan, as the State of Michigan?

Governor SNYDER. Yes, sir.

Mr. CLAY. What is it?

Governor SNYDER. And we're implementing it.

Mr. CLAY. What is it?

Governor SNYDER. It begins by we've had \$67 million in appropriations so far, and we're requesting \$232 million in total, and it's involving water, water infrastructure, food and nutrition because that's one of the critical elements needed, physical and social well-being and educational programs.

Mr. CLAY. Does it include early childhood development —

Governor SNYDER. Absolutely —

Mr. CLAY.—because those are the ones that are impacted the most?

Governor SNYDER. Under 6, critically important.

Mr. CLAY. Okay.

Governor SNYDER. Going on, water bill credit relief because they shouldn't have to pay for that water during that time period that they were using.

Mr. CLAY. Okay.

Governor SNYDER. And then a significant reserve fund because, as we go through this, we're going to find new needs, and we need to be ready to act.

Mr. CLAY. All right. And then that includes the adults, too? They probably need special attention also.

Governor SNYDER. Particularly people with suppressed immune systems, foster care situations, or elderly. Again, one of the things we took immediate action on that is mind-boggling about this whole process that I never understood is there is no requirement to test the school.

So not only have we gone into the schools to test them, we found they didn't have lead service lines going into them, but they had

problems with fixtures. So we simply said enough of the testing. Let's just start replacing fixtures in schools to address this issue.

Mr. CLAY. I see. Thank you for your response.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

And I will recognize the ranking member.

Mr. CUMMINGS. Thank you very much, and I want to thank our witnesses for being with us and staying through all of this.

Governor Snyder, based on the record before the committee, many of your top advisers and key State officials knew there was a problem with Flint's drinking water, but you say you were not aware. Now I would like to run through what these people knew.

First, let me ask you about one of your top legal advisers in your office, Michael Gadola. He wrote an email on October 14, 2014, stating, and I quote, "The notion that I would be getting my drinking water from the Flint River is downright scary. Too bad the emergency manager didn't ask me what I thought, but I am sure he heard it from plenty of others. My mom is a city resident. Nice to know she is drinking water with elevated chlorine levels and fecal coliform. They should try to get back on the Detroit system as a stopgap as soon as possible before this thing gets too far out of control."

That was written in America by one of your top legal advisers. Would you—would you consider him a top legal adviser?

Governor SNYDER. Yes.

Mr. CUMMINGS. Okay. Do you take your legal advisers' advice?

Governor SNYDER. On legal matters.

Mr. CUMMINGS. Yes, all right. Do you remember hearing any of this, getting this?

Governor SNYDER. I don't recall discussing it with him, and I don't believe I was on that email.

Mr. CUMMINGS. Okay. You didn't receive this email in 2014, and so did you know that your top legal adviser even raised these kind of concerns?

Governor SNYDER. I don't recall. I recall we were concerned about water in Flint, though. Again, the issue was not a lead issue at that time. There was issues with E. coli and the odor and color of the water.

Mr. CUMMINGS. You know, Governor, I keep hearing that, hearing you say things like that. But I swear to God, if somebody gave me water that looked like urine and had a smell to it, I am sorry, you know, maybe—maybe your standards are different. I wouldn't want my family drinking it, and I wouldn't want to be drinking it.

And my standard is I want for my constituents what I want for my own, my own family. And, but let us go on.

Let me turn to your top officials at the MDEQ. On April 17, 2014, about a week before they switched to the Flint River, the water quality supervisor at the Flint plant sent an email to three top MDEQ officials, Adam Rosenthal, Mike Prysby, and Stephen Busch.

Now let me tell you what he wrote, and I quote, "If water is distributed from this plant in the next couple of weeks, it will be against my direction. I need time to adequately train additional staff and to update our monitoring plans before I will feel we are

ready. I will reiterate this to management above me, but they seem to have their own agenda.”

Did you know that the water quality supervisor warned your top officials at MDEQ not to go forward one week earlier?

Governor SNYDER. To my knowledge, I had no awareness of that email.

Mr. CUMMINGS. That is not what I asked you. I said were you aware that they had the concerns?

Governor SNYDER. No.

Mr. CUMMINGS. Okay.

Governor SNYDER. I don't recall any.

Mr. CUMMINGS. All right. Let me turn to the Director of Urban Initiatives in your office, Harvey Hollins. In mid March 2015, Mr. Hollins received an email warning him that there had been a “significant uptick” in the number of reported Legionnaire's disease cases. Were you aware of that last March? Were you aware of that?

Governor SNYDER. Not to my knowledge.

Mr. CUMMINGS. Okay. Let me turn to your former chief of staff, Mr. Muchmore. Now I want to make sure, you know, somebody—I think I don't know whether it was Mrs. Lawrence, somebody was asking you about the structure of the way things are situated in your office.

But in congressional offices, for the most part, your chief of staff answers to no one but the congressman. Now is there anybody in between you and the chief of staff?

Governor SNYDER. No.

Mr. CUMMINGS. All right. So the chief of staff would answer directly to you?

Governor SNYDER. Yes.

Mr. CUMMINGS. All right. And if it is logical that if the chief of staff has some concerns and was saying we ought to do certain things, doesn't it seem logical that that would come to you?

Governor SNYDER. I don't recall specific conversations. We had discussions about water quality in Flint, and we were working a number of issues. You mentioned Harvey Hollins, I was working with the chief of staff and Harvey Hollins to get a donation of filters to deal with the odor and color issues for a pastor's group in Flint.

Mr. CUMMINGS. Well, in July, Mr. Muchmore, your chief of staff, he sent an email warning that residents “are concerned, and rightfully so, about the lead level studies they are receiving” and that they—“they are basically getting blown off by us.”

You were not on that email either, were you?

Governor SNYDER. No. I don't believe so.

Mr. CUMMINGS. Did—so he didn't forward it to you?

Governor SNYDER. I don't recall ever receiving it.

Mr. CUMMINGS. Does it alarm you that he is saying that they were blown off? In other words, your constituents, the ones that you asked to vote for you, the ones that you are supposedly about the business of improving their lives, were saying that they were being blown off. Does that bother you?

I mean, when you look back at it? I am not saying you knew about it, I am just asking you would it bother you?

Governor SNYDER. In terms of looking at the record, as I recall, he went out to both DEQ and DHHS and asked the experts the question in terms of the water being safe or not, and they told him it was. And that was wrong in retrospect.

Mr. CUMMINGS. Now, okay, it looks like almost everyone knew about these problems except you. You were completely missing in action. That is not leadership, do you think, Mr. Governor?

Governor SNYDER. I was not missing in action, Congressman. I had ongoing discussions about a number of water issues in Flint. I received several briefings on it, had a number of discussions. And the continuing response from the experts, whether to Dennis Muchmore or other people, when you look at the record is they would tell you it was safe.

Mr. CUMMINGS. Now you can understand why the residents of Flint would be skeptical about what you are saying, right? I mean, they are not like us. I mean, they just know somebody—they say, chief of staff, that sounds like somebody very important, sounds like somebody that would answer directly to the Governor.

I mean, you can kind of understand that concern, couldn't you?

Governor SNYDER. I absolutely do, sir, and I'm going to have to live with this my entire life.

Mr. CUMMINGS. On your Web site—but Governor, you know what? You know, I have heard you say that, but I got to tell you. There are children that got to live with it, the damage that has been done for the rest of their lives. And it is painfully painful to think that a child could be damaged until the day they die and that their destiny has been cut off and messed up.

So, yes, you have to live with it, but they, many of these children, will never be what God intended them to be when they were born and conceived.

I just have a few more questions. On your Web site, you say to the people of Michigan, "We will learn from this experience." But an entire generation has been poisoned.

Governor, what are those children supposed to learn from your utter lack of—let us say from this incident, what are they supposed to learn?

Governor SNYDER. One of the terrible parts of all this is there is a huge issue, in addition to all their medical issues and educational issues, as you mentioned, sir. But there is a question of trust in government.

Mr. CUMMINGS. Yes.

Governor SNYDER. And there is good reason for them to ask that question. And that is going to take a huge amount of time to earn back, if it can be earned back, and it involves getting third-party experts, such as Professor Edwards and Dr. Mona to be part of the process so people can have confidence and people they trust that were the heroes that helped bring this issue up.

Mr. CUMMINGS. Governor Snyder, I would like to talk to you about your priorities for a minute. In your administration, you have shown over and over again that money is a high priority. Despite the fact that Michigan had a budget surplus, you did not even bother asking the legislature to provide the money necessary to move Flint back to the Detroit water. The truth, Governor Snyder, is that Flint was not—did not seem to be a priority because on Jan-

uary 24, 2015, you sent an email to your staff with a list of priorities for 2015.

Most of the document is redacted, but we can see that number 36 on the list, number 36 on the list was the Flint water system. So, Governor, Flint water was not your first priority. It was not in the top 10, wasn't even in the top 20, not even in the top 30. Flint was number 36.

Shouldn't the children and the residents of Flint have been higher on your priority list, Mr. Governor?

Governor SNYDER. In retrospect, with it becoming a true safety issue with the lead issue, it should have been higher. That was not the issue at the time.

Mr. CUMMINGS. Now, Mr. Governor, we also know what you do prioritize. When things got rough for you and your administration started being investigated by law enforcement, you got the people of Michigan to pay your legal fees. Governor, do you admit here today that you have asked the people of Michigan for more than \$1 million to pay for your criminal and civil defense fees?

Governor SNYDER. Yes.

Mr. CUMMINGS. And it makes me sick to think you found a way to have the State of Michigan pay over \$1 million in legal fees, yet you thought so little of the people in Flint that you could not be bothered to ask the legitimate—the legislature for money to switch them over to clean water. You cannot be trusted, and I got to tell you, you need to resign.

[Applause.]

Mr. CUMMINGS. Mr. Governor, I know we are at the end of the hearing. I want to—and we are at the end, right? Are we?

I just want to thank both of you for being here. And we have got to do better than this. We all deserve better. And I told the chairman from the very beginning, no matter who is responsible, we wanted to address this issue.

And one of the things, Mr. Governor, 15 of your people, you talk about transparency, but 15 of your people refused to talk to us, refused. So I hope that you will urge them. I saw, read something yesterday where you said you urged them to talk. We need to hear from them. All right?

Thank you, sir.

Chairman CHAFFETZ. I thank the gentleman.

I want to thank all those that have participated in the three sets of hearings that we have had. There is no doubt, after having gone through this, that there were a lot of mistakes is just a total understatement. I want to thank those who have stepped up to be part of the solution, have recognized where wrong has been done because they really do need to take care of these children and take care of the people of the City of Flint.

And I know that is where everybody's heart is. Our daughter is getting married soon and moving to Michigan. So it—it is important, and it reaches real people's lives.

We get pretty heated. We get pretty animated. We get pretty—you know, we want accountability. But if you don't step up and understand the problem, if you don't step up and understand where the mistakes were made, if you don't take some accountability, then you don't solve it going forward.

That is my problem with the approach that the Administrator has taken. With all due respect, I know you love this country. I know you are working hard. I know you take a lot—a lot for it. But I also believe in my heart that it is just offensive to suggest that there was nothing wrong done, and to not apologize, it is just wrong.

So that is just my own personal opinion. We have all got our own personal opinions. I appreciate working with Mr. Cummings. We will continue to work together.

Yes, go ahead.

Mr. CUMMINGS. Yes, Mr. Chairman, again, I want to be clear. I thank you, I really do, for holding these hearings. Because I can tell you, a lot of chairmen would have never done it, and I really appreciate it. And on behalf of all of us, you have set a shining example of what leadership is all about.

Thank you.

Chairman CHAFFETZ. Well, thank you. Very kind to me.

I also want to thank Congressman Kildee. This is his district. He pours his heart and soul into this, and he cares deeply, and we thank him, too, as well.

[Applause.]

Chairman CHAFFETZ. I think that is appropriate, and with that, the committee stands adjourned.

[Whereupon, at 12:53 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

**“Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan,
Part 3”
House Committee on Oversight & Government Reform
March 17, 2016
Statement of Rep. Dan Kildee (D-MI)**

I would like to thank Chairman Chaffetz and Ranking Member Cummings for the Committee’s work on investigating the causes of the Flint water crisis and for holding three hearings on the matter to date. The people in my hometown greatly appreciate the Committee’s attention to this issue.

The people of Flint have experienced a terrible and, sadly, completely avoidable tragedy. For months, they were told repeatedly by the state of Michigan that their water was safe, we now know what the state knew at the time – that it was not. The broken trust in government will take years to rebuild, but the impacts of lead are permanent.

The people of Flint, especially thousands of young children, could face cognitive, behavioral, and developmental challenges due to lead exposure. Recently, a local press report quoted a young child in Flint questioning if he “was not going to be smart” – a feeling that represents the level of despair that this crisis has created for the people of Flint.

But while the Flint water crisis is tragic, it cannot be the end of the story. Flint is a strong community. Our people are tough. We can overcome this crisis, but we must have the resources – resources from the people that did this to Flint – to recover.

Our first priority needs to be ensuring safe drinking water for Flint residents. That includes replacing lead-service lines and replacing damaged pipes. Proper corrosion control needs to be optimized to ensure that the water is safe. Yet today, months after Governor Snyder admitted state responsibility for this crisis, Flint residents still cannot turn on their tap and drink the water. They have had to rely on emergency resources, including bottled water and lead-clearing filters, to use their water. This is unacceptable.

In the intermediate and long-term, there must be a comprehensive and fully funded plan in place to help Flint recover from this crisis. For example, we need resources to hire more teachers and special education professionals to help kids with behavioral issues. Local doctors have seen the demand for more health centers and mental health professionals; we must provide them additional resources. And the business community and economy of Flint has experienced the residual effects of the water. The businesses in Flint need help to recover and grow again. To this end, I have introduced the Families of Flint Act, which details the immediate and long-term steps required to overcome this man-made disaster.

The federal government has already stepped up in many ways to help Flint recover from this crisis. The President’s declaration of a state of emergency for Flint has brought nearly a hundred federal experts from HHS, FEMA and EPA to help respond to the crisis. Furthermore, HHS has expanded Medicaid eligibility to cover up to 15,000 children and pregnant women in Flint, increased the amount of available slots for Head Start and opened two new health centers. As we

are identifying the needs of the community, we will work with federal agencies to identify potential sources of additional funding.

I continue to work with Michigan's congressional delegation to advocate for additional federal resources.

Congress should also act without delay on legislation to help the people of Flint overcome this disaster.

While the federal government can and should do more to help, it is clear that the failure was primarily a failure of state government. It is time that the state of Michigan and Governor Snyder to accept the moral obligation to step up and help Flint recover from this terrible tragedy. The Governor's own task force report determined that the state of Michigan has the main responsibility for what happened in Flint. That fact is incontrovertible.

Genessee County Legionella

	2014		2015		Total	
Total cases	45	100%	42	100%	87	100%
Potential Health facility exposure	27	60%	23	55%	50	57%
No known Health facility exposure	18	40%	19	45%	37	43%
Flint Water at home	8	18%	3	7%	11	13%
No known HFE or Flint water	10	22%	16	38%	26	30%

CITY OF FLINT



Dayne Walling
Mayor

January 18, 2015

The Honorable Rick Snyder
Governor, State of Michigan
P.O. Box 30013
Lansing, MI 48909

RE: Flint Water Improvement Plan

Dear Governor Snyder:

On behalf of the Flint community, I am writing to convey serious concerns about water quality and to request your support for my proposed Flint Water Improvement Plan. Access to safe and clean water is a basic human right, and, therefore, policy and budget decisions need to ensure that water is affordable and secure for everyone in Flint and all across Michigan. It is essential there is City, State and Federal cooperation to address the challenges here and to meet the needs of vulnerable populations.

The Flint Water Improvement Plan is focused in five areas: safety, quality, access, investment and education. The plan puts safety and quality first because this is fundamental. It is designed to be a sustainable solution for the City of Flint and the community as we move towards a new permanent water supply from Lake Huron through the Karegnondi Water Authority. My plan offers new ideas and also builds on successful models of utility, energy and assistance programs at the State and Federal levels.

Safety & Quality

- 100% Safety is the standard
- City of Flint reports testing data to the public to assure safety and expands testing sites and frequency
- Bring on experienced river water treatment operational management in the City of Flint

Access

- Announce an amnesty program for Flint water service turn-ons and reduce the turn-on fee
- Develop a revised affordable payment plan policy to encourage customers to return
- Design Federal and State partnership to establish new Drinking Water Emergency Assistance Fund for the elderly and vulnerable families

Investment

- Accelerate water system improvements outlined in the City of Flint Capital Improvement Plan through Federal and State Investments
 - State approves City of Flint's Distressed Cities Fund applications

- Federal and State support for replacement or forgiveness of payment to the Drinking Water Revolving Loan Fund due to Flint's status as a distressed community
- Federal and State grants for infrastructure improvements in alignment with the Flint Master Plan
- City Water Department implements budgeted FY15 projects including leak detection, valve repairs, new pipes and meter replacements

Education

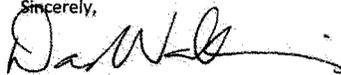
- Develop a community partnership with universities to provide household and business customers with information on testing and conservation
- Ongoing partnership with Michigan Department of Human Services, United Way, Salvation Army and community organizations to provide information and water assistance with the Keep the Water Flowing Fund and support services
- Expand youth energy initiative to assist households with conservation and efficiency (piloted in summer 2014 with Northwestern High School students, EcoWorks and Consumers Energy)

It is also critical to restore the public confidence in Flint Water. The implementation of this plan must be accompanied by extensive community engagement including local elected officials. My objective is to work with you and your appointed officials, State Senator Ananich, State Representatives Phelps and Neeley, Congressman Kildee, community groups, businesses, churches, foundations, the Flint City Council, and all of the City of Flint and government personnel.

It is imperative that we communicate better and provide residents more information. I understand representatives from the Michigan Department of Environmental Quality will be joining a public forum this week at City Hall. This engagement going forward is vital so thank you for supporting their efforts. I think this issue of transparency is important for communities all across the State. I recommend a review of the applicable laws and policies and, at a minimum, a new requirement that water testing data be reported publicly no less than quarterly by law in all Michigan communities in Flint's population category.

Thank you for the consideration Governor. There is nothing more important in Flint right now than fixing the water problems. We must work together to identify funds to repair and update the water treatment facilities and city-wide infrastructure and to help those persons without access to clean water so that the entire Flint community has sustainable, safe, secure and affordable water now and into the future. This is an important issue for the state of our State of Michigan and I urge you to work with us to implement solutions.

Sincerely,



Dayne Walling, Mayor
City of Flint

CC: Flint City Council President Joshua Freeman; Congressman Dan Kildee; State Senator Jim Ananich; State Representative Sheldon Neeley; State Representative Phil Phelps; Flint Emergency Manager Jerry Ambrose



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

REPLY TO THE ATTENTION OF

WG-15J

June 24, 2015

MEMORANDUM

SUBJECT: High Lead Levels in Flint, Michigan – Interim Report

FROM: Miguel A. Del Toral *WADT*
Regulations Manager, Ground Water and Drinking Water Branch

TO: Thomas Poy
Chief, Ground Water and Drinking Water Branch

The purpose of this interim report is to summarize the available information regarding activities conducted to date in response to high lead levels in drinking water reported by a resident in the City of Flint, Michigan. The final report will be submitted once additional analyses have been completed on pipe and water samples.

Following a change in the water source, the City of Flint has experienced a number of water quality issues resulting in violations of National Primary Drinking Water Regulations (NPDWR) including acute and non-acute Coliform Maximum Contaminant Level (MCL) violations and Total Trihalomethanes (TTHM) MCL violations as follows:

- Acute Coliform MCL violation in August 2014
- Monthly Coliform MCL violation in August 2014
- Monthly Coliform MCL violation in September 2014
- Average TTHM MCL violation in December 2014
- Average TTHM MCL violation in June 2015

In addition, as of April 30, 2014, when the City of Flint switched from purchasing finished water from the City of Detroit to using the Flint River as their new water source, the City of Flint is no longer providing corrosion control treatment for lead and copper.

A major concern from a public health standpoint is the absence of corrosion control treatment in the City of Flint for mitigating lead and copper levels in the drinking water. Recent drinking water sample results indicate the presence of high lead results

in the drinking water, which is to be expected in a public water system that is not providing corrosion control treatment. The lack of any mitigating treatment for lead is of serious concern for residents that live in homes with lead service lines or partial lead service lines, which are common throughout the City of Flint.

In addition, following the switch to using the Flint River, the City of Flint began adding ferric chloride, a coagulant used to improve the removal of organic matter, as part of the strategy to reduce the TTHM levels. Studies have shown that an increase in the chloride-to-sulfate mass ratio in the water can adversely affect lead levels by increasing the galvanic corrosion of lead in the plumbing network.

Prior to April 30, 2014, the City of Flint purchased finished water from the City of Detroit which contained orthophosphate, a treatment chemical used to control lead and copper levels in the drinking water. When the City of Flint switched to the Flint River as their water source on April 30, 2014, the orthophosphate treatment for lead and copper control was not continued. In effect, the City of Flint stopped providing treatment used to mitigate lead and copper levels in the water. In accordance with the Lead and Copper Rule (LCR), all large systems (serving greater than 50,000 persons) are required to install and maintain corrosion control treatment for lead and copper. In the absence of any corrosion control treatment, lead levels in drinking water can be expected to increase.

The lack of mitigating treatment is especially concerning as the high lead levels will likely not be reflected in the City of Flint's compliance samples due to the sampling procedures used by the City of Flint for collecting compliance samples. The instructions from the City of Flint to residents direct the residents to 'pre-flush' the taps prior to collecting the compliance samples. A copy of the instructions provided by the City of Flint to residents will be included in the final report.

The practice of pre-flushing before collecting compliance samples has been shown to result in the minimization of lead capture and significant underestimation of lead levels in the drinking water. Although this practice is not specifically prohibited by the LCR, it negates the intent of the rule to collect compliance samples under 'worst-case' conditions, which is necessary for statistical validity given the small number of samples collected for lead and copper under the LCR. This is a serious concern as the compliance sampling results which are reported by the City of Flint to residents could provide a false sense of security to the residents of Flint regarding lead levels in the water and may result in residents not taking necessary precautions to protect their families from lead in the drinking water. Our concern regarding the inclusion of 'pre-flushing' in sampling instructions used by public water systems in Michigan has been raised with the Michigan Department of Environmental Quality (MDEQ). The MDEQ has indicated that this practice is not prohibited by the LCR and continues to retain the 'pre-flushing' recommendation in their lead compliance sampling guidance to public water systems in Michigan. A copy of the MDEQ guidance will be included in the final report.

In the case of the Flint resident that contacted U.S. EPA (Ms. Lee-Anne Walters), the initial results from drinking water samples collected by the City of Flint in her home

for lead were 104 ug/L and 397 ug/L. The level of iron in the water also exceeded the capability of the measurement (>3.3 mg/L). The lead results were especially alarming given that the samples were collected using the sampling procedures described above, which minimize the capture of lead. When contacted by U.S. EPA Region 5, the MDEQ indicated that the lead was coming from the Walters' plumbing. Ms. Walters had previously indicated that all of the plumbing in the home was plastic.

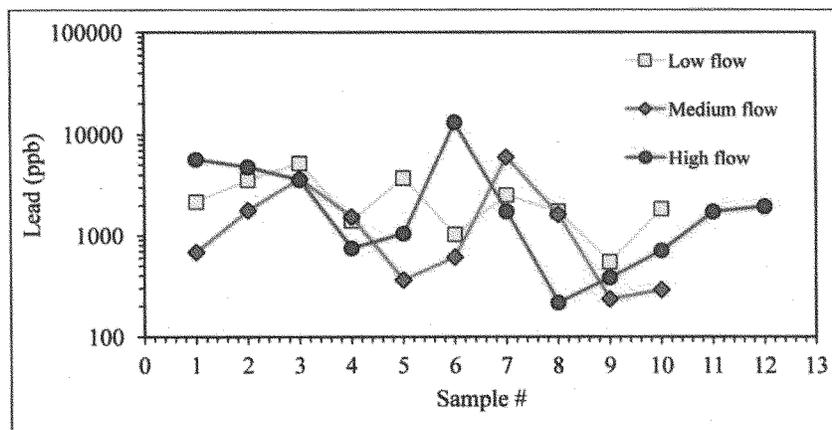
Following the confirmation of the initial high lead results, U.S. EPA Region 5 conducted two visits to the Walters' home on April 27, 2015 and May 6, 2015. Based on an inspection of the plumbing and subsequent sampling conducted at the Walters' residence, it was determined that except for a few minor metallic connectors, all interior plumbing, including the pipes, valves and connectors are made of plastic certified by the National Sanitation Foundation (NSF) for use in drinking water applications. Subsequent sampling showed that the faucets in the home appear to be compliant with the new lead-free requirements and are also not the source for the high lead levels. Our inspection of the interior plumbing and analysis of follow-up sampling results demonstrate that the home plumbing network is not the source of the high lead levels found at the Walters' residence. The photographs and all sampling results will be included in the final report.

Based on the U.S. EPA inspection and documentation of the plastic plumbing at the Walters' residence, it was suspected that the high lead was being introduced into the Walters' home plumbing from outside the home, likely from a lead service line. Three portions of the service line were extracted during a subsequent trip on May 6, 2015 and sent for analysis, when the Walters' service line was replaced. Analyses performed to date indicate that a portion of the service line is made of galvanized iron pipe. Inspection of the remaining portion from the water main to the external shut-off valve confirmed that the portion from the water main to the external shut-off valve is a lead service line.

Ms. Walters has also provided U.S. EPA with medical reports on her child's blood lead testing indicating that the child had a low blood lead level (2 ug/dL) prior to the source water switch and an elevated blood lead level following the switch (6.5 ug/dL). Redacted copies of these reports will also be included in the final report.

Subsequent to the discovery of high lead levels in the Walters' drinking water, the water to the Walters' home was shut off on April 3, 2015. The water was briefly turned back on to collect additional samples on April 28, 2015. Since the water had stagnated for an extended period of time, the kitchen tap was flushed for 25 minutes the night before collecting the samples. Three sets of samples were collected at different flow rates (10 at low flow, 10 at medium flow and 10 at high flow).

The drinking water samples collected from the Walters' residence on April 28, 2015 contained extremely high lead levels, ranging in value from 200 ug/L to 13,200 ug/L (see below).



Sample results and graph are provided courtesy of Virginia Tech

Additional sample results from resident-requested samples have also shown lead levels in excess of the lead action level. As with the samples collected by the City of Flint for compliance, the resident-requested samples are also being collected using the 'pre-flushing', so the lead levels captured in these samples likely do not represent the worst-case lead levels in the water and the actual lead levels at these homes may be much higher.

Pending completion of the final report, my interim recommendations are as follows:

1. The U.S. EPA should follow up with the MDEQ and the City of Flint on the recommendation made by U.S. EPA to MDEQ on June 10, 2015 to offer the City of Flint technical assistance on managing the different water quality issues in Flint, including lead in the drinking water. Although there have been two written assessments regarding water quality and operational issues in Flint at the time of this report, they do not address lead in drinking water. The first is an Operational Evaluation Report (OER) produced in November 2014 by Lockwood, Andrews and Newnam, Inc. to assess the factors contributing to high Total Trihalomethane (TTHM) levels in Flint following the source change. The focus of this report is to identify potential causes and remedial actions for lowering TTHM levels. The second report (Water Quality Report) produced by Veolia for the City of Flint on March 12, 2015, is an assessment of Flint's water quality and operations which provides advice to the City of Flint primarily focused on TTHM control and other operational issues. Both reports were written prior to the recent discovery of high lead results in Flint drinking water. As such, the reports do not take into account the potential effects on lead levels in drinking water.

As previously mentioned, the City of Flint currently has no mitigating treatment for lead and is also planning another source water change in the near future. U.S. EPA's Office of Research and Development in Cincinnati has extensive experience in corrosion and corrosion control treatment and distribution system issues and would be a valuable addition to the drinking water advisory group for the City of Flint. Copies of the qualifications and experience for Michael Schock and Darren Lytle have been forwarded to MDEQ.

2. U.S. EPA should review the compliance status of the City of Flint with respect to whether the system is in violation of the LCR requirement to install and maintain optimal corrosion control and whether the MDEQ is properly implementing the LCR provisions regarding optimal corrosion control treatment requirements for large systems. Pursuant to 40 CFR Section 141.82(i), the EPA Regional Administrator may review treatment determinations made by a State and issue federal treatment determinations consistent with the requirements of the LCR where the Regional Administrator finds: (1) A state has failed to issue a treatment determination by the applicable deadlines; (2) A State has abused its discretion in a substantial number of cases or in cases affecting a substantial population; or (3) The technical aspects of a State's determination would be indefensible in an expected Federal enforcement action taken against a system.
3. The U.S. EPA should review whether relevant resident-requested samples are being included by the City of Flint in calculating the 90th percentile compliance value for lead. Recent drinking water tests conducted at homes in Flint for lead that are not part of the compliance sampling pool have revealed high lead levels in the drinking water. The U.S. EPA memorandum signed on December 23, 2004 provides clarification on compliance determinations and states that customer-requested samples are to be included in the 90th percentile lead compliance calculation where the sampling is conducted during the monitoring period from sites and sampling procedures meeting the LCR criteria. Given the prevalence of lead service lines in the City of Flint, should these sample results be from homes with lead service lines, the sample results would be considered compliance samples under the LCR.

Also attached is a timeline of events for Flint, Michigan. Should you have any questions regarding the information or recommendations provided, please let me know.

cc: Liane Shekter-Smith (MDEQ)
 Pat Cook (MDEQ)
 Stephen Busch (MDEQ)
 Michael Prysby (MDEQ)
 Marc Edwards (Virginia Tech)
 Michael Schock, EPA-ORD
 Darren Lytle, EPA-ORD

Interim Report on High Lead Levels in Flint Michigan Timeline of Events

1. June 2011
 - a. The Walters' home was renovated in 2011 and had no plumbing when purchased. Plastic water pipes and plumbing components were installed by the Walters throughout the home. The Walters family moved into the home at 212 Browning Avenue in June 2011.
 - b. A whole-home iron filter installed for aesthetic reasons. The iron filter cartridge was changed every 6 months during the time when Flint purchased finished water from Detroit. Subsequent to the switch to the Flint River source on April 30, 2014, the filter was required to be changed every 2-3 weeks and eventually required replacement every 6-14 days due to much higher iron levels.
 - c. Tap water treated by the refrigerator filter was consumed in the household from April 2014 through late November/early December 2014. The filters used were not NSF certified to remove lead.
2. October 2012
 - a. The Walters had their twin boys' blood lead levels (BLLs) tested and the result for each child was 2 ug/dL.
3. April 30, 2014
 - a. The City of Flint switches from purchased Detroit water to treating raw water from the Flint River.
 - b. Michigan Department of Environment Quality requires City of Flint to conduct two six-month rounds of monitoring for lead and copper (July-December 2014 and January-June 2015).
4. August 2014
 - a. The City of Flint Violates the National Primary Drinking Water Regulations Maximum Contaminant Level (MCL) for E. Coli bacteria (Acute Coliform MCL violation)
5. August 2014
 - a. The City of Flint Violates the National Primary Drinking Water Regulations MCL for Coliform bacteria (Monthly Coliform MCL violation)
6. September 2014
 - a. The City of Flint Violates the National Primary Drinking Water Regulations MCL for Coliform bacteria (Monthly Coliform MCL violation)
7. Later November/Early December 2014
 - a. The Walters family stops drinking water from the tap due to water quality.
8. November 2014
 - a. Lockwood, Andrews and Newnam, Inc. produces an "Operational Evaluation Report" to assess the factors contributing to high TTHM levels in Flint following the source change. This report is required by the National Primary Drinking Water Regulations when water tests show TTHM or HAA5 levels in excess of 80 percent of the MCL. The focus of this report is to identify potential causes and remedial actions for lowering TTHM levels.
9. December 2014
 - a. The City of Flint Violates the National Primary Drinking Water Regulations MCL for Total Trihalomethanes (Average TTHM MCL violation)
10. February 4, 2015
 - a. Walters' child develops skin rashes over entire body after bathing. The video is shown to City of Flint by Ms. Walters.
11. February 11, 2015
 - a. The City of Flint tests drinking water iron level at Walters' residence and the level exceeds the capability of the measurement (>3.3 mg/L).
12. February 18, 2015
 - a. The City of Flint tests the drinking water at the Walters residence for lead and iron.
 - b. Tests reveal high lead in the drinking water (104 ug/L) and iron level once again exceeds the limit of the test (>3.3 mg/L).
 - c. The Walters' water is tested after pre-flushing for "3-4 minutes" the night before (see sampling instructions). The sample was collected from the kitchen tap with the iron filter in place.
13. February 25, 2015
 - a. EPA Region 5 receives a call from Ms. Walters regarding high lead levels discovered in her home.

- b. The City of Flint once again tests the drinking water iron level at the Walters' residence and the result is once again beyond the measurement capability (>3.3 mg/L).
- 14. February 26, 2015
 - a. The Walters have their children's blood lead levels tested and their child's blood lead level is 3 ug/dL.
- 15. March 2015
 - a. The City of Flint increases the Ferric Chloride dosage used in the filtration process to improve the removal of disinfection byproduct precursor material, in an effort to lower the TTHM levels.
- 16. March 03, 2015
 - a. The City of Flint re-tests lead levels in drinking water at Walters' residence. The lead level measured is 397 ug/L. The water is once again tested after pre-flushing for 3-4 minutes the night before but this time with the iron filter removed (see sampling instructions).
- 17. March 11, 2015
 - a. The City of Flint re-tests the iron levels in drinking water at Walters' residence The iron level once again exceeds the limit of the test (>3.3 mg/L).
- 18. March 12, 2015
 - a. Veolia (hired as a consultant by City of Flint) to assess water quality issues, submits "Water Quality Report" to City of Flint which provides recommendations and a roadmap for water quality and operational improvements, primarily focused on lowering TTHMs.
- 19. March 19, 2015
 - a. EPA Region 5 calls MDEQ expressing concern regarding the high lead levels found.
 - b. The MDEQ response received via voicemail states that the high lead levels at the Walters' home are due to lead sources in the homeowner's plumbing. In previous and subsequent conversations with Ms. Walters, she stated that the plumbing has always been all plastic. An inspection conducted by EPA Region on April 27, 2015, confirmed that all pipes, fittings and valves in the Walters' home are NSF-approved CPVC pipe (certified for drinking water use) and sequential sampling results following the replacement of the service line found that there are no sources of lead in the home plumbing.
- 20. March 26, 2015
 - a. EPA R5 learns that the local Health Department is looking at whether there is a potential uptick in cases of Legionella in the County, which includes the City of Flint.
 - b. Due to recent bacteriological and other distribution system water quality issues, EPA Region 5 contacts EPA ORD (Cincinnati) to discuss possible support for assessing whether the potential uptick in Legionella being assessed by Genesee County, which includes the City of Flint, could be caused by or related to the distribution system upsets from the water quality changes and subsequent flushing events by the City of Flint which can mobilize sediment from within the water mains and dislodge microbial contaminants, including Legionella bacteria from biofilm within the water mains.
 - c. EPA ORD indicates that they are available and willing to provide support to the local health department and City of Flint should they conclude there has been an increase in Legionella cases in the county.
- 21. March 27, 2015
 - a. Based on a suspected conflict of interest at the local health department that conducted the February 2015 BLL testing, the Walters' take their child to a healthcare facility in a different location to have his blood lead re-tested. The result from this BLL test (6.5 ug/dL) is significantly higher than the February BLL test (3 ug/dL) and he is found to also be iron deficient as well (anemic).
- 22. April 3, 2015
 - a. The water is shut off at Walters' residence due to the high lead levels.
 - b. The Walters' home is provided water via garden hose from neighboring home (hose spigot to hose spigot). The Walters use this water only for bathing, washing dishes and washing clothes.
- 23. April 27, 2015
 - a. EPA Region 5 visits the Walters' home and reviews the internal plumbing, bringing back water samples, iron filter cartridges and relevant photographs.
 - b. The internal plumbing at the Walters' residence is confirmed as all plastic as had been stated by Ms. Walters.
- 24. April 28, 2015
 - a. The water at the Walters' residence was turned back on temporarily to collect additional water samples. The water in the service line had been shut off since April 3, 2015.

- b. The kitchen tap was flushed at low flow for 25 minutes the night before (on April 27, 2015) the sequential sampling conducted on April 28, 2015.
 - c. On April 28, 2015, 30 Sequential samples were collected at Walters residence
 - d. The drinking water samples are sent to Virginia Tech for analysis. All samples are analyzed for Ag, Al, As, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Si, Sn, Sr, Ti, U V, and Zn.
 - e. Extremely high lead levels were found in all samples. The minimum lead value was 200 ug/L; the average lead value was 2,429 ug/L; and the maximum lead value was 13,200 ug/L.
 - f. A review of the analytical results by Virginia Tech shows lead levels in all water samples correlated with phosphate levels, cadmium levels and uranium levels found in the samples and most of the lead was found to be in particulate form.
 - g. The correlation between lead and phosphate would be consistent with the dislodging of the pipe scale from the service line outside the home containing lead and phosphate which would have formed during the period of time when Flint was purchasing water from the City of Detroit that was treated with orthophosphate. Additional analyses are being conducted to confirm the chemical compositions.
25. May 6, 2015
- a. EPA Region 5 visits Walters' home to collect pipe samples from service line. Three sections of the service line were extracted and sent to Virginia Tech for analysis.
 - b. EPA inspection reveals that the portion of the Walters' service line from the water main to the external shut-off valve on the corner of Bryant Street and Browning Avenue is made of lead. EPA's inspection also confirms that the portion of the Walters' service line from the home to the external shut-off valve appears to be galvanized iron pipe. Additional analyses are underway at Virginia Tech on the third piece of service line extracted.
 - c. The service line to the Walters' residence is replaced with a new copper service to the water main in front of the Walters' residence on Browning Avenue.
 - d. Sample bottles are left with Ms. Walters for collecting sequential samples following the replacement of the service line to the Walters' home.
 - e. EPA Region 5 collects a set of sequential samples from each of two residences on Bryant Street which are connected to the same main as the Walters' old service line. These samples were analyzed by Chicago Regional Laboratory. The results indicate that home #1 (4526 Bryant Street) does not appear to have a lead service line and lead results in all samples are low. The results from home #2 (4614 Bryant Street) indicate that the portion of the service line from the external shut-off valve to the water main is likely made of lead, which is consistent with the historical practice in Flint. The sampling had a high lead result (peak value) of 22 ug/L.
26. May 6, 2015
- a. The City of Flint tests the water at 216 Browning Avenue at resident's request, again using a first-draw, pre-flushed sampling protocol, which yielded a high lead result (22 ug/L).
 - b. The City of Flint tests the water at 631 Alvord Avenue, yielding a high lead result (42 ug/L).
27. May 13, 2015
- a. Water samples are collected at Walters' residence following the replacement of the service line.
 - b. 15 sequential samples were collected from kitchen tap, 1 sample was collected from the bathroom tap and 2 samples were collected from the water heater.
 - c. The samples were shipped to the EPA CRL and received on May 14, 2015.
 - d. All kitchen tap and bathroom tap results for lead and copper were low, confirming that the sources of lead were external to the home. Residual lead was found in the water heater samples (31.7 ug/L), very likely from deposition of lead-containing particulate coming into the home via the old service line which was disconnected and replaced on May 6, 2015.
28. June 2015
- a. The City of Flint Violates the National Primary Drinking Water Regulations MCL for Total Trihalomethanes (Average TTHM MCL violation)

DANIEL T. KILDEE
5TH DISTRICT, MICHIGAN
COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEE ON
HOUSING AND INSURANCE
SUBCOMMITTEE ON
MONETARY POLICY AND TRADE
SENIOR WHIP
DEMOCRATIC POLICY AND
COMMUNICATIONS COMMITTEE



Congress of the United States
House of Representatives
Washington, DC 20515
September 9, 2015

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Ms. Gina McCarthy
Administrator
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Mr. Dan Wyant
Director
Michigan Department of Environmental Quality
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Lansing, MI 48909

Administrator McCarthy and Director Wyant:

The attached June 24, 2015, memorandum between two Environmental Protection Agency (EPA) employees, Miguel A. Del Toral and Thomas Poy, published recently by the American Civil Liberties Union of Michigan, suggests that there are high lead levels in the city of Flint, Mich., water transmission lines. Furthermore, this document reflects that children consuming this water had levels of lead in their blood in excess of three times what they were prior to the city of Flint switching its source water from the Detroit Water and Sewage Department (DWSD) to the Flint River.

In addition, this memorandum makes recommendations to Mr. Poy, Chief of the Ground Water and Drinking Water Branch of EPA Region 5, to do three things. First, for the EPA to work with the Michigan Department of Environmental Quality (MDEQ) to provide technical assistance to the city of Flint to deal with water quality issues. Second, it suggests the EPA review the compliance status of the city of Flint in respect to its compliance with the Lead and Copper Rule (LCR). Third, the memorandum recommends that the EPA conduct a review of the city of Flint testing procedures to ensure they are compliant with the LCR.

Regarding this memorandum and the surrounding water quality issues in the city of Flint, I have the following questions:

- Was this memorandum actually sent to Mr. Poy?

- Are the findings in the memorandum regarding the lead levels in the city of Flint water accurate?
- If there were in fact high levels of lead in the water in the city of Flint, when did the EPA and/or MDEQ plan to alert the public?
- What, if any, of the recommendations has the EPA followed from the memorandum?
- Given the demonstrated level of lead in the water in Flint, MI, is the water safe?

Regardless, I am very troubled by recent tests suggesting high levels of lead in the city of Flint's water system. As you know, on the EPA's website it says that lead above the "action level" in drinking water can cause a variety of adverse health effects, including delays in physical and mental development in babies and children.

According to the Safe Drinking Water Act, the EPA has the responsibility of enforcing water quality standards. EPA, however, has given the primary responsibility of enforcing water quality standards to the state of Michigan via MDEQ. As such, it is the responsibility of these agencies to ensure that the people of the city of Flint have safe drinking water.

Thank you and I look forward to hearing from you soon.

Sincerely,



Dan Kildee
MEMBER OF CONGRESS

cc:

State Senator Jim Ananich
State Representative Sheldon Neeley
State Representative Phil Phelps
Mayor Dayne Walling, City of Flint
Howard Croft, City of Flint
Susan Hedman, EPA
Thomas Poy, EPA
Michael Schock, EPA-ORD
Darren Lytle, EPA-ORD
Denise Fortin, EPA
Liane Shekter-Smith, MDEQ
Pat Cook, MDEQ
Stephen Busch, MDEQ
Brad Wurfel, MDEQ
Marc Edwards, Virginia Tech



United States Environmental Protection Agency
Regional Administrator
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

SEP 15 2015

The Honorable Daniel Kildee
Member, U.S. House of Representatives
Washington, D.C. 20515-1313

Dear Congressman Kildee:

Thank you for your September 9, 2015 letter regarding drinking water quality in the City of Flint. EPA is actively working with the Michigan Department of Environmental Quality (MDEQ) to help the City provide clean and safe water.

Consistent with the recommendations in the internal memorandum cited in your letter, EPA is working with MDEQ to monitor Flint's compliance with the federal Lead and Copper Rule. On August 17, 2015, MDEQ notified Flint that additional treatment will be required to optimize corrosion control and the City is taking steps to do so. Experts from EPA's Office of Research and Development are providing technical assistance to Flint to implement those corrosion control improvements.

Flint residents who are concerned about lead in drinking water may request water sampling by the local water utility. General information about lead in drinking water and tips to reduce lead exposure are available at <http://water.epa.gov/drink/info/lead/index.cfm>

Again, thank you for your letter. We look forward to a more detailed discussion at the meeting that is being set up on Monday. In the meantime, if you have further questions, please contact me or your staff may contact Denise Fortin or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Hedman", with a horizontal line extending to the right.

Susan Hedman
Regional Administrator

Ranking Member Cummings' Questions:

1. My attorney's email is accurate. In responding to the question without reviewing the email to which the congressman was referring, I misunderstood the question to be whether I had deleted e-mails *after* the litigation hold issued. I have not, to my knowledge, deleted any relevant item after the litigation hold issued and in fact steps have been taken including backups, etc. to ensure that relevant documents are preserved. As to the date prior to that, I have no memory of deleting an email that would be relevant and think it would be unlikely that I did so. Searches have been conducted on all backup tapes to identify responsive records. My office has requested that a number of current staff search their personal emails to ensure relevant documents requested are identified. In addition my legal team has been working on an ESI protocol with numerous document requesters to allow text messages, etc. to be captured in the proper format that all requesters can accept, and I understand a copy of this has been sent to the Committee as well as your input sought. A privilege log regarding the documents is also being prepared and when it is complete, a copy will be provided to the Committee.

2. Whether the employees agree to transcribed interviews should be a decision between them and their legal counsel, and I would not direct any individual to take actions against the advice of their legal counsel.

3. I asked the task force to be completely unbiased in determining how the Flint water crisis occurred and requested they focus on how we prevent any situation like this from occurring in the future. I appreciate their thorough recommendations.

Many of the recommendations made in this report are already being implemented, both within my own office and in various state departments. We are taking dozens of actions to change how we operate – not just to hold ourselves accountable, but to completely change state government's accountability to the people we serve.

A full list of recommendations that indicates where action is already underway at the state level, due to initial task force findings communicated to the governor as well as internal reviews of operations, can be viewed [here](#).

4. I do not recall receiving the letter specifically. As a general matter, when emergencies regarding drinking water arise, the State's emergency response personnel typically wait for the local entity to indicate their resources are exhausted and they require state help, and I would certainly be informed at that point. Genesee County did not declare an emergency in September of 2014.

5. I do not recall if Mr. Muchmore raised that issue with me directly.

6. I did not visit Flint in 2015 prior to October 8, 2015.

7. I do not recall discussing this email specifically.

8. I do not recall discussing this letter specifically, although I do recall discussing the issues of the water quality a number of times generally. One of the things the state did in response to the issue generally this was pay for an evaluation of the water system by Veolia, which identified water main breaks and iron corrosion as likely sources of discoloration, and noted possible responses that might address this in part but not completely. That report noted that a switch to DWSD water would not necessarily fix the coloration problems.

9. I do not recall discussing this request specifically with Mr. Muchmore, but I was aware generally of the concerns regarding Flint water and possible solutions. One of the questions the Veolia report the State commissioned addressed was whether a switch back to DWSD would solve the discoloration problems. It concluded it would not.

10. I was aware the chief of staff was attempting to develop a number of creative options to help the people of Flint. I do not recall a specific discussion regarding this proposal. In general, I would have seriously considered the pros and cons of any proposal, and asked for further information or elaboration as needed.

11. As the many e-mails that have already been made available make clear, a number of individuals throughout my office and many departments, including Treasury, struggled with finding a good, lasting solution to Flint's water quality issues as they arose. It is not surprising that individuals might disagree on occasion.

12. I do not recall discussing this idea with Mr. Muchmore.

13. While Mr. Muchmore and I discussed concerns of Flint pastors generally, I do not recall if we discussed this meeting specifically. I do know that concerns about lead were being raised in the summer of 2015, and that the DEQ and DHHS response at the time were that the water met water quality standards and that the blood lead levels were consistent with past history. I was told that this was not the case and that lead levels were actually higher on September 28, and by October 1, I approved a 10-point plan to immediately combat the problem, including putting in motion the switch back to DWSD as a water source.

14. Around that time, I was aware of concerns with the Flint River water but also of a number of steps we had taken to address them, including \$2M grants spent to combat the TTHM violations and steps to distribute filters through some faith leaders.

15. Richard Baird has been the Transformation Manager for the administration from January 2011 to the present. In that role, he has tackled a number of large issues, including serving as a key figure in resolving the Detroit bankruptcy, negotiating a deal to help resolve the Upper Peninsula energy issues, and working on employee engagement efforts. He reports to the chief of staff. His salary was not paid by the State originally in an effort to limit the burden on state government at a very challenging budget time.

Given the many years of work and Mr. Baird's leadership of employee engagement efforts, a comprehensive list of every time he has spoken to any state employee anywhere anytime in the last five years is not possible to compile. All e-mails I have received regarding Flint from Mr. Baird or any other member of my staff that were on my official account or my campaign account were already identified and produced.

Mr. Baird is a Flint native who cares deeply about his city and has thrown himself fully into helping solve this problem, which is why I asked him to lead Mission Flint.

16. I am carefully reviewing the recommendations of the task force regarding PA 436 and have already indicated my general agreement with the need to make sure emergency managers get the technical assistance and support they need to make decisions, including those involving public health and safety.

17. As I said in my State of the State message, in situations like this, issues must come to my desk immediately, no delays, no excuses, period. That goes for my staff as well. This crisis has caused me to commit to a culture change, and ensuring that situations that threaten health and safety are raised quickly is a cornerstone of that change.

Congressman Kildee's questions:

In my FY 2017 budget proposal, I have asked the state Legislature for additional money to help the people of Flint that will help bring total state spending for relief efforts to \$232 million.

Here are some highlights of what the request for \$195 million in addition funding would be used for:

- \$37 million will be used to ensure safe drinking for every resident in the city through more water sampling, inspection and replacement of fixtures in schools and daycare facilities, infrastructure prioritization, and staying connected with Detroit water through the end of 2016.
- \$15 million will be used to provide healthy foods and good nutrition. The money will support school lunch and breakfast programs, a summer meal program for children, a mobile food bank and additional food bank resources, and food inspections at licensed food establishments through the Genesee County Food Safety Division.
- \$63 million will help ensure the physical, social, and educational well-being of Flint residents. The resources will provide for the treatment of children with high blood levels which includes nurse visits, blood testing resources, and environmental assessments, an expansion of programs for preschoolers, child and adolescent health centers and additional support necessary for children's healthcare access, behavioral health and in-home services for children exposed to lead, funding for special education, nutrition, literacy support, and staffing for health professionals, additional school nurses, crisis counseling through local community mental health, epidemiologists to analyze blood lead levels, lead abatement in Flint homes, and lab and testing costs
- \$30 million will be used to provide the City of Flint with water bill relief. Flint residents should not have to pay for water they could not and cannot use.
- \$50 million in reserved funding will be set aside for future needs in Flint.

This recommended \$195 million is in addition to \$37 million that has already been approved by the state Legislature.

In addition, in October 2015, I signed a \$9.3 million supplemental to help the families in Flint. \$6 million of that \$9.3 million was to reconnect the City of Flint with the Great Lakes Water Authority. In addition to the \$6 million:

- \$300,000 went to the Department of Environmental Quality's drinking water and environmental health services;
- \$1 million was provided for DEQ to test drinking water samples;
- \$1 million allowed the Department of Health and Human Services to purchase and distribute water filters to Flint residents;

- \$850,000 aided in follow-up services for children, including testing, investigations, and case management for those with elevated blood lead levels;
- \$200,000 funded state plumbing inspections for schools and health facilities.

Finally, in January 2016, I signed a \$28 million supplemental for Flint to help ensure Flint residents have access to safe, clean drinking water while helping to do the following:

- Supply free bottled water, faucet filters, and testing kits for Flint residents;
- Put nine nurses in local schools to monitor student health and well-being;
- Provide better nutrition for students and infants through WIC and in-school nutrition programs;
- Replace fixtures in schools, daycares, nursing homes and hospitals;
- Provide for an infrastructure study using independent experts;
- Treat any children who have high lead levels in the blood, using diagnostic testing, nurse visits and environmental assessments in the home;
- Provide additional community education opportunities within the Genesee County Health Department;
- Compensate the Michigan National Guard's work to support water distribution;
- Assist with home lead abatement costs;
- Help the City of Flint with utility issues;
- Provide operational funding for the Flint Water Interagency Coordinating Committee.

QUESTIONS FOR THE RECORD TO:

**The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency**

**March 17, 2016, Hearing: "Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan, Part III"
House Committee on Oversight and Government Reform**

Chairman Jason Chaffetz

As the result of media FOIA requests made to EPA, large amounts of email correspondence related to the Flint water situation has become available to the public. One of these emails, with the subject line "Clarification," was sent by an EPA employee to various employees of the Michigan Department of Environmental Quality and an EPA colleague. The nature of the email involves the employee supplying information on the dissemination of a draft EPA report to MDEQ officials. This communication is clearly an example of Agency work product.

As indicated in the communication, this email was sent from the employee's personal, nonofficial account on Friday, September 11, 2015. The employee's official email address was not copied at this time. As further indicated in the communication, the employee forwarded this correspondence to her official email account on Monday, November 2, 2015.

The Federal Records Act, specifically 44 U.S.C. §2911, states that an employee of an executive agency may not use a non-official email address unless he or she "forwards a complete copy of the record to an official electronic messaging account of the officer or employee not later than 20 days after the original creation or transmission of the record." In this instance, it appears that the employee waited 52 days before forwarding the email record to her official account. Considering these circumstances, please answer the following questions:

- 1. Does EPA believe that this is a violation of the Federal Records Act?*
- 2. If not, why not?*
- 3. What action does EPA intend to pursue, in accordance with its obligations under 44 U.S.C. §2911, regarding this incident?*

The Committee requests that EPA keep it informed of actions it takes related to this incident.

EPA Response: EPA takes its obligations under the Federal Records Act seriously, and has taken specific and concrete steps to educate and train current employees regarding the preservation of federal records and the November 2014 amendments to the Act. In February 2015, EPA updated its Records Policy to address the new requirements regarding personal messaging accounts. EPA continues to work to reach every employee with annual records training, Quarterly Records Management days, and other resources to assist employees in managing Agency records effectively and efficiently in their work. While the amendments to the Act provide a basis for disciplinary action at the discretion of an employee's supervisor upon a finding of an intentional violation of the forwarding provision of the Act, EPA is taking steps to learn more about the circumstances described in the question above, and, if the employee did fail to forward the message within 20 days, whether this failure was intentional or

inadvertent. The agency will follow up with the employee if, in fact, any steps are necessary or appropriate.

Representative Tammy Duckworth

1. *As you are aware, in late 2015, the National Drinking Water Advisory Council (NDWAC) forwarded recommendations to you for revising the Lead and Copper Rule (LCR). To ensure NDWAC's recommendations are fully accepted and implemented over a sustained period of time, would EPA support codifying these proposed long-term revisions to the LCR?*

EPA Response: EPA is currently evaluating the recommendations received from the National Drinking Water Advisory Council and other concerned stakeholders along with recommendations from the Science Advisory Board on ways to improve public health protections through revisions to the Lead and Copper rule. In evaluating these recommendations, EPA will consider the national experience in implementing the rule as well as local experiences such as the one in Flint, MI, as we develop proposed revisions to the rule. After EPA publishes those proposed revisions for public comment, EPA will consider all comments received from the public before promulgating a final rule.

2. *In Flint, Michigan according to both Marc Edwards and the State of Michigan Auditor General, there are serious and significant problems with sampling site collection under the LCR. Furthermore, LCR issues are not limited to Flint. In the City of Chicago, which scores fairly high on the Environmental Working Group's Big City Water Ratings, a scientific study authored by Miguel Del Toral, and published in the journal Environmental Science & Technology, found deficiencies in the LCR's "...existing regulatory sampling protocol..." require water system operators, such as the Chicago Department of Water Management, to conduct testing that, "...systematically misses the high lead levels and potential human exposure."*

In addition, a series of investigative reports published by the Chicago Tribune in February 2016 found that since 2003, more than half of the 50 sampling sites tested by the Chicago Department of Water Management were homes owned by Department employees, who administered the tests themselves, and might not be located in high-risk areas. Based on publicly available data, these Chicago Department of Water Management employees not only represent households that are not low-income, but they are individuals with significant knowledge on mitigation techniques that can be taken to reduce lead exposure in tap water.

The practice of conducting testing on homes owned by water system employees is not limited to Chicago. In 2014, Philadelphia failed to test 50 high-risk homes, with officials claiming it was too difficult to recruit volunteers. Like Chicago, in Philadelphia up to half the homes tested by the city belonged to a water department employee.

a) *Please describe what safeguards and internal controls the EPA requires water system operators to use when electing to have a water system employee administer the testing protocol using the employee's home as a sampling test site to ensure independence, protect against potential testing manipulation or malfeasance, preserve public confidence in the validity of the test results and ensure low-income families are adequately represented in sampling sites.*

EPA Response: Public water systems are required to have sampling plans for microbial, physical and chemical sampling and monitoring that is performed in the public water system and distribution system. Unlike other regulations, which require collecting samples within the distribution system, the Lead and

Copper Rule requires the collection of tap samples within the household. The regulations require that these sample sites must be from homes that have been identified through materials evaluation to be sites that are single family homes that “contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or are served by a lead service line.” These sample sites must be from homes that are expected to have a high likelihood of lead in the pipes and plumbing fixtures. There is no requirement that sites come from particular income levels, nor that they exclude water system employees.

The PWS is responsible for ensuring that the submission of samples complies with the sampling protocols identified in the LCR. One such protocol requires that public water systems provide clear instructions to residents on sample collection procedures. Another protocol requires public water systems to review the information and comments provided on the sample sheet to confirm that samples have been collected appropriately before submitting them to the state.

b) A March 2016 report published by the State of Michigan Office of the Auditor General that found the Michigan Department of Environmental Quality (MDEQ) “...did not independently verify that community water supplies tested sites that met LCR requirements,” and reported that an initial MDEQ review of 46 sampling sites determined “...that only 6 (13%) of 46 sites met LCR criteria.” These troubling findings indicate non-compliance with the LCR’s high-risk criteria. Please describe the policies, practices and procedures that EPA requires primacy agencies use to independently confirm that sampling sites meet the LCR’s high-risk criteria.

EPA Response: The LCR was designed to ensure that samples are collected from locations which have the highest risk of elevated lead concentrations. The rule requires that water systems conduct a materials evaluation to help identify high-risk locations, and requires that the system’s sampling pool be comprised of these high-risk locations (Tier 1) sites, if they are available. The water system must submit this sample pool to the state primacy agency, and must notify the state when they change sampling locations. Michigan, like many states, had primary enforcement responsibility under the Safe Drinking Water Act. EPA’s regulations at 40 CFR Part 142.10 require that the primacy agency have adequate authority to compel compliance with all NPDWRs, including the sampling requirements of the LCR. Also, 40 CFR 142.14(d)(8) sets forth special primacy requirements related to the LCR.

c) Please share the number of primacy agency violations of the LCR’s high-risk criteria nation-wide that were reported to EPA over the past 10 years.

EPA Response: A system’s failure to collect samples at high risk sites would be one of the potential actions that triggers an LCR monitoring violation. EPA relies on state, tribal, and territory primacy agencies submittals of information to the Safe Drinking Water Information System (<https://ofmpub.epa.gov/apex/sfdw/f?p=108:200>). The information provided includes monitoring violations.

d) The Chicago Tribune reports that nearly 80 percent of homes in the City of Chicago are connected to lead service lines, yet the 50 sampling sites selected for tri-annual testing appear to be comprised of closely clustered households in only a handful of neighborhoods, with three testing sites even located on the same block of a Northwest neighborhood.

Based on this public reporting, it appears that sampling site selection may not comply with LCR requirements nor adequately represent low-income communities that are comprised of households that may not be able to afford expensive lead removal projects on their privately-owned infrastructure. Please share what steps EPA is taking to strengthen LCR testing to ensure that

sampling sites accurately reflect the community and do not discriminate, intentionally or unintentionally, against low income households.

EPA Response: LCR regulations require that sampling be conducted at sites that are considered more likely to have high lead levels. Water systems are also required to return to the same sample sites in each successive monitoring cycle, or to notify the state if they change locations. The reason for sampling at consistent locations is to better evaluate lead levels over time. EPA is carefully considering recommendations from the NDWAC and others on way to strengthen LCR monitoring requirements in its long-term revisions to the LCR.

3. *When testifying before the Council of the City of Philadelphia's Committee on Children and Youth and Committee on Public Health and Human Services, Ms. Debra McCarty, Commissioner of the Philadelphia Water Department, stated:*

"The Department's sampling program requires participants to perform an in-home test. Participants are directed to run cold water with the faucet aerator removed and then wait at least six hours before filling the sample bottle. We ask customers to use cold water because it is most commonly used for drinking and to collect water that has stood in the pipes for at least six hours to capture any corrosion issues. We also ask customers to remove the aerator because it can act as a filter, catching particles of lead that accumulate in the pipe.

To date, sampling results indicate that Department is effectively controlling corrosion in our customers' plumbing. This testing protocol, most recently used during our 2014 sampling period, was approved by the Pennsylvania Department of Environmental Protection, the primacy agency responsible for regulating drinking water testing in the state" [emphasis added].

It appears that the testing protocol used in the City of Philadelphia, and which was approved by the Pennsylvania Department of Environmental Protection, is not consistent with EPA's October 20, 2006 memorandum, "Management of Aerators during Collection of Tap Samples to Comply with the Lead and Copper Rule" or EPA's February 29, 2016 memorandum, "Clarification of Recommended Tap Sampling Procedures for Purposes of the Lead and Copper Rule."

- a) *Please confirm whether the testing protocol described in Commissioner McCarty's statement to the City Council complies with the statutory requirements of the Safe Drinking Water Act and the regulatory requirements of the LCR.*

EPA Response: On July 6, 2016 EPA Region 3 wrote to the Pennsylvania Department of Environmental Protection regarding concerns about the Philadelphia Water Department's LCR sampling. The LCR requires first-draw samples, from cold water from a faucet that draws water mainly for consumption, into one-liter bottles, after the water has stood motionless for at least six hours. As explained in the July 6 letter, while the current LCR language does not expressly address aerators and pre-stagnation flushing, EPA issued guidance in October 2006 on aerators and in February 2016 on additional recommended tap sampling procedures. The instructions for the sample collection procedures sent to homeowners were revised in 2006 to be consistent with EPA's memorandum of October 20, 2006, "Management of Aerators during Collection of Tap Samples to Comply with the Lead and Copper Rule." This memorandum clarifies that water systems should not instruct customers to remove or clean aerators prior to or during the collection of tap samples for lead. Aerators are part of some faucet assemblies and are used to introduce air into the water flow. Although not intended to remove inorganic contaminants, screens that are part of the aerator may trap particulate matter or debris within the faucet.

Removal and cleaning of the aerator is advisable on a regular basis. However, if customers are only encouraged to remove and clean aerators prior to drawing a sample to test for lead, the water system could fail to identify lead in the tap water, and thus, fail to take additional actions to reduce exposure.

In February 2016, the EPA issued three communications to enhance oversight of LCR implementation: letters from Administrator Gina McCarthy to Governors and letters from Joel Beauvais to state environmental and public health commissioners and tribal leaders, which are available at <https://www.epa.gov/dwreginfo/state-responses-epas-letter-governors-and-state-environment-and-public-health>, and a memorandum from Peter Grevatt to EPA Regional Water Division Directors clarifying proper LCR testing protocols and recommendations, available at <https://www.epa.gov/dwreginfo/memo-clarifying-recommended-tap-sampling-procedures-lead-and-copper-rule>. In their responses to Joel Beauvais' February 29, 2016 letter, most states indicated that they are currently following EPA guidance or are in the process of making changes to conform with EPA guidance.

b) If the testing protocol does not comply with the statutory or regulatory requirements under the Safe Drinking Water Act or LCR, please share the steps EPA is taking to require all primacy agencies, including the Pennsylvania Department of Environmental Protection, review and revise all policies related to regulating drinking water testing, and more importantly, ensuring the drinking water is safe to consume.

EPA Response: EPA has increased oversight of state programs to address inconsistencies with how they implement LCR requirements and EPA guidance. As part of these efforts, EPA sent letters on February 29, 2016, to state commissioners to ensure consistency with EPA regulations and guidance. The letters requested that primacy agencies work collaboratively with EPA to address deficiencies and improve transparency and public information regarding the implementation of the rule. EPA has received responses from all state primacy agencies. EPA is conducting follow up meetings with the primacy agencies to confirm the information they provided and to address the concerns they raised. EPA sent a response to governors and state environmental and public health commissioners on July 7, 2016. The letters are available at <https://www.epa.gov/dwreginfo/state-responses-epas-letter-governors-and-state-environment-and-public-health>. In addition, EPA has communicated specifically with PADEP, and PADEP has informed EPA it has sent the February 29, 2016 updated guidance memo to all of its public water systems

4. The Flint Water Advisory Task Force's (Task Force) Final Report released in March 2016 accurately concluded, "The Michigan Department of Environmental Quality (MDEQ) failed in its fundamental responsibility to effectively enforce drinking water regulations," and "The Michigan Department of Health and Human Services (MD HHS) failed to adequately and promptly act to protect public health."

The Task Force's Final Report confirms that without question, the Administration of Michigan Governor Rick Snyder bears overwhelming responsibility for both creating the Flint water crisis and subsequently failing to fix the problem as children residing in Flint were poisoned by lead contaminated drinking water.

However, the Task Force's Final Report did not absolve EPA of the agency's statutory responsibility to enforce the Safe Drinking Water Act and the LCR. Specifically, the report states, "Though MDEQ was delegated primacy (authority to enforce federal law), the United States Environmental Protection Agency (EPA) delayed enforcement of the Safe Drinking Water Act (SDWA) and Lead and Copper Rule (LCR), thereby prolonging the calamity." The Task Force detailed its specific concerns with

EPA's actions in presenting its series of four findings (F-32, F-33, F-34, F-35) and three recommendations (R-29, R-30, R-31) for EPA.

a) Please confirm whether EPA concurs that the Task Force's four findings (F-32, F-33, F-34, F-35) are valid, or explain in detail why EPA disagrees with any or all of the findings contained in the Final Report.

F-32. *EPA failed to properly exercise its authority prior to January 2016. EPA's conduct casts doubt on its willingness to aggressively pursue enforcement (in the absence of widespread public outrage). EPA could have exercised its powers under Section 1414 and Section 1431 of the SDWA or under the LCR, 40 CFR 141.82(l).*

EPA Response: Under SDWA Section 1413, MDEQ has primary enforcement responsibility for the public water system program. As such, EPA generally looks to the state primacy agency for drinking water information regarding the owners/operators of regulated public water systems, including systems in Flint. As part of its ongoing oversight, EPA was engaged and began taking action to help address Flint's drinking water crisis well before January 2016. These actions included the formation of an EPA Flint Task Force in October 2015 to provide technical expertise to the City and MDEQ. However, EPA's ability to determine next steps was limited by the information it received from MDEQ and the City.

F-33. *Despite the clear intent of the LCR, EPA has accepted differing compliance strategies that have served to mute its effectiveness in detection and mitigation of lead contamination risks. These strategies have been adopted at water systems and primacy agencies across the country. Though there may be some ambiguity in LCR rule, none of it relates to what MDEQ should have done in Flint. There was and remains no justification for MDEQ not requiring corrosion control treatment for the switch of water source to the Flint River.*

EPA Response: As the primacy agency, MDEQ must ensure that the state's implementation and enforcement of the public water system program is consistent with the federal SDWA and National Primary Drinking Water Regulations (NPDWRs), including the LCR. EPA agrees that MDEQ misinterpreted and misapplied the LCR's corrosion control treatment provisions as it related to Flint's public water system. When EPA realized that MDEQ was misinterpreting the LCR's corrosion control treatment requirements, EPA communicated its concerns to the state primacy agency. In that vein, on November 3, 2015, EPA issued a clarifying memo that articulated the Agency's interpretation of the LCR's corrosion control treatment requirements for large systems in particular.

F-34. *EPA was hesitant and slow to insist on proper corrosion control measures in Flint. MDEQ misinformation notwithstanding, EPA's deference to MDEQ, the state primacy agency, delayed appropriate intervention and remedial measures.*

EPA Response: EPA instituted a Task Force in October 2015 to provide technical assistance to the City of Flint and to help implement the required corrosion control measures in particular. EPA continues to work closely with MDEQ and the City of Flint to oversee the drinking water situation and ensure that treatment is optimized.

F-35. *EPA tolerated MDEQ's intransigence and issued, on November 3, 2015, a clarification memo on the LCR when no such clarification was needed.*

EPA Response: Typically, EPA has a strong relationship with states under SDWA. But looking back on Flint, from day one, the state provided our regional office with confusing, incomplete and incorrect

information. Their interactions with us were intransigent, misleading and contentious. As a result, EPA staff were unable to understand the potential scope of the lead problem until a year after the switch and had insufficient information to indicate a systemic lead problem until mid-summer of 2015. Regarding the November 3, 2015 memo, EPA issued it to help ensure primacy agencies had the proper interpretation of the LCR's corrosion control treatment requirements for large systems – for not only those dealing with Flint, but other large systems nationally.

b) Please share EPA's implementation plan for each Task Force Recommendation (R-29, R-30, R-31). If EPA is not implementing a specific recommendation, please provide a detailed justification.

R-29. Exercise more vigor, and act more promptly, in addressing compliance violations that endanger public health.

EPA Response: In January 2016, EPA's Administrator issued an EPA-wide elevation memo encouraging staff to raise issues of concern to managers and managers to be welcoming of staff concerns and questions.

R-30. In collaboration with the NDWAC and other interested partners, clarify and strengthen the LCR through increased specificity and constraints, particularly requirements related to LCR sampling pools, sample draw protocols, and LSL replacements—and, more generally, strengthen enforcement protocols with agencies delegated primacy.

EPA Response: EPA is carefully considering recommendations it received from the National Drinking Water Advisory Council as well as from other concerned stakeholders regarding revisions to the LCR. EPA has also reviewed the recommendations from the Flint Water Advisory Task Force on how to clarify and strengthen the LCR. The EPA will carefully evaluate the recommendations received from the National Drinking Water Advisory Council, the Task Force, concerned stakeholders and, the Science Advisory Board on ways to improve public health protections through revisions to the Lead and Copper rule. After EPA publishes proposed revisions of the rule for public comment, EPA will consider all comments received before promulgating a final rule.

R-31. Engage Michigan representatives in ongoing LCR revisions and development of enforcement protocols at EPA and MDEQ.

EPA Response: The EPA intends to continue to seek input from concerned stakeholders in Michigan and other states in developing the revisions to the LCR and will also seek and evaluate all public comments after the proposed rule is published.

c) Please provide specific recommendations on how Congress can strengthen the Safe Drinking Water Act to optimize EPA's statutory authority to better protect public health from harmful contaminants in drinking water and prevent a future Flint Water Crisis.

EPA Response: EPA is aware of a number of legislative efforts to amend the Safe Drinking Water Act, and the Agency welcomes the opportunity to provide technical assistance whenever requested. Effective implementation and oversight of the regulatory requirements necessary to protect public health require cooperation, expertise, and resources at the local, state and Federal levels.

5. *Community water systems face many challenges in reducing the level of lead in drinking water. The cost of implementing certain lead reduction efforts, such as replacing publicly owned portions of lead service lines, often exceed existing resources of system operators at the State, local or Tribal level.*

Furthermore, middle and low-income homeowners often struggle to afford replacing privately-owned portions of lead service lines, pipes, fittings or fixtures that contain lead – if they are even aware of the need to replace them in the first place.

To address resource constraints and other challenges related to effectively implementing lead reduction initiatives, would EPA support establishing a grant program that enables it to provide assistance to eligible entities for effective lead reduction projects in the United States (excluding ineffective partial lead service line replacement projects from grant eligibility)?

EPA Response: EPA has been working with primacy agencies and the state drinking water revolving fund programs to help address priority drinking water infrastructure improvements, including replacement of the publically and privately held portions of lead service lines across the country. EPA welcomes the opportunity to provide technical assistance on any proposed legislative language.

Ranking Member Elijah E. Cummings

1. Lead service lines and plumbing fixtures are common in older cities like Flint, Michigan. For many years, corrosion control treatments were applied by the Detroit Water and Sewerage Department (DWSD) to drinking water used by the residents of Flint. These treatments deposited a protective coating inside pipes and fixtures that prevented lead from leaching into the water. When the Governor's emergency manager for Flint decided to begin using the Flint River for drinking water in April 2014, the Michigan Department of Environmental Quality (MDEQ) did not require the use of corrosion control treatments. At that time, the population of Flint was about 100,000.

How many other state environmental protection departments do not require cities of comparable size to use corrosion control treatments?

EPA Response: EPA has increased oversight of state programs to address inconsistencies in the implementation of the LCR, which requires all large systems (i.e., those serving more than 50,000 persons) to meet the corrosion control treatment requirements in the rule. Systems serving 50,000 or fewer persons must meet corrosion control treatment requirements if the lead or copper action level is exceeded during two 6-month monitoring periods and are required to take actions, which may include installation of corrosion control, if they exceed the action level. On November 3, 2015, EPA issued a memo clarifying that all large drinking water systems are required to maintain optimized corrosion control treatment, including when systems change their drinking water sources. As part of these efforts, EPA sent letters on February 29, 2016, to state commissioners to ensure consistency with EPA regulations and guidance. The letter requested that primacy agencies work collaboratively with EPA to address deficiencies and improve transparency and public information regarding the implementation of the rule. EPA has received responses from all state primacy agencies. EPA is conducting follow up meetings with the primacy agencies to confirm the information provided and address any problems. EPA sent a response to governors and state environmental and public health commissioners on July 7, 2016. The letters are available at <https://www.epa.gov/dwreginfo/state-responses-epas-letter-governors-and-state-environment-and-public-health>.

2. On November 25, 2015, EPA's Flint Drinking Water Task Force issued a preliminary assessment to MDEQ with specific requests and recommendations. What is the status of MDEQ's compliance with each of these requests and recommendations?

EPA Response: EPA's Flint Task Force continues to provide technical assistance to the City regarding SDWA and the implementing regulations, including the Lead and Copper Rule. EPA's January 2016 Safe Drinking Water Act Emergency Order paragraph 52 requires the City of Flint, MDEQ and the State of Michigan to provide written responses to all of the EPA Flint Task Force's requests and recommendations, including those made on November 25, 2015 and subsequent dates. The responses must include all actions Respondents have taken and intend to take in response to those requests and recommendations. The EPA Flint Task Force's requests and recommendations are publicly available at <http://www.epa.gov/mi/flint-drinking-water-documents>. As required by paragraph 51 of the Order, MDEQ has created a website so the public has access to materials. The latest summary of responses to the EPA Flint Task Force recommendations can be found at http://www.michigan.gov/flintwater/0,6092,7-345-76292_76364-376646--,00.html.

3. On January 21, 2016, EPA issued an Emergency Administrative Order to the City of Flint, the Michigan Department of Environmental Quality, and the State of Michigan pursuant to Section 143 I of the Safe Drinking Water Act. In your testimony, you stated:

But I did issue an order in January because even after all of this, the order I issued was questioned by this State, by MDEQ, by this State as was that really legally solid. Up until today, they continue to drag their feet.

- a) How did MDEQ and the State of Michigan question the legal authority of EPA to issue this Emergency Administrative Order?

EPA Response: In response to EPA's Emergency Order, on January 22, 2016, MDEQ and the State sent a letter indicating they looked forward to "working cooperatively" with EPA and the City of Flint to protect the health, safety and welfare of Flint residents and ensure safe drinking water. However, in the same letter MDEQ and the State also raised concerns about whether EPA had the authority to order a state and its agencies to take the actions outlined in the Order. Further, in an email from MDEQ to U.S. EPA sent on February 11, 2016 (and attached to the February 19, 2016 U.S. EPA Letter to MDEQ and City of Flint), MDEQ said "[w]hile we continue to dispute the legality and efficacy of the order, we are fully committed to the ultimate goal: to ensure the health and safety of Flint's water supply as quickly as possible."¹ The State and MDEQ have reiterated general legal concerns, but have continued to engage with EPA and the City to address the drinking water crisis in Flint.

- b) Does MDEQ or the State of Michigan still question the legal authority of EPA to issue this Emergency Administrative Order?

EPA Response: Please see our response to 3.a), above.

- c) What is the status of respondents' compliance with each of the items required in the Emergency Administrative Order, including:

- Item 60, requiring the submission of a written plan demonstrating that the City has the technical, managerial, and financial capacity to operate its water system in compliance with federal law; and

¹ https://www.epa.gov/sites/production/files/2016-02/documents/epa_letter_to_mdeq_and_city_of_flint_w_attachments_2.19.16.pdf

- *Item 61 requiring, within 15 days, that MDEQ and the State ensure that the City of Flint has "the necessary, capable and qualified personnel required to perform the duties and obligations required."*

EPA Response: EPA review of compliance has been communicated through letters addressed to the City and MDEQ that can be found at <http://www.epa.gov/flint/flint-drinking-water-documents>. EPA is meeting with the City and MDEQ on a weekly basis to discuss compliance (e.g., weekly phone calls, regularly scheduled in-person meetings). Key issues include adequate staffing for the City's public water system and optimizing corrosion control in the distribution system using the current source water.

- **Item 60:** This requirement cannot be assessed until Respondents submit a written plan for transition to a new water source in accordance with paragraph 60 in the Order. The timing is based on Respondents' decision to switch water sources.
- **Item 61:** This requirement has not yet been satisfied. The City has submitted staffing charts, position descriptions and hiring plans. (More information specific to hiring staff is included in the response to 3.d), below.) EPA is assessing both the current needs and future needs to effectuate a change in water source. The MDEQ and State have assisted with these issues.

c) How many additional staff does the City need at the Flint Water Treatment Plant? What qualifications do they need?

EPA Response: On March 28, the City hired a new water treatment plant supervisor, who holds the highest operator certification available in the state. The new water treatment plant supervisor is also acting as the temporary Utilities Administrator. Administration wise, the City hired a Chief of Staff, City Attorney, an assistant City Attorney, a City Engineer, a Chief Financial Officer, and a City Administrator; however the Utilities Administrator and Department of Public Works Director positions remain vacant. Additionally, the City hired two interns and one laboratory technician for the water treatment plant, and are hiring five operators for the water distribution system, with the possibility of hiring two to five more operators. The new hires are trainees, and more experienced operators and lab technicians are necessary for the water treatment plant and distribution system. EPA also believes more foremen are required, as there are only three currently at the water treatment plant.

d) What obligation does the State have to ensure that the City "has the necessary, capable and qualified personnel"?

EPA Response: In its January 2016 SDWA Emergency Order, EPA included express requirements for the State and MDEQ to ensure the City has the personnel needed to ensure the public water system complies with SDWA and the National Primary Drinking Water Regulations.

e) Have the City of Flint and the State of Michigan met this requirement?

EPA Response: If the question refers to paragraph 61 of the Emergency Order, the requirement has not yet been satisfied. EPA's assessment is ongoing.

f) What are the barriers to respondents' full compliance with the Emergency Administrative Order?

EPA Response: It is imperative the City gain the full technical, managerial and financial capacity to operate its public water system in compliance with SDWA. Capacity challenges have been an issue in Flint. While it appears to be moving in the right direction, concerns remain.