

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

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

FEBRUARY 3, 2016

Serial No. 114-148

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.fdsys.gov>
<http://www.house.gov/reform>

U.S. GOVERNMENT PUBLISHING OFFICE

25-927 PDF

WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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Wednesday, February 3, 2016

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

The committee met, pursuant to call, at 9:57 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gosar, DesJarlais, Lummis, Meadows, DeSantis, Mulvaney, Blum, Hice, Russell, Carter, Grothman, Palmer, Cummings, Maloney, Norton, Clay, Lynch, Cooper, Connolly, Cartwright, Duckworth, Kelly, Lawrence, Lieu, Watson Coleman, Plaskett, DeSaulnier, Boyle, Welch, and Lujan Grisham.

Also Present: Representatives Griffith, Conyers, and Jackson Lee.

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.

The chairman is responsible under the rules of the House and the rules of the committee to maintain order and preserve decorum in the committee room. We appreciate your participation here today, but I would remind everybody that this is a congressional hearing and there is a certain decorum that we would appreciate everybody's participation in. I believe there are some people in the overflow room and whatnot, but we're glad to do this and have everybody here today.

Prior to our opening statements, I want to address some people who probably should be here, that were invited to be here, and others that members on both sides wanted to be here. We have two panels today. I think this will be a good first step moving forward. Some people have wanted the Governor to be here. Some people have wanted the EPA Administrator to be here. We are going to have this hearing today, we have documents that will be provided by the EPA and others, and we will move forward from there.

Let me address a few people that were anticipated to be here.

Miguel Del Toral is the program manager for Region 5, Water Division, at the EPA. This, by all appearances, at least what I've seen so far, is a good person who is doing good work and made the right moves at the right time.

Ms. LeeAnne Walters, who we're going to hear testimony on our second panel from, contacted the EPA in February of 2015—now, keep the timeline in place here—February of 2015. Mr. Del Toral was very responsive and came to her house and tested the water in that same month.

He was sent an invitation to appear as a witness before the committee; we did that last week. But in further discussions with the EPA and given his excessive and appropriate responsiveness to the committee, we have come to understand he's very active in the cleanup efforts as we speak. We therefore have excused him today and communicated to the EPA, after good discussions with the EPA, that they would provide all of his emails by the end of this week. We think that is a good and productive step forward. We did not compel or push to have Mr. Del Toral come before us today. And in consultation with the Democrats, I think this is the right move.

Susan Hedman is the former Region 5 administrator for the EPA. She is no stranger to the committee. July of 2015, we held a hearing about mismanagement and retaliation at the EPA in Region 5, which is based in Chicago. This has been a problem for the committee, her actions in management. Again, she is the former EPA administrator for Region 5.

Now, I have a few documents that I'd like to enter into the record.

So I would ask unanimous consent to enter a June 24, 2015, email, memo, from Miguel Del Toral to Thomas Poy, who's the chief of the drinking water branch. Part of this email says, "Recent drinking water sample results indicate the presence of high lead results in the drinking water."

Without objection, that will be entered into the record.

Chairman CHAFFETZ. I also have an April 27 email from Miguel Del Toral to Thomas Poy. "Flint has not been operating in a corrosive control treatment, which is very concerning given the likelihood of lead service lines in the city."

Without objection, I'll enter that into the record.

Chairman CHAFFETZ. We have another email here that is dated July 1 from Susan Hedman to Dayne Walling, who was the mayor of Flint. "The preliminary draft report should not have been released outside of the agency."

Without objection, we'll enter that into the record.

Chairman CHAFFETZ. And another one from Susan Hedman to Dayne Walling: "I'm not inclined for my staff to have any further communication with the ACLU representative. We need to focus on finalizing the report. In the meantime, however, I have no objection to the city letting him know that the report he was given was a preliminary draft and that he would be premature to draw any conclusions based on that draft."

Chairman CHAFFETZ. Again, this is July. You'll see that this has been redacted, the top part. The EPA has agreed that by the end of the week we would get these nonredacted versions of these emails.

Without objection, we'll enter these four documents into the record.

The committee requested a transcribed interview with Ms. Hedman in a letter sent to the EPA last week. Shortly after the extent of the crisis in Flint became public, Ms. Hedman resigned her position late in January. Her resignation became effective on Monday. The EPA has agreed to provide all of Ms. Hedman's emails, again, by the end of the week.

Today—this one right here—we are issuing a subpoena for Susan Hedman to come up here before the committee and participate in a deposition. This will happen later this month.

Darnell Earley, the former emergency manager for the city of Flint—he is the former emergency manager for Flint, Michigan. He was appointed to the position in 2013, and he was tasked with overseeing Flint's finances. Mr. Earley left his position in January of 2015.

The Flint city council voted seven to one to make the transition from Detroit city water. The committee sent Mr.—he's vital to understanding what happened and how these decisions were made.

The committee sent Mr. Earley an invite letter last week. He knew that this was happening, and he knew he was invited to appear as a witness before the committee. Most of the people that appear before the committee, we do not need to compel them to attend. Participation, though, before this committee is not optional. When you get invited to come to the Oversight and Government Reform Committee, you are going to show up.

We were told at, I believe, 7:50 p.m. on Monday night that he would not attend. On Tuesday, I issued a subpoena. Normally, these are done electronically with the counsel of record. His attorney refused service. We're calling on the U.S. Marshals to hunt him down and give him that subpoena.

[Applause.]

Chairman CHAFFETZ. Today, we issued a new subpoena. He will appear, and he will be here to do a deposition later this month. This subpoena will also be issued today, but we're going to need the help of the United States Marshals.

I forgot to issue one other document. I'd ask unanimous consent to enter into the record—this is from Susan Hedman. This is a December 10, 2015, Natural Resources Defense Council petition back in October to get the EPA to do its job. Again, further delaying it. Let the members and the public look at this. But I ask unanimous consent to enter that into the record.

Chairman CHAFFETZ. So, with that business in mind, before we get to the opening statements, I don't know if Mr. Cummings has any business or things that he wants to enter into the record.

Mr. CUMMINGS. No. No. I'm good.

Chairman CHAFFETZ. With that, let us now transition. I appreciate the indulgence of the committee, but I think it's important the members understand where we are with subpoenas, with people's participation, and the intent of the committee to participate in these depositions.

So now let's go to the opening statements. I would like to yield to the gentleman from Michigan, Mr. Walberg, for his comments.

Mr. WALBERG. Thank you, Mr. Chairman. And I thank you for taking this issue, this hearing and subsequent, very seriously. It is a serious issue.

I recognize my good friend and colleague, Representative Kildee, the gentleman from Flint, the efforts that you've carried on, it's important. For Michigan it's important, but I would mention to my other colleagues, this is important for the United States. We have infrastructure needs, we have challenges with government at all levels all around this country, and we need to take it seriously. And so to Mr. Kildee, thank you for raising this.

The Flint water crisis is indeed a human tragedy. It's not a natural disaster. It's a human disaster brought on by failures of humans but, I think, as well, brought on by failures of government at all levels. And we are here as a Government Oversight and Reform Committee to do the very thing that's necessary, to do oversight and then reform, to make it right where we can.

Sadly, as I think as a grandfather and father, I wouldn't want my kids or my grandkids to have to drink this type of water. It's not—

[Applause.]

Mr. WALBERG. It's not the thing we should expect, in America especially. But it has happened. And now the issue is, how do we make it right? How do we move forward?

The lives of young children will be impacted for years to come, sadly. The dreams and aspirations coming from their parents will be impacted. We're here today to find answers, to get answers and help for the people of Flint but also for the people of the United States. We must get all the facts and get them right. There must be accountability where accountability needs to be taken. These children and families deserve nothing less.

Mr. Chairman, I want to be clear: Again, this was a failure of government—key failure of government. And just as this crisis was a failure at every level, the effort to make things right must be a cooperative effort at every level, as well.

The safety and well-being of our citizens is not a Republican or a Democrat or an Independent issue. It's a human issue, it's an American issue that affects Americans' lives. Politicizing this tragedy won't solve the problem, and it won't help the children of Flint.

I make my commitment, Mr. Chairman—I make it to you, Mr. Kildee, as well—that this will be an effort that's bipartisan. I think you've seen our delegation step up, even this morning with the introduction of legislation to assist in this deal.

I hope today's hearing will begin to shine the light on how this tragedy happened, who was involved, how we can make it right, and how we can never let it happen again so we can move forward together to fix and ensure that this American ideal that allows people to be free, safe, secure, and upwardly mobile happens to a great degree by principles developed in this hearing.

Mr. Chairman, I thank you, and I yield back.

Chairman CHAFFETZ. Thank you.

I would remind the audience, displays of approval or disapproval, clapping—not necessarily appropriate for this committee hearing. So if you would please refrain from applause and whatnot, we would all appreciate it.

This is the United States of America. This isn't supposed to happen here. We're not some third-world country where we get 100,000 people who get poisoned—poisoned—for long periods of time. I can't

even begin to express—I don't know how my wife and I would deal with our kids being poisoned for so long. I physically cannot even understand or comprehend what the parents and the loved ones and the individuals who have been drinking that water have been going through.

And I'm disappointed in the response at the local level, at the State level, and at the Federal level. There's a failing at every level. It's absolutely, fundamentally, and totally wrong. The public has a right to be outraged. "Outraged" doesn't even begin to cover it. So I don't know how we fix this, but it has to be fixed.

We're going to hear from one of our witnesses today, and I chatted with her for a moment before, Ms. Walters.

And I appreciate your coming before the committee and doing what you did early on in the process. I really do.

And I look forward to hearing from our witnesses. We can't let this happen. It should have never happened in the first place.

I'm going to yield back, and let's now turn the time to our ranking member, Mr. Cummings, for his opening comments.

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

Mr. Chairman, the—Mr. Kildee, I really appreciate you and Mrs. Lawrence for all of your efforts, for requesting this hearing and making it happen.

And, Mr. Chairman, I want to yield 3 minutes to my distinguished colleague, Mrs. Lawrence from Michigan, for her opening.

Mrs. LAWRENCE. Thank you, Mr. Chair, and to Ranking Member Cummings. I want to personally thank you for holding this hearing.

In my letter to the chairman on January the 12th of this year, I asked this hearing examine the actions of key decision-makers involved in the development of this drinking water contamination crisis. I never thought this could happen in America in this day and age in our great country and our great home of Michigan, where we're surrounded by fresh water and the Great Lakes.

Every American has the right to three basic needs from their government: clean air to breathe, safe food to eat, and air that they can breathe that will not harm their bodies. We in government have failed them in providing these basic needs. We've also failed their trust.

I'm pleased that Ms. Walters is here, because she puts a face on this tragedy. She, like so many mothers and residents of Flint, deserve to be heard. They're putting their trust in the government to fully investigate the wrongs that this city and these citizens of America have suffered. And today we have a chance to start rebuilding that trust.

I submit to you, Mr. Chairman, that while we're doing the right thing in holding this hearing—and I appreciate your swift reaction to my request for this hearing—it's difficult to correct the mistakes of the past unless we call the decision-makers in this manmade disaster and ask them what happened, why did it happen, and when did you know, and what did you do when you found out about it.

I want to publicly renew my request for another hearing, and I'm so encouraged to hear that there will be. I strongly believe that Governor Rick Snyder, Dan Wyant, Mr. Earley, and other Michigan

State officials directly related to this devastating event, before this body, they should come and they should answer the questions.

Mr. CUMMINGS. Hear, hear.

Mrs. LAWRENCE. The people of Flint, to Congressman Kildee, I stand with you in this fight. I know that I've walked through Flint, met with so many people, and the heart and the courage that you're having during this crisis. I want you to know that I'm standing with you, I will fight for you, and, Mr. Kildee, I will be right there with you.

My objective is that never again in America. We can fix this, but we have to have those who made the decisions come forward and give answers.

And I yield back my time.

Mr. CUMMINGS. Mr. Chairman, we are the last line of defense. I do thank you for calling this hearing, because there are some chairmen that wouldn't have called it.

Mrs. LAWRENCE. That's true.

Mr. CUMMINGS. And I mean that. They wouldn't have called it. But you did.

And, finally, I want to say a special thank you to the many residents of Flint, Michigan, who traveled all the way here to Washington, D.C., to attend today's hearing. And to you, we thank you.

And, Reverend Sharpton, I thank you for being here.

I welcome you all, and I thank you so much.

I believe that we have a moral obligation to conduct a comprehensive investigation of this crisis. And let's be abundantly clear: It is a crisis. We need to determine how children in the United States of America in the year of 2016 have been exposed to drinking water poisoned with lead, and not by accident—by the actions of their own government.

I ask every member of this committee to take a moment and imagine what your reaction would be if this happened in your district instead of Flint. Ask yourselves, would I tolerate it? Of course you wouldn't. You would demand answers. You would demand that we examine the actions of everyone. And when I say "everyone," I mean everyone. You would hear testimony from everyone involved, and you would obtain documents from everyone involved.

The problem is that today we are missing the most critical witness of all, the Governor of the State of Michigan, Rick Snyder. He is not here.

Governor Snyder was the driving force behind Michigan's emergency manager law, which he signed in 2011 and invoked to take over the city of Flint from its local elected leaders. The Governor handpicked appointees to run the city, and they decided to use water from the Flint River. He also led the Michigan Department of Environmental Quality, which failed to protect the people of Flint, according to the Governor's own task force charged with investigating this crisis.

Obviously, Governor Snyder should have to answer for his decisions. We asked the chairman to invite him today, but he would not. We asked the chairman to give us a date in the future for a hearing with Governor Snyder, but he would not. We asked the chairman to send the same kind of document requests to Governor Snyder that he sent to the EPA, but he would not do that either.

We want answers from everybody, from the EPA straight on down to the local officials. That's the way we get to the bottom of this crisis.

The problem with this approach is that it undermines the credibility of Congress, our committee, and this investigation. That is totally unacceptable to the people of Flint. It should be totally unacceptable to the people of this Congress and totally unacceptable to the people of the United States of America.

As I said before, we are the last line of defense. And, certainly, we want to hear from the EPA, I want to hear from the EPA. Based on what I've seen, the EPA officials should have moved much more aggressively after they detected the heightened levels of lead. But States are the primary enforcement agencies for the Safe Drinking Water Act, not the EPA. The chairman argues that we should let the State continue its own investigation, but I disagree. The State has failed the people of Flint. Now it's up to us, all of us.

And let me be clear: If we act selectively for political reasons, then we become a part of the problem. The information has been brought to us, and we now have a duty to investigate all aspects of the crisis. We simply do not have the right to remain silent. We do not have the right not to act. Government broke it; government must fix it.

And so, today, every Democrat on the committee has joined together to sign this letter to the chairman. It invokes our right under the House rules to demand a hearing with witnesses of our choosing. In this letter, we officially request testimony from Governor Snyder and the three key emergency managers that he appointed to govern Flint: Edward Kurtz, Jerry Ambrose, and Darnell Earley.

I ask that our letter be inserted into the official hearing record, Mr. Chairman.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. I ask that it be inserted into the official hearing record.

And our ultimate goal must be to serve the interests of the children and the families of Flint. And so we do not know the full extent of the damage that was caused, but we know it is grave. Today, the committee received a letter from the American Academy of Pediatrics. The letter warned that thousands of children under the age of 6 have now been potentially exposed to lead through the Flint drinking water.

The letter says this: "As you know, the city of Flint has long been an impoverished community beset by a host of economic and infrastructure hardships. This adversity coupled with widespread lead exposure means that Flint's children will require significant help in coping with the impact of lead on their physical and behavioral health and development, their schooling, and much more," end of quote.

As I close, Mr. Chairman, it is our job here on this committee and in this Congress to make sure this help is provided to these kids—but, Mr. Chairman, not only to the kids, but to the adults and every citizen of Flint and to ensure that they are not forgotten after these hearings end.

And that is why I say this is not a political issue, this is a moral issue. We have to investigate what happened at all levels, including the State, and then we have to turn to accountability and reform.

Last but not least, Mr. Chairman, there's a fellow who had a song that I used to love. He never had any hits in my district, but he sang a song—and his name was Cat Stevens. And Cat Stevens said, "Oh very young, what will you bring us this time? You're only dancing on this earth for a short time. Oh very young, what will you leave us this time?"

And I've often said that our children are the living messages we send to a future we will never see. The question is: What will they leave us, and how will we send them into that future? Will we send them strong? Will we send them hopeful? Will we rob them of their destiny? Will we rob them of their dreams? No, we will not do that.

And I am proud of this committee for holding this hearing. We will get to the bottom of this. And, as Mr. Walberg said, we will do it in a bipartisan way.

Thank you, Mr. Chairman. And I yield back.

Chairman CHAFFETZ. I thank the gentleman.

You should have applauded that, but I appreciate you listening to me.

[Applause.]

Mr. CUMMINGS. Thank you.

Chairman CHAFFETZ. All right. So we're good now. All right. Thank you.

And that's what I love about Mr. Cummings and this committee. We have passionate people on both sides who care deeply about their country. And nobody—nobody—wants to see this thing happen. And we're going to have a good hearing today.

The chair will hold the record open for 5 legislative days for any member who would like to submit a written statement.

The chair also notes the presence today of the former chairman of this committee, Mr. Conyers of Michigan. We would ask unanimous consent to allow him to participate in today's hearing. Without objection, so ordered.

We're also pleased to note the presence of Congressman Morgan Griffith of Virginia. We appreciate his joining us today. I ask unanimous consent that he, too, be allowed to join this panel. Without objection, so ordered.

We will have two panels today. It has been the practice of the House and common courtesy to our colleagues in a situation like this to allow a Member who represents this district—Mr. Dan Kildee, who represents the Fifth District of Michigan, which includes the city of Flint, we have asked him to participate today to give his perspective. And we'll now recognize him for 5 minutes.

Mr. Kildee.

WITNESS STATEMENTS

STATEMENT OF THE HON. DANIEL KILDEE

Mr. KILDEE. First of all, thank you, Mr. Chairman, for holding this hearing and for allowing me to make some comments on what's happening in my hometown.

And to the ranking member, Mr. Cummings, thank you for your support and your guidance and your allegiance to the people of the city of Flint.

And to my colleague, Congresswoman Lawrence, with whom I've worked on this from the very beginning, I just want to say thanks for having my back and the back of the people of the city of Flint.

I'll try to be brief. I know we have really the heroes of this story, some of them, on the panel that I'm anxious to listen to.

But Flint's my hometown. I grew up in Flint. I raised my children in Flint. When we leave here at the end of every week, I fly home to Flint. I'm a son of this town. And so it breaks my heart to see what's happening.

And it breaks my heart not just because of what has been inflicted upon the people of Flint but because it was an entirely avoidable set of circumstances. Better action by people in government could have protected the people of Flint, and those players failed.

And I appreciate the outrage that Members of Congress, my colleagues, have expressed. And that outrage has come from both sides of the aisle. But my hope is that that outrage translates into something more than just sharing the misery of the people of Flint or sympathy for the people of Flint, but we need to provide help for the folks in Flint.

Flint's a strong community. We have been through really tough times, and we will get through this too. But we have to have resources from the people who did this to Flint in order to create a path forward for the people and especially for the children of my hometown.

Right now, the water is still not yet safe to drink in Flint. High levels of lead continue to show up in testing.

The reason I'm here and the reason I wanted to make some comments is that I want to make sure that, as this committee pursues its responsibility, that we focus on the facts of this case and make sure that those guide the conclusions that we make.

It was mentioned that in Flint we have had an emergency manager. That's not just a small anecdote here. Emergency managers in Michigan have absolute authority over local governments. So when we talk about failure of government at every level, let's just be clear about one point, one very important point: Every decision that was made for the city of Flint that relates to this crisis was made by a State-appointed emergency manager.

So when referring to "local decisions"—there are some who are trying to obfuscate responsibility for this crisis by saying these were local decisions—they were local decisions made by a State emergency manager. The mayor of the city has no authority. The city council in Flint, zero authority to make any decisions. That's an important point.

Making matters worse, the reason an emergency manager was required in Flint in the first place is largely because of, obviously, big factors over time—the loss of our manufacturing base—but, at the same time, the State of Michigan cut an essential element of city resources. It cut the money that goes to support cities from its budget.

The city has a \$50 million general fund, and, over the last decade, \$50 million of direct revenue sharing from the State to the city was eliminated, throwing the city into a financial crisis, precipitating the appointment by the State of an emergency manager to take over the city. The State that helped bankrupt the city is now sent in to try to take it over to get it right.

It was the State emergency manager that made the decision to switch the city of Flint to the Flint River water source. And it was the emergency manager that had 100-percent control of all departments of city government, including the department responsible for making sure that the water was properly treated, and that emergency manager failed.

Let me just show you one exhibit just so that you have an understanding. These are facts. This is the order by the emergency manager to switch to the Flint River.

And, again, there's a public relations campaign that's underway right now to try to say these were local decisions or, no, it was actually the EPA, to deflect responsibility from the State of Michigan. This was a decision by an emergency manager in Flint to go to the Flint River water source. It was a critical decision that was made that precipitated this entire crisis.

So, after that switch was made, citizens began to speak up. In fact, one of them, LeeAnne Walters, is here and will be on the next panel. She's one of the heroes of this story. And let me be clear: The heroes in the story of Flint are those who brought it to light. And they're not public officials. They're citizens, they're activists, they're people who would not be quiet. And LeeAnne Walters is one of them, and you will hear from her.

She went to the DEQ, ultimately had to go to the EPA, as the chairman had indicated, to raise this question. And what was the response of the Michigan Department of Environmental Quality when these issues were raised? To try to discredit all the voices that were calling this problem to their attention, whether it was Dr. Mark Edwards from Virginia Tech, who you will hear from—the State of Michigan tried to discredit his research, a guy who'd spent really his career on clean water. Tried to discredit the citizens as if they were just unhappy citizens. They had lead in their water that was going to their children.

Again, there's an effort to try to create some false equivalency of responsibility. I am critical of the EPA in this case, don't get me wrong. In fact, I have legislation that I'm introducing that hopefully will be bipartisan, taken up soon, that would require much greater transparency by the EPA. I wish that as soon as the EPA discovered that there were problems with the water in Flint that they would shout it from the mountain top that there's a problem in Flint. Instead, they kept insisting that the Michigan Department of Environmental Quality do its job, which it failed to do.

One of the questions that has come up is why didn't the EPA insist that the Michigan Department of Environmental Quality require the corrosion control to be used in Flint. Well, there's a document that I have in my hand, which I'm submitting to you. It's a memo from the Michigan Department of Environmental Quality to the EPA saying that—and this is dated February 27 of 2015, al-

most a year ago—indicating that Flint has an optimized corrosion control program. They did not.

So to hold the EPA accountable, I want to hold them accountable for transparency, but let's make sure we get the facts right. It was the Michigan Department of Environmental Quality telling the EPA that they had this thing under control, that they were using corrosion control in Flint, when they were not.

I would have preferred the EPA had let me know, had let the community know that they had this data and let us force the DEQ to do its job. They didn't, and that's their failure. But it is not their failure to not insist that a corrosion control process be implemented. They continued to ask and they were told it was under control when it was not.

So, when this all became public, another one of the heroes of this story, Dr. Mona Hanna-Attisha—she is a pediatrician in Flint—she began to look at blood levels in children, and it showed elevated blood lead levels in children in Flint. She released her data, and what was the response of the State of Michigan? To try to discredit this pediatrician, who has devoted her entire life to the health of children, just trying to do her job for the kids of Flint.

There is a continuous effort to try to minimize this problem as if it did not exist.

There's a lot of questions about who knew what and when. And that's really an important part of this. We have an email from the chief of staff of the Governor's office back in July of 2015 raising this question and saying that he thought that basically the people in Flint were getting blown off by the State. So they knew about this back then and failed to act.

So let me just conclude by saying a couple things.

I'm really concerned that we get to the facts on this, not just because I want to know who should be fired, who should be subpoenaed, who should be blamed, who should be prosecuted. Justice comes in those forms for sure, but justice for the people of Flint comes by making it right for the people of Flint. And the only way we can make it right is to make sure we know who did this.

And for anybody who has been paying attention to this case back home in Michigan, there's really no doubt about who's responsible. The State of Michigan was responsible, as the ranking member said, has primacy for the enforcement of the lead and copper rule. The State of Michigan was running the city of Flint itself at the time that these decisions were made. And the State of Michigan denied to the citizens of the State and to the citizens of Flint that this was a problem.

At one point, a State official, after the lead data had already been made known to them, told people in Flint that they should just relax. Nine thousand children in Flint with water with elevated lead levels going into their bodies. Relax?

Yes, this is a failure of government, but this false equivalency that somehow local officials, who had no power, and the EPA, who I agree should have done more, should be held accountable for this misses the point. This was a State failure.

And you'll hear from folks today. And the current head of the Michigan Department of Environmental Quality, whom I know, is a good man. He was not in the position at the time these decisions

were made and can't really testify to what happened then in real time. We were there. LeeAnne Walters was there. Mark Edwards was there. Dr. Mona was there. The people of Flint knew what was happening.

So the State, to my point of view, my perspective, has a moral responsibility not to just apologize. The Governor has already apologized. In his State of the State, he said he acknowledged responsibility. But the way I was raised is that when you do something wrong to someone, something that has a consequence, you do apologize for sure, but also, if you have it in your power to make it right for that person, to make it right for those people, you have to stand up and do that. So far, we haven't seen that.

We need the pipes fixed in Flint. In fact, the Governor should write a check tomorrow for the \$60 million that the mayor of Flint has asked for to replace the lead service lines. He's sitting on a billion-dollar surplus. He should ask for that money tomorrow and then should commit to not just fix the infrastructure but to make it right for these kids, give them the kind of help that any child with a developmental hurdle to overcome should get—early childhood education, good nutrition, lots of support, behavioral support, not just now, not just next year, but for the entire trajectory of their developmental cycle.

This is a tragedy. It can not be fixed. But those who did this to Flint can stand up and make it right. And I would ask this committee to do everything within your power to find the facts. And if you do and if you let those facts lead you to the conclusion that they should, you will find that the State of Michigan bears the responsibility to the greatest extent. And they should be held to account, but they also should be held to make it right.

With that, Mr. Chairman, I appreciate the opportunity to speak, and I yield back. Thank you.

Chairman CHAFFETZ. Thank you for your participation and your passion. All those documents that you referred to will be entered into the record.

Chairman CHAFFETZ. What we will do now is recess for approximately 4 minutes, so don't go anywhere. But the clerks need to reset for panel number two, and we will go from there. The committee stands in recess.

[recess.]

Chairman CHAFFETZ. The committee will come to order.

The committee will now recognize the second panel. I'm pleased to welcome Mr. Joel Beauvais, the Acting Deputy Assistant Administrator of the Office of Water at the United States Environmental Protection Agency; Mr. Keith Creagh is the director of the Department of Environmental Quality for the State of Michigan; Mr. Marc Edwards, the Charles P. Lundsford Professor of Environmental and Water Resources Engineering at the Virginia Polytechnic Institute and State University; and Ms. LeeAnne Walters, a resident and parent from Flint, Michigan.

We welcome you all. We thank you for your participation today.

Pursuant to committee rules, all witnesses will be sworn before they testify. If you will please rise and raise your right hand.

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

Thank you. You may be seated.

Let the record reflect that all witnesses answered in the affirmative.

In order to allow time for further discussion and questioning by members, we would appreciate your limiting your opening comments to no more than 5 minutes. And your entire written statement will be made part of the record.

Mr. Beauvais, you are now recognized for 5 minutes.

STATEMENT OF JOEL BEAUVAIS

Mr. BEAUVAIS. Thank you. Good morning, Mr. Chairman, Ranking Member Cummings, distinguished members of the committee. My name is Joel Beauvais, and I currently serve as Deputy Assistant Administrator of EPA's Office of Water. Thank you for the opportunity to testify about EPA's response to the drinking water crisis in Flint, Michigan.

I spent the day yesterday in Flint with Administrator McCarthy and members of EPA's response team on the ground. We met with Mayor Weaver, Dr. Hanna-Attisha, and other community leaders and members.

The situation in Flint is critical and demands urgent and sustained action at all levels of government to protect the public and help the city recover. EPA is intensely engaged in work to restore safe drinking water in Flint in coordination with the broader Federal response effort.

What happened in Flint was avoidable and should never have happened.

Under the Safe Drinking Water Act, Congress directed EPA to set national standards but assigned primary responsibility to the States to implement and enforce the law. EPA maintains Federal oversight of State programs. That system, while imperfect, has achieved major gains in drinking water safety nationwide.

The situation that gave rise to the current crisis in Flint of a large public water system switching from purchasing treated water to using an untreated water source is highly unusual. Under Federal regulations, the city was required to obtain prior approval for the switch from the Michigan Department of Environmental Quality. MDEQ advised the city of Flint that corrosion control treatment was not necessary. Failure to implement such treatment resulted in leaching of lead into the city's drinking water. EPA regional staff urged MDEQ to address the lack of corrosion control but encountered resistance.

Delays in taking the actions needed to treat Flint's drinking water properly and in informing the public of ongoing health risks have had serious consequences. All parties involved need to take steps to understand how this happened and to ensure that it never happens again.

Several reviews and investigations, including a U.S. Department of Justice investigation, are underway in Michigan. Administrator McCarthy has asked EPA's inspector general to undertake an independent review of EPA's response and its oversight of MDEQ. EPA looks forward to receiving and acting promptly upon the results of that review.

Administrator McCarthy also issued an agency-wide elevation policy directing EPA's leadership to encourage prompt and decisive action to address critical public health concerns. Further, we are committed to engaging with States, system operators, and other stakeholders to identify and address lessons from Flint and other potential drinking water risks.

EPA is working hard to address the public health emergency in Flint. Since last October, our Flint Safe Drinking Water Task Force has provided expert technical assistance to the city and MDEQ on corrosion control treatment and proper lead testing. In November, EPA announced that we are conducting an audit of MDEQ's drinking water program to assess its performance and identify needed changes.

And, on January 21, EPA issued an emergency order under the Safe Drinking Water Act directing the State of Michigan and MDEQ and the city of Flint to take actions necessary to ensure that corrosion control is re-optimized and that the city establishes the capacity to operate its drinking water system in compliance with the law.

Following President Obama's emergency declaration in January, the administration has deployed a multi-agency response effort in Flint. EPA has established a significant presence on the ground, including scientists, water quality experts, response personnel, and community engagement coordinators.

In addition to providing technical assistance through our task force, EPA has launched a multiprong drinking water sampling effort to assess and support ongoing work to restore Flint's system. We are sharing information with the public in a transparent and timely way and will continue to work with the city, the State, and the community to get Flint's system back on track.

In addition to our work in Flint, EPA is committed to strengthening the lead and copper rule, which covers approximately 68,000 systems nationwide. We are working on revisions to the rule. Last December, we received extensive recommendations from our National Drinking Water Advisory Council and other concerned stakeholders. We will carefully consider this input and the national experience in implementing the rule, including the events in Flint, as we develop proposed improvements. In the nearer term, we will be working with States and other stakeholders to take near-term actions to strengthen implementation of the existing rule.

Thank you for the opportunity to testify today. I welcome any questions.

[prepared statement of Mr. Beauvais follows:]

**Testimony of
Joel Beauvais
Deputy Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
Before the House Committee on Oversight and Government Reform
February 3, 2016**

Good morning, Mr. Chairman, Ranking Member Cummings, distinguished Members of the Committee. I am Joel Beauvais, and I currently serve as Deputy Assistant Administrator for EPA's Office of Water. Thank you for the opportunity to testify about EPA's response to the drinking water crisis in Flint, Michigan.

The situation in Flint demands urgent and sustained action – at all levels of government – to protect the public and help the city recover. EPA is intensely engaged in addressing ongoing threats to public health in Flint, in coordination with the broader federal response effort.

What happened in Flint was avoidable and should never have happened. Under the Safe Drinking Water Act, Congress directed the EPA to set national standards but assigned primary responsibility to the states to implement the protections afforded by the SDWA to protect human health. EPA maintains federal oversight of the states' drinking water programs. That system, while imperfect, achieved major improvements in drinking water safety nationwide. The situation that gave rise to the current crisis in Flint – a large public water system switching from purchasing treated water to using an untreated water source – is highly unusual. Under federal regulations, the city was required to obtain prior approval for the switch from the Michigan Department of Environmental Quality (MDEQ), which under SDWA has the primary implementation and enforcement authority. MDEQ incorrectly advised the City of Flint that corrosion control treatment was not necessary, resulting in leaching of lead into the City's

drinking water. EPA regional staff urged MDEQ to address the lack of corrosion control, but was met with resistance. The delays in implementing the actions needed to treat the drinking water and in informing the public of ongoing health risks raise very serious concerns.

It is imperative that Michigan, other states, EPA, and drinking water system owners and operators nationwide, work together and take steps to ensure that this never happens again. Multiple reviews and investigations – including a U.S. Department of Justice investigation – are underway in Michigan. Administrator McCarthy has asked EPA’s Office of Inspector General (IG) to evaluate the agency’s response and its oversight of MDEQ. The agency will cooperate fully and looks forward to receiving, and promptly acting upon, the IG’s assessment and recommendations. Administrator McCarthy also issued an agency-wide Elevation Policy directing EPA’s leadership to encourage prompt and decisive action to address critical public health concerns. Further, EPA will engage with states, system owners and operators and other stakeholders to identify and address lessons from Flint, other potential risks to drinking water safety, and the challenges posed by aging infrastructure nationwide.

EPA is working closely with the state and city to address the public health emergency in Flint. Since October 2015, EPA’s Flint Safe Drinking Water Task Force – composed of agency experts – has provided technical assistance to the city and to MDEQ on steps needed to re-optimize corrosion control and ensure proper lead testing. In November 2015, EPA announced that the agency would conduct an audit of MDEQ’s drinking water program to review public water system compliance with SDWA and MDEQ oversight of public water systems. And on January 21, 2016, EPA issued an Emergency Order under section 1431 of the Safe Drinking Water Act, directing the State of Michigan, MDEQ and the City of Flint to take actions

necessary to ensure that corrosion control is re-optimized and that the city establishes the capacity to operate its drinking water system in compliance with the requirements of the law.

Following President Obama's emergency declaration in January, the Administration has deployed a multi-agency response effort in Flint. EPA is an integral part of that effort and has established a significant presence on the ground, which includes response personnel, scientists, water quality experts, community involvement coordinators and support staff. In addition to providing ongoing technical assistance through the EPA Flint Task Force, EPA has launched a multi-pronged effort to collect and analyze drinking water samples to help ensure transparency and accountability in assessing the status of Flint's system. Sampling results will be shared with individual homeowners and will also be publicly available on EPA's website.

EPA is also committed to improving the public health protections provided by the Lead and Copper Rule, which covers approximately 68,000 public water systems nationwide. We are actively working on revisions to the rule, and, in December 2015, we received extensive recommendations from our National Drinking Water Advisory Council and other concerned stakeholders. We are carefully evaluating this input and the national experience in implementing the current rule – including the events in Flint – to develop proposed improvements. In the interim, we intend to work closely with states and other stakeholders to identify nearer-term actions to strengthen implementation of the existing rule.

Thank you for the opportunity to testify today. I welcome any questions.

Chairman CHAFFETZ. Thank you.
Mr. Creagh, you are now recognized for 5 minutes.

STATEMENT OF KEITH CREAGH

Mr. CREAGH. Thank you, Chairman Chaffetz, Ranking Member Cummings, and members of the Committee on Oversight Government Reform. Thank you for the opportunity to be here today to discuss the Flint water crisis.

My name is Keith Creagh, and since January 4, 2016, I have served as the director of the Michigan Department of Environmental Quality.

I want to start by apologizing to the residents of Flint. In retrospect, government at all levels should have done more. We must fully investigate what happened in order to make sure it will never happen again. In addition, and most urgently, we must fix the problem for the people of Flint.

This is a complex issue due in part to multiple levels of government oversight. The city of Flint is responsible for daily operations of the water plant and the distribution system, including identifying sampling locations, collecting samples, and certifying that the samples meet the criteria of the lead and copper rule. The State of Michigan is responsible for ensuring compliance with the lead and copper rule and the Safe Drinking Water Act. The U.S. EPA sets national drinking water standards, provides oversight to make sure those standards are met, and audits the State programs.

In Flint, the implementation of the Federal lead and copper rule was ineffective in protecting public health. When the first round of lead sampling came back at 6 parts per billion in January 2015, corrosion treatment was not implemented. Regardless of the testing schedule allowed by the EPA rule, in hindsight, when the lead levels began to rise, corrosion treatment should have been required by the Department of Environmental Quality.

As the Michigan auditor general pointed out, the MDEQ's Office of Drinking Water and Municipal Assistance relied on technical compliance instead of assuring safe drinking water. It is noteworthy that the lead and copper rule would have allowed up to 24 months to begin these treatments. It has now become clear that the Federal lead and copper rule is outdated and inadequate to protect the public from exposure to lead, especially in communities with aging infrastructure, such as Flint.

I am confident that the many reviews of this situation, from the U.S. Department of Justice, to the interagency team, to the Michigan attorney general, will address in depth the policy and decision-making corrections needed to ensure that government at all levels can provide safe, clean drinking water to citizens.

While we could spend the whole morning trying to assign blame, I'd first like to acknowledge the unwavering advocacy of LeeAnne Walters, EPA's Miguel Del Toral, Dr. Mark Edwards, and Dr. Mona Hanna-Attisha in helping to bring this problem to light. And I would like to spend the final few minutes discussing the coordinated State response that has been undertaken to fix this problem.

The State has been working hard to develop effective and responsive steps to address issues related to the drinking water in Flint. On October 7, Governor Rick Snyder announced a 10-step plan to

address the Flint water emergency. On January 5th, the State Emergency Operations Center was activated. Since then, we have handed out approximately 100,000 water filters, 234 cases of bottled water, 32,000 water testing sampling kits.

I also wanted to highlight the State's five-prong sampling plan that addresses both the short- and long-term needs of Flint. This approach includes the following: access to water sampling for all residents. Although this is not a scientific sampling pool, initial results have shown lead levels in water with 93 percent of sampling of homes below the Federal action level of 15 parts per billion.

Testing of additional schools, daycares, and nursing homes is underway. Assessment of food establishments through the Michigan Department of Agriculture and Rural Development is occurring. Home screening and additional followup for children with elevated lead levels in their blood are being coordinated by the Michigan Department of Health and Human Services. And identification of sample sites is occurring to allow for long-term monitoring and testing of water in conjunction with the EPA and the city.

The State will assert they will achieve these deliverables identified in the EPA order sometime January 21st. Since the issuance of the order, the State and the EPA have had productive and constructive conversations on a unified path forward. While we certainly appreciate the dialogue that has occurred, consultation with the State before the order was issued would have provided clarity to the many issues that the State was already underway in addressing. Indeed, it is puzzling that the order was issued so long after the State response began and without mentioning the steps that were already underway.

To be successful, we, the State, need to have a high-performing, trust-based partnership with the EPA, the city of Flint, and other agencies at the local and county levels. I appreciate the relationships that have been established between myself, Mayor Weaver, and interim EPA Regional Administrator Bob Kaplan through our weekly calls the meetings.

In closing, we know the task ahead is important, as is the restoration of the public's trust. Governor Snyder is committed to providing the resources necessary to provide solutions. I look to our congressional and Federal partners to also provide leadership on Federal resources that can be leveraged to address the problems related to the Flint water crisis. We will not rest until this problem is solved and the people of Flint are assured they again have water that is safe for them and their families.

I thank you again for the opportunity to come before you today, and I look forward to answering any questions you may have.

[prepared statement of Mr. Creagh follows:]



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



**Examining Federal Administration of the
Safe Drinking Water Act in Flint, Michigan**

Testimony Before the U.S. House of Representatives
Committee on Oversight and Government Reform
Michigan Department of Environmental Quality Director Keith Creagh
February 3, 2016
9:00 a.m.

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee on Oversight and Government Reform, thank you for the opportunity to be here today to discuss the Flint water crisis. My name is Keith Creagh, and since January 4, 2016, I have served as Director of the Michigan Department of Environmental Quality (MDEQ).

I want to start by apologizing to the residents of Flint. In retrospect, government at all levels should have done more. We must fully investigate what happened in order to make sure it will never happen again. In addition, and most urgently, we must fix the problem for the people of Flint.

This is a complex issue due, in part, to the multiple levels of government oversight. The City of Flint (the City) is responsible for the daily operations of the water plant and the distribution system, including identifying sampling locations, collecting samples, and certifying that the samples meet the criteria of the Lead and Copper Rule. The State of Michigan (the State) is responsible for ensuring compliance with the Lead and Copper Rule and Safe Drinking Water Act. The U.S. Environmental Protection Agency (EPA) sets national drinking water standards, provides oversight to make sure those standards are met, and audits the State's program.

In Flint, as the City switched its water source without proper corrosion treatment, no entity focused on the structure and analysis enough to understand the possible implications. The City did not fully implement its water utility consultant's recommendations. In addition, the Lead and Copper Rule required the City to assure all sampling protocols were followed, including sampling from homes that had lead services and certifying those results with the State. It has been reported that the City has admitted that its staff certified results that did not meet the criteria.

Second, the implementation of the federal Lead and Copper Rule was ineffective in protecting public health. When the first round of lead sampling came back at 6 parts per billion in January 2015, corrosion treatment was not implemented. Regardless of the testing schedule allowed by the EPA rule, in hindsight, when the lead levels began to rise, corrosion treatment should have been required by the MDEQ. As the Michigan Auditor General pointed out, the MDEQ's Office of Drinking Water and Municipal Assistance relied on technical compliance instead of assuring safe drinking water. It is noteworthy that the Lead and Copper Rule would have allowed up to 24 months to begin these treatments. It has now become clear that the federal Lead and Copper Rule is outdated and inadequate to protect the public from exposure to lead, especially in communities with aging infrastructure, such as Flint.

From the time of the switch to the Flint River as the primary water source in 2014, until the MDEQ received the January 21, 2016, Emergency Administrative Order (the Order)

from the EPA, my observation is that the EPA did not display the sense of urgency that the situation demanded. This is underscored by the conversations started in February 2015 regarding implementation of the federal Lead and Copper Rule. Between February and the end of September 2015, there were multiple e-mail exchanges and conference calls between the MDEQ and EPA. Yet when the parties were unable to come to consensus on its implementation in July 2015, the EPA failed to provide the legal opinion requested by the MDEQ until November 2015.

Furthermore, after being provided a copy of Miguel Del Toral's June 24, 2015, memo on high lead levels in Flint by a third party, the MDEQ was notified by an EPA official in an e-mail that:

I wanted to remind you that Miguel's report had DEQ cc'd. So if the Legislature or who ever (sic) might say you all were cc'd, you can truthfully respond that it was EPA's request that the report not be sent to the cc's. Consequently, you all never received the report from Miguel.

The MDEQ eventually received the memo from the EPA in November 2015, after it had already begun actions to address the lead problem. Legitimate concerns raised by EPA's own expert staff were not elevated or provided to either the City or the State for review and action until after the State's response was well underway.

When government finally responded to the public outcry, thanks to the relentless efforts of independent scientists whose warnings turned out to be correct – our tone was combative and dismissive. None of the levels of government communicated effectively with the public.

I am confident that the many reviews of this situation, from the U.S. Department of Justice to interagency teams, will address in-depth the policy and decision-making corrections needed to ensure that government at all levels can provide safe, clean drinking water to citizens.

While we could spend this whole morning trying to assign blame, I would first like to acknowledge the unwavering advocacy of EPA's Miguel Del Toral, Dr. Marc Edwards, and Dr. Mona Hanna-Attisha in helping to bring this problem to light. And I would like to spend the final few minutes discussing the coordinated State response that has been undertaken to fix this problem.

On October 2, 2015, Governor Snyder announced a 10-step plan to address the Flint water emergency. The initial steps included switching back to water provided by the Detroit Water and Sewerage Department (DWSD), which occurred on October 16, 2015. Supplemental phosphates were added to the treated DWSD water to provide additional protection on the lead service lines on December 9, 2015. All of Flint's public schools facilities have been evaluated, and problem fixtures are being remedied. In the

public schools, teams of plumbers were able to identify the issue was not lead service lines, but instead individual drinking water fixtures that contained lead.

The Governor announced the activation of the State Emergency Operations Center on January 5, 2016, just one day after Genesee County declared a state of emergency.

Since the end of January, we have handed out approximately:

100,000 Water filters

234,000 Cases of bottled water

32,000 Water testing sampling kits

The State has been working hard to develop effective and responsive steps to address issues related to drinking water in Flint. There are more than I have addressed in my opening remarks, but I do want to highlight the State's five-prong sampling plan that addresses both the short-term and long-term needs of Flint. This approach includes the following:

1. Access to water sampling for all residents. Although this is not a scientific sampling pool, initial results have shown lead levels in the water with 93 percent of sampling of homes below the actionable level of 15 parts per billion.
2. Testing of additional schools, daycares, and nursing homes is underway.
3. Assessment of food establishment through the Michigan Department of Agriculture and Rural Development is occurring.

4. Home screening and additional follow up for children with elevated lead levels in their blood are being coordinated by the Michigan Department of Health and Human Services. And,
5. Identification of sentinel sites is occurring to allow for long-term monitoring and testing of the water, in conjunction with the EPA and the City.

The State has also enlisted the expertise of Dr. Marc Edwards and Dr. Mona Hanna-Attisha, among others, as advisors on Michigan's Flint Water Interagency Coordinating Committee to work on long-term water infrastructure solutions for Flint. Through this partnership, and the work of the EPA's Flint Safe Drinking Water Task Force, the City, State, and federal government will work in unison to provide safe drinking water to the residents of Flint. This partnership will ensure that testing and monitoring is validated by trusted third parties. Much of the work produced by these committees can be used as blueprints for other communities.

The State will achieve the deliverables identified in the Order sent on January 21. Since the issuance of the Order, the State and EPA have had productive and constructive conversations on a unified path forward. While we certainly appreciate the dialogue that has occurred, consultation with the State before the Order was issued would have provided clarity to many of the issues that the State was already underway in addressing. Indeed, it is puzzling that the Order was issued so long after the response efforts began, and without mentioning the steps that were already underway.

I recognize the problem with finger pointing is that it makes it difficult to work in tandem to solve real problems for real people depending on us. To be successful, we, the State, need to have a high performing, trust-based partnership with the EPA, the City, and other agencies at local and county levels. Learning from the Flint situation and talking about it will not be easy, especially in a political environment. I appreciate the relationships that have been established between myself, Mayor Weaver, and interim EPA Regional Administrator Bob Kaplan through our weekly calls with the EPA and meetings with the City.

We know the task ahead is important, as is the restoration of the public's trust. However, Governor Snyder is committed to providing the resources necessary to provide solutions. I look to our Congressional and federal partners to also provide leadership on federal resources that can be leveraged to address the problems related to the Flint water system. We will not rest until this problem is solved and the people of Flint are assured that they again have water that is safe for them and their families

I thank you again for the opportunity to come before you today and look forward to answering any questions you may have.

Chairman CHAFFETZ. Thank you, Mr. Creagh.
Mr. Edwards, you're now recognized for 5 minutes.

STATEMENT OF MARC EDWARDS

Mr. EDWARDS. Thank you.

This is the third time, unfortunately, that I've testified before Congress about deficiencies in the EPA lead and copper rule. And I see my good friend Eleanor Holmes Norton up there, and I wish I didn't know you so well. Because when we met on this in 2004, we talked about the deficiencies at EPA, the loopholes in the regulation. And all of what we could have learned from Washington, D.C., was derailed. And, frankly, the only thing that we learned in Washington, D.C., was that these agencies, paid to protect us from lead in drinking water, can get away with anything.

So I am really begging you to do what we didn't do the last two times I appeared before this committee, which is to fix the EPA lead and copper rule and to fix the U.S. EPA.

The agencies involved in protecting children from lead in drinking water in this country, including U.S. Centers for Disease Control, the EPA, primacy agencies, and the water utilities, have proven themselves time and time again unworthy of the public trust. They cannot be trusted to fix this problem.

They've repeatedly engaged in scientific misconduct. And in the written testimony I submitted to the committee, I outline over the last 10 years five examples of falsified reports from these agencies that have conclusions directly endangering children in this country, that have caused children to be lead-poisoned, and they refuse to correct the scientific record, even in the case of an EPA report that the acknowledge has no data—no data. After 9 years I have tried to get this report corrected, they refuse to retract this report.

Mr. EDWARDS. So their callous disregard for the most vulnerable amongst us is really played out most recently in Flint, Michigan. And residents there have been living a surreal experience. It's part "1984"; part enemy of the people. And I am personally shamed that the profession I belong to, the drinking water industry in this country, has allowed this to occur.

So, in closing, I really am just begging you, please, please, these agencies—do what these agencies have refused to do. Protect kids in this country from lead in drinking water, and let's make them live up to their noble mission and once again be worthy of the public trust.

I yield my time to LeeAnne.

[Prepared statement of Mr. Edwards follows:]

Institutional Scientific Misconduct at U.S. Public Health Agencies: How Malevolent Government Betrayed Flint, MI

“If you want a picture of the future, imagine a boot stamping on a human face—forever.”
— George Orwell, 1984

The world is watching the Flint, MI 2015 Water Crisis unfold with astonishment. How is it possible, that the system designed to protect America’s children from the best known neurotoxin (lead) in their drinking water, has betrayed us?

The answer? Institutional Scientific Misconduct¹ perpetrated by the U.S. Centers for Disease Control (CDC), U.S. Environmental Protection Agency (EPA), primacy agencies and water utilities. The very agencies paid to protect us, not only failed to do so, but also revealed their callous indifference to the plight of our most vulnerable.

Events in Flint, were inevitable, due to a lack of scientific integrity at the highest levels of these agencies, as illustrated by falsified reports exposed by my work over the last decade.

These include:

- 1) The “scientifically indefensible” CDC 2004 *Morbidity and Mortality Weekly Report* (MMWR), that asserted 3 years of exposure to very high levels of lead in Washington D.C. drinking water, did not elevate blood lead of D.C. residents over CDC levels of concern.²
- 2) A peer reviewed paper by a consultant to the Washington D.C. Water and Sewer Authority, published in the journal *Environmental Health Perspectives*, presenting a falsified narrative and conclusion from the 2001-2004 Washington D.C. Lead Crisis. (Appendix A).
- 3) An Orwellian re-write of history by CDC in a 2010 MMWR report, that claimed the conclusion of their 2004 report, was the exact opposite of what they actually wrote (Appendix B).
- 4) An EPA report written to support an EPA policy on partial pipe replacements in Washington D.C., that ultimately wasted over \$100 million dollars while increasing the incidence of childhood lead poisoning. After nearly a decade of denials, EPA finally acknowledged that the data supporting this report did not exist. Even so, EPA has refused to retract a report that has no data. (Appendix C).
- 5) Some of the same EPA contractors, who authored the falsified EPA report supporting partial pipe replacements, wrote another peer reviewed article that reached the same falsified conclusion. The *Journal of the American Water Works Association* allowed publication of my “Discussion” of this paper (Appendix D), but refused to investigate the matter further or take decisive action.

While misconduct has always been a problem, at some level, since the earliest days of the scientific revolution, the rise of institutional scientific misconduct is a relatively new phenomenon. Clearly, we do not have adequate checks and balances on the power of these agencies, nor do we hold them accountable for their unethical actions.

There is a price to be paid for scientific misconduct, and unfortunately it is borne by the poorest amongst us, not by its perpetrators. We have to get this problem fixed, and fast, so that these agencies can live up to their noble vision and once again be worthy of the public trust.

¹Lewis, D. *Science for Sale* (2014).

²*Blood Lead Levels in Residents of Homes with Elevated Lead in Tap Water --- District of Columbia, 2004. April 2, 2004 / 53(12);268-270*

Appendix A

**Possible Undisclosed Conflicts of Interest
and Other Concerns
Related to a Publication in
*Environmental Health Perspectives***

Elevated Lead in Drinking Water in Washington, DC, 2003–2004:
The Public Health Response

Tee L. Guidotti, Thomas Calhoun, John O. Davies-Cole, Maurice E. Knuckles,
Lynette Stokes, Chevelle Glymph, Garret Lum, Marina S. Moses, David F.
Goldsmith, and Lisa Ragain

Published May 2007

**Marc Edwards
Charles Lunsford Professor of Civil Engineering
Virginia Polytechnic Institute and State University
March 20, 2009**

Yanna Lambrinidou, President of Parents for Nontoxic Alternatives,
Washington DC, contributed to the writing of this report

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1. INTRODUCTION

In late January 2004, the *Washington Post* published a series of investigative articles on the issue of elevated lead in Washington DC drinking water from 2001-2004. The articles, which were critical of the Washington DC Water and Sewer Authority (DC WASA) and the Washington DC Department of Health (DC DOH), triggered public outrage, hundreds of newspaper articles, several Congressional hearings, and lawsuits. In response, DC WASA hired a public relations firm for \$100,000 to assist with “crisis communication,” and also awarded another consultancy agreement (initially for 6 months and \$135,000) to Tee L. Guidotti, MD, MPH and his colleagues at the George Washington University (GWU) Department of Occupational and Environmental Health.

As part of their work for DC WASA on this contract, Dr. Guidotti and his colleagues prepared a manuscript entitled *Elevated Lead in Drinking Water in Washington, DC, 2003–2004: The Public Health Response*. This manuscript was eventually published in *Environmental Health Perspectives* (Volume 115, Number 5, Pages 695-701, May 2007).

1.1. Timeline Relative to Disclosure of Potential Conflicts

A Freedom of Information Act (FOIA) request revealed that Dr. Guidotti claimed “no” competing financial interest on behalf of the co-authors when he first submitted the draft manuscript to EHP via the internet on 10/6/2005:

Competing
Financial: No

The “Acknowledgements” section of this first draft included a reference to a contract between DC WASA and the Center for Risk Science and Public Health (CRSPH). The “Acknowledgements” also referred to the DC WASA contract in the past tense (i.e., “were under contract”), and included a specific reference to “the period described in this paper,” which implied that the financial relationship between DC WASA and CRSPH was limited to 2003-2004.

Acknowledgements

The following contributed to the analysis reported in this paper: staff of the Bureau of Epidemiology and Health Risk Assessment including Garret Lum, MPH, LaVerne Jones, MPH, Kerda DeHaan, MS, Samuel Washington, MPH, Gebreyesus Kidane, PhD, MPH, Christine Yuan, MPH; other Department of Health staff, including Daniel R. Lucey, MD, MPH; Sherry Adams, MPH; and staff of the Center for Risk Science and Public Health (CRSPH), including Polly Thibodeau. The CRSPH, including the authors identified, were under contract to DC WASA providing services in risk management during the period described in this paper.

The wording was highly misleading, because the contract between CRSPH and DC WASA was essentially continuous from 2004 to the present day. Cumulative financial support through 2006 was \$714,288 and sources tell me that the total exceeds \$1 million. The vast majority of the payments from DC WASA to GWU on the contract were made *after* the 2003-2004 time period covered in the EHP paper.

		Gail Alexander-Reeves		To: Maxine Buchanan/PROCUREMENT/DC/WASA@WASA, Tamara Stevenson/PA/DC/WASA@WASA	
05/01/2008 11:33 AM				cc: Johnnie Hemphill/GM/DC/WASA@WASA	
				Subject: GW Contract_Spending	
Fiscal Year		Spending			
2004	\$	136,884			
2005	\$	339,150			
2006	\$	238,142	estimated	YTD - \$134,844.95	
	\$	714,288			
PURCHASE ORDER INFORMATION					
PO No.	Start Date	End Date	Amount	Total	
51161	4/1/05	7/30/05	\$75,000.00	75,000.00	
Rev. 1 51161	"	"	68,858.00	141,858.00	
60599	10/1/05	3/31/06	238,142.00	380,000.00	
Rev. 1 60599	10/1/05	9/30/06	-62,046.58	317,953.42	
70707	10/1/06	3/31/07	200,000.00	517,953.42	

Indeed, if the Guidotti et al. Jan/Feb 2008 peer-reviewed paper, "DC Water and Sewer Authority and Lead in Drinking Water: A Case Study in Environmental Health Risk Management" (*J. Public Health Management Practice*, 14(1):33-41) is correct, DC WASA's financial support to CRSPH actually started in 2002, years before the extent of the lead-in-water problem was first revealed to the public through the *Washington Post*.

This study was supported by a contract between the DC Water and Sewer Authority and the Center for Risk Science and Public Health, which was first retained in 2002 to provide assistance to the DC WASA in risk management. We thank DC WASA for technical information and figures. The findings presented are solely the responsibility of the authors.

Corresponding Author: Tee L. Guidotti, MD, MPH, Department of Environmental and Occupational Health, School of Public Health and Health Services, The George Washington University, 2100 M St, NW, Suite 203, Washington, DC 20052 (eohtlg@gwumc.edu).

It is important to note that Dr. Guidotti himself received a significant fraction of his income from the contract with DC WASA after 2003-2004. For example, from April 2005 to March 2006 this source supported well over 20% of his overall salary.

PERSONNEL LISTING - WAS-05-018-AA-MB				Prepared By: LM22
				4/26/2006 11:50 AM
				Schedule # 1
26571-1-CCNS90275A				Invoice # 065
NAME/TITLE	PERIOD	HOURS	Payments	CUMULATIVE
Guidotti, Tee (Fringe @23.7 Salary)	04/01/05 - 04/30/05	34.80	\$ 2,780.46	
	05/01/05 - 05/31/05	34.80	\$ 2,780.46	
	06/01/05 - 06/30/05	34.80	\$ 2,780.47	
	07/01/05 - 07/31/05	35.00	\$ 2,881.67	
	08/01/05 - 08/31/05	34.80	\$ 2,881.68	
	09/01/05 - 09/30/05	34.80	\$ 2,881.68	
	10/01/05 - 10/30/05	34.80	\$ 2,881.68	
	11/01/05 - 11/30/05	34.80	\$ 2,881.68	
	12/01/05 - 12/31/05	34.80	\$ 2,881.68	
	01/01/06 - 01/31/06	34.80	\$ 2,881.68	
	02/01/06 - 02/28/06	34.80	\$ 2,881.68	
	03/01/06 - 03/31/06	34.80	\$ 2,881.68	
				\$ 24,276.50

In late November of 2005, I started questioning DC DOH employee and EHP co-author Lynette Stokes, PhD, MPH about specific issues related to data that appeared in the EHP publication. I also questioned Dr. Stokes about the possibility that the financial relationship between Dr. Guidotti and DC WASA had been extended beyond 2003-2004. Unable to get answers, in early December of 2005, I submitted two FOIA requests to DC DOH for the data that appeared in the EHP paper and which were prominently referenced in public presentations. I also asked for all e-mail communications between EHP co-authors Dr. Stokes and Dr. Guidotti. Three months after my FOIAs and five months after Dr. Guidotti first submitted his paper to EHP, Dr. Guidotti finally corrected the statement that he and his co-authors had "no" competing financial interests. On March 1, 2006, he filled out a "competing financial interest declaration" that explicitly acknowledged the "contract support" that he had received from DC WASA (see page 4).

It is not clear whether Dr. Guidotti's belated disclosure of this competing financial conflict was immediately accompanied by a correction of the misleading statement in the "Acknowledgements" section of his EHP paper, which implied that the payments from DC WASA had ended in 2004. In a version of the manuscript dated February 10, 2006, the misleading language was still present. In fact, as late as August 29, 2006, six days after the manuscript had been officially accepted by the EHP editor, Dr. Guidotti claimed that the "original checklist and financial interest declarations" were still valid:

Subject: Re: Ms. No. 8722 - reconciled text
 Date: Tuesday, August 29, 2006 5:36 PM
 From: Tee Guidotti <eohtlg@gwumc.edu>
 To: <EHPManuscripts@niehs.nih.gov>
 Conversation: Ms. No. 8722 - reconciled text

Attached are the versions and figures as requested.

This ms. is a revision and still conforms to the original checklist and financial interest declarations previously provided.

Mar 01 06 03:34p
Tee Guidotti - ehp_cfi.pdf

P. 1
Page 1

File: 919 541-0273

8722

Environmental Health

P E R S P E C T I V E S

Competing Financial Interests Declaration

Environmental Health Perspectives maintains that authors are accountable for the articles submitted to the journal and requires authors to declare competing financial interests that might be construed as influencing the results or interpretation of a reported study. As stated in the Instructions for Authors, "competing financial interests may include, but are not limited to, grant support, employment (recent, present, or anticipated), payment for expert testimony, and personal financial interests by the authors, immediate family members, or institutional affiliations that may gain or lose financially through publication."

Corresponding authors are required to submit this declaration of competing financial interests form on behalf of all authors involved. Failure to declare a competing financial interest could result in a ban on publication for 3 years and a retraction of the article. Further, the corresponding author shall certify that the authors' freedom to design, conduct, interpret, and publish research is not compromised by any controlling sponsor as a condition of review and publication.

"Lead in Drinking Water..." 8722ART

Manuscript Title
TE Guidotti, T. C. G. H. H., TO Davies-Gale, MS Knuckles, L. Stokes, C. G. H. H., T. C. G. H., MS Moses, DF G. H. H., L. R. R. R.

Authors

Please check one of the following:

☒ Authors declare they have a competing financial interest, as defined in the Instructions to Authors. Details are provided below. *Disclosed in "Acknowledgments"*

☐ Authors declare they have no competing financial interest.

Specify the competing financial interest, include the name of entity, who is involved, and current interest:

Employment by DC Dept of Health: T C. H. H., TO Davies-Gale, MS Knuckles, L. Stokes, C. G. H. H., T. C. G. H.

Contract support from DC HHS: T Guidotti, MS Moses, DF G. H. H., L. R. R. R.

Are there any other relevant disclosures that should be brought to the Editor's attention?

[Signature]
Signature

11 March 2005
Date

TE L. GUIDOTTI
Print Name

George Washington Univ
Institution

Although I cannot be sure exactly when the change occurred, at some point between February 10, 2006 and submission of the paper's final version on January 9, 2007, Dr. Guidotti did revise the "Acknowledgements" section to explicitly reveal his long-term and ongoing financial relationship with DC WASA (my emphasis denoted in underlined bold and italicized text):

The Center for Risk Science and Public Health (CRSPH) ***held and still holds*** a contract with the DCWASA to provide consulting services in risk management. Services in support of this contract and the preparation of this manuscript were provided by staff of the CRSPH, including P. Thibodeau, M. Greer, and R.J. Bruhl.

T.L.G., M.S.M., D.F.G., and L.R. received contract support for this study from the DCWASA.

In conclusion, while the correct information was ultimately disclosed in the acknowledgement section relative to the DC WASA contract, it is not clear that the editors or reviewers were ever made aware of the on-going nature of this potential financial conflict when the paper was being considered for publication. I wonder whether this potential conflict would have ever been disclosed, had I not submitted a FOIA for e-mails between Drs. Stokes and Guidotti (3 months before they first admitted to a potential financial conflict). Moreover, as will be revealed in the pages that immediately follow, numerous other conflicts were never revealed.

1.2. Organization of This Report

Section 2 details the financial and non-financial conflicts of interest that, insofar as I know, were not properly disclosed to the EHP editor. Section 3 calls into question whether anyone (EHP editors, individual scientists, the journals, and society) should have "complete faith" that the published paper represents "open, honest, and unbiased" research. Section 4 discusses possible actions EHP could take in relation to this peer reviewed article.

2. POSSIBLE UNDISCLOSED CONFLICTS OF INTEREST

The following Table summarizes possible undisclosed financial and non-financial conflicts of interest. Each of these is described separately in the sections that immediately follow.

Possible Undisclosed Conflict	Relevant Authors/ Organization
2.1. Compromised ability to publish research	Tee L. Guidotti/DC DOH
2.2. Lawsuit: <i>Amy Harding-Wright et al. v. DC WASA</i>	Tee L. Guidotti/DC WASA
2.3. Lawsuit: <i>Regina Lewis v. the District of Columbia and DC WASA</i>	DC DOH/DC WASA/ Tee L. Guidotti
2.4. Discussion of joint George Washington University/DC DOH faculty position to be partly funded by DC WASA	Tee L. Guidotti/ DC DOH
2.5. DC WASA-funded “DC DOH” environmental assessments at the homes of children with elevated blood lead levels	Tee L. Guidotti/DC WASA, DC DOH
2.6. Potential conflict of interest with CDC	Tim Cote (removed author)/DC DOH

2.1. Tee L. Guidotti/DC DOH: Compromised Ability to Publish Research

The official agreement between DC WASA and CRSPH at GWU explicitly states, “Publication or teaching of information specific to DCWASA, specifying DCWASA by name...must first be approved in writing by DCWASA.” Below is an excerpt from the contract between DC WASA and GWU from FOIA documents.

ARTICLE 15 PUBLICATION Publication or teaching of information specific to DCWASA, specifying DCWASA by name and directly derived from work performed or data obtained in connection with services under this Agreement, must first be approved in writing by DCWASA.
--

Such contract language is a well-known concern amongst health professionals relative to disclosure for potential conflicts of interest, because “the sponsorship agreement may serve to limit the publication of findings that are ‘negative’ from the sponsor's perspective” (Schulman et al., *Journal of the American Medical Association*, 1994;272:154-156).

When Dr. Guidotti first submitted the EHP manuscript, according to EHP policy, he was also explicitly certifying that his ability to “design, conduct, interpret, and publish research is not compromised by any controlling sponsor” (see page 4).

In addition to the explicit DC WASA contract language requiring written approval for publication, there are numerous worrisome indications that the EHP paper publication process was at least partly controlled by DC WASA. While I have only limited records of e-mail communications between Dr. Guidotti and his DC WASA client regarding the EHP paper (and

some e-mails provided were completely redacted), it is clear that Dr. Guidotti kept DC WASA closely informed of the paper's evolution. For example, below is an illustrative exchange in which Dr. Guidotti sent copies of the EHP manuscript to DC WASA for review nine months after the original manuscript was submitted. It is currently unclear from the existing written record available to me if DC WASA actually edited any versions of the EHP paper, or if DC WASA verbally recommended changes to the paper at the weekly meetings held between GWU and DC WASA.

```

"Tom Guidotti"
<tomt1g@quinc.edu>      To:
<Johnnie.Hemphill@dcwasa.com>
>
cc:      "Marina Moses"
<echman@quinc.edu>
Subject: New version of
the BLL paper
07/10/2006 06:59

Johnnie - here is the latest version. It is substantially changed - I
have dropped almost everything that does not directly deal with the
issue of blood leads, in order to stay within limits and still provide
detail that the reviewers wanted. The tone has also shifted - I am
trying to find common ground with the reviewers.

Thanks for confirming the Weston report date.

TLG

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In another e-mail titled "Urgent: Case Study for Publication" dated 4/6/06 and addressed to DC WASA's Chief of Staff Johnnie Hemphill (see full document on page 8), Dr. Guidotti acknowledged his paper was being reviewed by DC WASA's staff and legal counsel for "accuracy and legal liability." The process was taking longer than Dr. Guidotti anticipated and led him to express concern that the delay was jeopardizing publication. Specifically, he noted that "the delay is becoming a problem" because "reviewers for the paper are throwing up roadblocks that discourage acceptance of the paper.... We think that it is very important to get the story out as soon as possible and completely as possible." He then ended by asking, "Could we nudge the office of WASA legal counsel to move things along a bit?"

"Tee Guldott"
 <teetig@gwumc.edu>

04/08/2006 11:07 AM

To: <Johnnie_Hamph
 cc: <teetig@gwumc.edu>, "Polly Thibodeau" <EOHPMT@gwumc.edu>
 Subject: Urgent - Case study for publication

Johnnie - We have encountered a problem in publishing the blood lead case study. This has caused us to change strategy. We now need to move the overall case study ahead as quickly as possible. We know that counsel is reviewing the case study for accuracy and legal liability but the delay is becoming a problem.

Briefly, the problem is that reviewers for the paper are throwing up roadblocks that discourage acceptance of the paper. We think that they are reluctant to see a paper in the literature that suggests that there has been no demonstrable effect from lead in drinking water because they are worried that it will undermine efforts to eliminate all lead sources. The editor depends on the opinion of reviewers to determine whether a paper is publishable and so has rejected the paper. It is extremely unusual to reject a paper at this late stage, after we have already complied with the revisions recommended in the earlier review. So we have gone back to the editor and requested another round of revisions, outlining what we have in mind in the way of clarifying

language but also drawing a line at changing the basic conclusion of the paper.

One of the reviewers also wants us to do a different analysis on the data, which we feel is not necessary. We also do not want to go back to the Dept. of Health to ask them to run the numbers again, as it will take months and we will have to go back to every listed coauthor again to get approval. We are trying to persuade the editor that he is wrong but editors are generally protective of reviewers and very reluctant to overturn their recommendations. (A close reading of the same reviewer's text shows that it resembles the wording of one of the advisors to the plaintiffs in the now-dismissed lawsuit, so we think it may be the same person and that would be a clear conflict of interest. However, we do not know his identity for sure.)

If the editor sends back a message that he will not even consider allowing a resubmission with further revisions, then we will have to start over again with a new journal, which would take several months. (We are thinking of submitting it to a British journal, where there is less likelihood of political correctness bias.) If the editor allows a resubmission, we are not out of the woods and even a successful outcome would take another two months. Either way, there will be further delay.

In view of this unexpected setback, we believe that the best strategy would be to submit the overall case study to Public Health Reviews because that would get things on the record (before the EPA-Cadmus version) and because there is a short paragraph in it that summarizes the blood lead data, while not providing enough information to constitute dual publication.

We think that it is very important to get the story out as soon as possible and completely as possible. Could we nudge the office of WASA legal counsel to move things along a bit? They did not seem to feel the same need to review it three months ago, so if they do not object perhaps we should just go ahead and submit it.

I will be around for a 10:00 meeting on 11 April, and I hope we can do so. I will be away on 18 April. I think that I will be around on 25 April, 2 May (there is some doubt), and 16 May. I will be out of town or otherwise committed almost every Tuesday after that until the end of June, with some exceptions.

TIG

I would also like to elaborate on another unusual aspect of the DC WASA contract with CRSPH. The FOIA documents revealed that this contract was titled "*Strategic Environmental Health Risk Management Assistance to D.C. WASA.*" As select excerpts below indicate, "Public Affairs Department Support" to DC WASA, including *advocacy* for DC WASA, was an integral part of the work plans. The contract openly discussed the "professional credibility" that the CRSPH would bring "as an academic entity" if selected as DC WASA's consultant. And that the CRSPH would be creating "strategic communications strategy."

Strategic Environmental Health Risk Management Assistance to DC WASA

Advantages of the CRSPH as consultant to WASA for environmental health risk management include the following:

- Staff of the CRSPH are already highly familiar with the challenges facing WASA and the problems inherent in simultaneous compliance issues. There is no need to come up to speed.
- As an academic entity, the CRSPH brings professional credibility to the task and excellent connections to the community and to government agencies, particularly in public health.

'05 Public Affairs Department Support:

- 1) Risk Communications
- 2) Plan/Document Review
- 3) EPA Research Agenda
 - WASA Advocacy Position
 - Joint advocacy effort recommendations

To: WASA Team
From: GWU Team
Re: Public Health/Risk Communication Messages
Date: April 4, 2005

This memo is in response to a request by WASA to the GW team to address DC DOH's plan to initiate a public health outreach effort on drinking water and health in the District.

- Create a strategic communications strategy for public interaction, such as radio, community meetings, etc. that address the specific needs of susceptible populations and the general public.

The EHP paper is also frequently mentioned in the FOIA documents. For example, in a document dated 1/11/05 describing "WASA activities for '04 and '05," under "Description from WASA" the EHP paper is described as a "'05 Health Message." It is mentioned elsewhere in the scope of work as a "Health Message" as well.

WASA Activities for '04 and '05		1/11/05	
Description from WASA	GWU Lead	Due	Status
'04 Scope of Work			
1-Evaluation and recommendations on outreach activities	LR	12/10	Completed
2-Evaluation of sampling protocols (and application)	DG-Case Study	12/31	Completed
3-Evaluation of sampling program process and procedures	DG-Case Study	12/31	Completed
4-Review of sample data in compliance year 03- Implications for distribution system	DG-Case Study	12/31	Completed
5-Review of sample data in compliance year 03- Implications for appropriate Authority Conclusions about tap water concentrations	DG-Case Study	12/31	Completed
6-Third party review work by all agencies to determine cause of exceedance	MM	11/27	Completed
7-Advise on likely health risks associated with lead in drinking Water/other exposures	TG/MM	12/14	Completed
8-GWU Response to Appleseed	LR/MM/TG		Completed
9-September 20, 2004 WASA Pre-Workshop	PT		Completed
10-October 12-13 WASA Workshop	PT		Completed
'05 Health Message			
1-GWU Work with DOH (specific project/publication)			←

OTHER MENTIONS OF EHP PAPER

Agreement to DC Water and Sewer Authority (WASA) Lead Services Program
The George Washington University (GWU)
School of Public Health and Health Services (SPHHS)
Scope of Work

Health Message:

- 1) GWU Work with DOH (specific project/publication) ←
- 2) Independent GWU outreach
- 3) Support for WASA outreach (creating reference point for WASA publications)

In conclusion, the explicit language of the DC WASA/CRSPH contract indicates that Dr. Guidotti was not able to operate with freedom from his client. The e-mails further indicate that he did not do so. Moreover, the initial description of the EHP paper by DC WASA was as a "Health Message," under a scope of work that had a clear "public relations" component.

2.2. Tee L. Guidotti/DC WASA: Amy Harding-Wright et al. v. DC WASA

On March 8, 2004, a lawsuit was brought against DC WASA and the DC Government by DC residents Amy Harding-Wright et al. The subject of the lawsuit was clearly related to the subject of the EHP paper, as revealed by the original complaint that states in part:

1. *This case arises from the failure of the District of Columbia Water and Sewer Authority ("WASA" or "DC WASA") and the government of the District of Columbia (the "District") (collectively, "Defendants"), to provide safe drinking water to the residences, offices and schools of the District of Columbia. In particular, Defendants have taken actions that have caused the delivery of unsafe water to drinking water taps within a vast number of private residences, businesses, offices, and schools in the District of Columbia. Defendants have negligently or willfully refrained from taking actions that would have remediated the problem more quickly, thereby causing further harm to those consuming WASA water.*
2. *WASA and District officials, by their actions and inactions have endangered all users of District water, particularly pregnant women and children. They have hidden and dissembled about their awareness of these issues, thereby increasing the risk of injury to users of District water; have failed and are continuing to fail, to meet federal standards and guidelines for the protection of human health from exposure to lead in drinking water;*

I can find no reports or disclosures to EHP of Dr. Guidotti's involvement, financial or otherwise, in this lawsuit. Yet there is unequivocal evidence that DC WASA identified Dr. Guidotti as "WASA's health expert" for the case and that Dr. Guidotti filed an affidavit on behalf of his client, DC WASA.

UNITED STATES DISTRICT COURT DISTRICT OF THE DISTRICT OF COLUMBIA	
AMY HARDING-WRIGHT, ALFONSO WRIGHT, ELLEN SHAW, and PRANAV. BADHWAR, Plaintiffs, v. DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY AND MAYOR ANTHONY WILLIAMS, Defendants.	Case No. 04-CV-558 (HHK)
MOTION OF DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY FOR LEAVE TO FILE A SUR-REPLY IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION Defendant District of Columbia Water and Sewer Authority ("WASA") respectfully moves this Court for an order granting WASA leave to file a five-page Surreply in connection with Plaintiffs' Motion for Preliminary Injunction, along with (1) a Supplemental Declaration of <u>Dr. Tee Guidotti (WASA's health expert), and (2) a copy of WASA General Manager Jerry</u>	

It is also clear that Dr. Guidotti's affidavit was on the issue of health effects from lead in water, the very subject addressed in the EHP paper, as revealed in this document through FOIA.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

*Amy Harding-Wright, et al. Plaintiffs, v. District of Columbia Water and
Sewer Authority, et al. Defendants. Civil Action No. 04-00558
(HHK)*

SECOND DECLARATION OF DR. JOHN F. ROSEN

I, John F. Rosen, declare and state as follows:

1. This response incorporates all the text and references of my previous affidavit, dated March 25, 2004.

2. **I have reviewed the affidavit of Dr. Tee L. Guidotti filed with the District of Columbia Water and Sewer Authority's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Preliminary Injunction dated May 7, 2004 ("WASA Memo").** I set forth herein my responses to the assertions of Dr. Guidotti. My discussion

below is based on my extensive experience in the field of the clinical evaluation and treatment of pediatric exposure to lead contamination.

3. Dr. Guidotti is apparently not a board-certified pediatrician, nor does he have any apparent experience in the diagnosis, management, treatment or outcomes of excessive lead exposure in young children.

4. Dr. Guidotti has failed to include any citations in his affidavit. As a result, his statements about the real or potential impacts of excessive lead levels in Washington DC's drinking water on the health of young children and the developing fetus appear to me to be wholly unsubstantiated.

5. In paragraph 3 of his affidavit, Dr. Guidotti equates childhood lead poisoning with the symptoms of lethargy, anemia, abdominal pain...at blood lead levels above 60 ug/dl. This statement is, at the very least, about 20 years out of date....

Finally, Dr. Guidotti's involvement in the lawsuit was essentially confirmed by Dr. Guidotti himself in his 4/6/06 e-mail to DC WASA (see page 8). In that e-mail, Dr. Guidotti lamented that one of the EHP reviewers who requested "a different analysis on the data" might have a "conflict of interest." Dr. Guidotti arrived at this concern through "a close reading" of the reviewer's comments that "resemble[d] the wording from one of the advisors to the plaintiffs in the now-dismissed lawsuit" about lead in water.

In a July 8, 2005 *Washington Post* article on the *Amy Harding-Wright et al. v. DC WASA* lawsuit, DC WASA was quoted saying that "the lawsuit has cost more than \$1 million to defend." Moreover, they revealed that "the cost of defending the utility against the lawsuit included expenses for outside lawyers and experts." Was Dr. Guidotti paid as an expert witness

by DC WASA, either directly or via his contract with GWU? Even if Dr. Guidotti volunteered his time on behalf of his client, he was ethically obligated to disclose his direct involvement in the DC WASA lawsuit to the EHP editor, the reviewers and the readers. His DC DOH co-authors, as employees of DC Government (a defendant in the lawsuit), were also obviously obligated to disclose this potential financial and non-financial conflict. Further, Dr. Guidotti's failure to disclose his involvement was especially egregious, because his 2004 affidavit put forth an opinion about the health effects of lead in water that was highly favorable to his client.

It is also revealing that when Dr. Guidotti first submitted the EHP manuscript for review in late 2005, he specifically requested that John F. Rosen, MD (Environmental Sciences Professor of Pediatrics and nationally renowned expert on childhood lead poisoning) be "restricted." In other words, Dr. Guidotti did not want Dr. Rosen to be considered as a reviewer for the paper. As the plaintiffs' health expert in the lawsuit, Dr. Rosen had direct knowledge of Dr. Guidotti's involvement in *Amy Harding-Wright et al. v. DC WASA* lawsuit and could have revealed the potential conflict of interest to the EHP editors.

Reviewers:	
Restrictions:	John F. Rosen

2.3. DC DOH/DC WASA/Tee L. Guidotti: Regina Lewis v. the District of Columbia and DC WASA

Regina Lewis, the mother of a Washington DC child with lead poisoning and possible permanent brain damage who was allegedly harmed by a combination of DC WASA and DC DOH negligence, sued the District of Columbia (i.e., DC DOH) and DC WASA for \$5 million each (\$10 million total) in 2004. This lawsuit is on-going. The plaintiff alleged that high lead in water was a contributing factor to the permanent brain damage and elevated blood lead of her child (Appendix 2.3.A). I can find no evidence that Dr. Guidotti, DC WASA's "health expert" and recipient of DC WASA contract support for the EHP paper, or his DC DOH co-authors who were defendants in this lawsuit, revealed this direct and obvious financial conflict of interest to the EHP editors.

The EHP authors knew about the child because they discuss his case in the EHP paper (also discussed in section 3.3.1). DC DOH co-author Dr. Stokes oversaw the DC DOH lead-screening program and the handling of the child's case from 2002 until about 2007 when she left her DC government post (see separate pdf attachment for details). Dr. Stokes' intimate knowledge of the case was revealed in a press conference she held on the child's status in early 2004. DC Government's legal counsel also requested production of documents from DC DOH staff on this child's case in October 2004 (Appendix 2.3.B). The request for legal documentation from DC DOH and the filed lawsuit was part of the child's DC DOH case file, which Dr. Stokes maintained. DC WASA's legal counsel, who reviewed and approved Dr. Guidotti's EHP paper, was also certainly aware of the *Regina Lewis v. the District of Columbia and DC WASA* lawsuit.

The failure of the EHP co-authors to reveal this financial conflict of interest is especially egregious, given that they also made numerous false statements about this child in their EHP paper as will be discussed in section 3.3.1.

Aside from their failure to disclose the financial conflict of interest, the EHP co-authors flip-flopped on whether these lead-in-water lawsuits (against DC DOH and DC WASA) should even be mentioned in the paper. For example, in an early version of the EHP manuscript, one lawsuit (i.e., the *Amy Harding-Wright et al. v. DC WASA*) received the following innocuous reference:

crisis after an article appeared in the *Washington Post*, January 31, 2004. Many events ensued, including a lawsuit (now withdrawn), investigations, public meetings, DC Council hearings, Congressional hearings and finally an administrative order with the EPA Region III office on 17 June 2004.

“Lawsuits” (plural) was then mentioned in a later version of the EHP paper, along with the parenthetical disclaimer that “the most visible” of them “has now been withdrawn.” This “most visible” lawsuit was the *Amy Harding-Wright et al. v. DC WASA*.

***Washington Post*, January 31, 2004. Many events ensued, including lawsuits (the most visible of which has now been withdrawn), investigations, public meetings, DC Council**

Clearly then, the co-authors of the EHP paper were well aware of other lead-in-water lawsuits that affected DC WASA and DC DOH (the only other lawsuit I am aware of is *Regina Lewis v. DC WASA*).

Furthermore, the following e-mail exchanges between Dr. Guidotti and his DC DOH co-author Thomas Calhoun, MD in 2005 and 2006 clearly discuss whether to even mention the *Amy Harding-Wright et al. v. DC WASA* lawsuit.

```
>>> "Calhoun, Thomas (DOH)" <thomas.calhoun@dc.gov> 10/31/2005 11:38 AM
>>>
Tee, my apologies for not having responding with a final comment. I do not have any
additions to the article as written ; I do however, as I mentioned earlier, think we
should remove any comment about a law suit.
Hopefully this will be received for publication.
Thanks, Tom Calhoun.

From: Tee Guidotti [tehg@gwumc.edu]
Sent: Monday, October 31, 2005 2:14 PM
To: thomas.calhoun@dc.gov
Subject: RE: BLL paper for EHP - version 4 - please review and confirm your participation

Tom - I just got back from a series of meetings out of town. Plan to wrap this up at the
end of the week.

No problem with dropping mention of lawsuit as far as I am concerned.
```

-----Original Message-----

From: Tee Guidotti [mailto:tehtlg@wumc.edu]
 Sent: Sunday, February 19, 2006 3:10 PM
 To: thomas.calhoun@dc.gov
 Cc: Briant.Coleman@dc.gov
 Subject: RE: Message #2 Revised EHP Mss. on BLL - Please respond by next Monday!
 Importance: High

**** High Priority ****

Tom - I will do what I can. The journal is very particular about changes and told me before that no changes in authorship were possible. I will make the changes you suggest

when I return from travelling. We will see if the journal accepts a change in authorship. It would be much easier to honor Mr. Coleman's contribution in an acknowledgement.

I mentioned the lawsuit so that we would not be open to criticism for having ignored it. Some people in the activist community believe that the lawsuit stimulated the response by the Dept. of Health, which, of course, is not true. This paper might be read by those same people as a refutation of the allegations in the lawsuit, by those who knew about it. By briefly mentioning it and the fact that it has been withdrawn, we send a signal that this paper has nothing to do with the lawsuit.

TLG

Tee L. Guidotti, MD, MPH, Professor
 Chair, Dept. of Environmental and Occupational Health Director, Division of Occupational
 Medicine and Toxicology (Dept. of
 Medicine)
 The George Washington University Medical Center 2100 M St., NW, Ste. 203 Washington DC
 20052 tel. 202 994-1765 or -1734 fax 202 994-0011 (open), -5579 (confidential) call 202
 262-2709

>>> "Calhoun, Thomas (DOH)" <thomas.calhoun@dc.gov> 2/21/2006 10:28 AM

I think that will be acceptable, but not optimal, that is acknowledging his efforts, and I appreciate your efforts.

It is entirely your call on the lawsuit, and from WASHA's perspective I can see the value in noting it.

I have read Dan's responses also and of course respect his opinions, as well as the response from Robert Bobb.

I think the paper should go forward and can be of value to others who may read it.
 Tom.

Dr. Guidotti should have been highly sensitized to public concerns about clear disclosure of involvement in lawsuits by the time he submitted his final version of the EHP manuscript on January 9, 2007. First, Dr. Guidotti considers himself an expert on the intersection of law and medicine, and has publicly cited a book he edited titled *"Science on the Witness Stand: Evaluating Scientific Evidence in Law, Adjudication, and Policy"* (OEM Press 2001). This book features excerpts from the guidelines for expert science witnesses provided by the American College of Occupational and Environmental Medicine (ACOEM), an organization of which Dr. Guidotti was the president in 2006. They read:

"He or she can have no direct personal or pecuniary interest in the outcome of the case, and their review of the medical facts should be thorough, fair, impartial, and should not exclude any relevant information in order to create a view favoring any party. ...The physician expert must demonstrate adherence to the strictest of personal and professional ethics....The medical expert must strive to avoid even the slightest appearance of impropriety or partiality."

"Science on the Witness Stand," further states that:

"Expert witnesses must not become 'spin doctors' for either side." "Materials not subject to peer review....should not be presented as widely accepted scientific publications."

Dr. Guidotti's actions and words sometimes seem to contradict the established ethical standards listed in his own book. For example, on the front page of the January 9, 2007 *Wall Street Journal*, Dr. Guidotti expressed a controversial opinion, indicating that disclosure of involvement in lawsuits is not necessary for authors of peer reviewed papers. He did hedge his opinion, however, by saying that such disclosure is unnecessary if a paper represents a "consensus of its membership" and not the opinion of individual authors:

COURT OF OPINION

Amid Suits Over Mold, Experts Wear Two Hats

TUESDAY, JANUARY 9, 2007 - VOL. CCXLIX NO. 7

The paper has become a key defense tool wielded by builders, landlords and insurers in litigation. It has also been used to assuage fears of parents following discovery of mold in schools. One point that rarely emerges in these cases: The paper was written by people who regularly are paid experts for the defense side in mold litigation.

The ACOEM doesn't disclose this, nor did its paper. The professional society's president, Tee Guidotti, says no disclosure is needed because the paper represents the consensus of its membership and is a statement from the society, not the individual authors.

The dual roles show how conflicts of interest can color debate on emerging health issues and influence litigation related to it. Mold has been a con-

In any event, at 5 pm on the very day that he was cited on the front page of the *Wall Street Journal* in an article that was critical about failures of authors to disclose conflicts of interest in relation to legal cases, Dr. Guidotti submitted the final version of his EHP paper without a mention of the lawsuits against his DC DOH co-authors or his DC WASA client.

Sent from my GoodLink synchronized handheld (www.good.com)

-----Original Message-----

From: Tee Guidotti [mailto:tehtlg@wvumc.edu]

Sent: Tuesday, January 09, 2007 05:09 PM Eastern Standard Time

To: Jim (NTH/NIKHS) Burkhardt

Cc: Chevelle Glymph; Lum, Garrett; John Davies-Cole; Maurice Knuckles; Tom Calhoun; Tim

Cote; Lynette Stokes; David Goldsmith; Marina Moses; Lisa Ragain

Subject: Re: EHP Manuscript #8722

I am pleased to convey the revised paper. The following changes have been made:

The issue of legal action was raised amongst the EHP authors in another context. In response to a popular press publication of my own research that showed gross inaccuracies in data presented in earlier versions of the EHP paper, Dr. Guidotti spelled out exactly what the errors might mean to his client, DC WASA. Specifically, he stated that *“the lawyers will use this in future legal actions”* and *“WASA will be vulnerable forever”* and *“nobody will believe DOH or WASA in the future.”* It is particularly revealing that he spelled out DC WASA’s legal concerns in a sentence that also discussed his ability to publish the EHP paper. This is because the EHP paper was, first and foremost, a public relations “hit” for DC WASA.

>>> Tee Guidotti 09/22/06 10:53 AM >>>

Marina - for reasons I don't pretend to understand, your email was not copied to the others and when I tried to respond by punching 'Reply' it kept bouncing me out of the system. So, I have pasted your email below.

I think that EPA is making a mistake in underestimating this development. Taking the announcement off their website is the worst thing they could do in terms of appearances. They don't seem to realize that EPA's own credibility is on the line.

The issue is not really whether water was the source - that remains unlikely and the two cases did not, in my opinion, provide good evidence for this. The problem is that unless this is resolved, there will always be a cloud and confusion over what happened to DC residents. If we cannot resolve this issue, we will not be able to publish our BEL paper (which is essential to putting this matter to rest and describing what really happened), nobody will believe DOH or WASA in the future, the lawyers will use this in future legal actions, the scientific analysis will be clouded and will undermine EPA's own credibility, and WASA will be vulnerable forever.

An explanation of how the discrepancies MIGHT have occurred is not enough. It leaves open the possibility that the original contractors' reports were correct and that water was the source in those cases. DOH needs to present a direct, simple and accurate explanation of the discrepancies DID occur, no speculation. At this point it is essential for DOH to fix this.

TLG

The overall conclusion of Section 2.2 and 2.3 is that the EHP authors never revealed these obvious financial conflicts of interest. It is evident that the issue of the lawsuits did not slip their minds completely, since they had discussed the issue and decided to remove even innocuous references to legal actions. Finally, as evidenced by Dr. Guidotti’s book and the *Wall Street Journal* article, it cannot be argued that the EHP paper’s principal author lacked understanding about the implications of such an omission.

Appendix 2.3.

Appendix 2.3.A.

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA	
REGINA LEWIS, Plaintiff,	: Civ. A. No.: 04-005507 : Cal: 2 : Judge: Michael L. Renkin
v. t	
THE DISTRICT OF COLUMBIA and DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY 5000 Overlook Avenue, S.W. Washington, D.C. 20032	
Serve On: Jerry N. Johnson 5000 Overlook Avenue, S.W. Washington, D.C. 20032	
Defendants.	
*****000000*****	

OFFICE OF THE
 ATTORNEY GENERAL FOR THE
 DISTRICT OF COLUMBIA
 JAN SEP 29 P 3:53

COUNT I
Negligence
(District of Columbia)

12. In July 2003 the District of Columbia Health Department performed a Lead - Based Paint Inspection Evaluation at Douglas's home. That inspection revealed to the District of Columbia government numerous locations with poisonous lead-based paint that were an actual and imminent threat to Douglas.

13. Despite having performed the lead inspection at his home the District of Columbia negligently failed to: provide the results of the lead inspection to Ms. Lewis, as the tenant of the property; provide the results of the lead inspection to the owner of the property; and order the abatement of the existing lead hazards in Douglas's home.

16. Because of Douglas's extremely high lead levels in March 2004 he was admitted to Georgetown University Hospital on an emergency basis for chelation. As part of his chelation therapy Douglas received numerous, painful shots and underwent emotional stress.

22. The actions and inactions of The District of Columbia in this matter were negligent.

24. Had the District of Columbia carried out its legally mandated duties Douglas would have been removed from the home that was poisoning him in July 2004 and would have been spared the hospitalization and permanent brain damage that resulted from his continuing exposure to lead-based paint.

WHEREFORE, the minor plaintiff, Douglas Steele, by and through his mother and next friend, Regina Lewis, demands judgement against the defendant The District of Columbia in the sum of \$5,000,000.00 plus interest and costs.

COUNT II
Negligence
(District of Columbia Water
and Sewer Authority)
and Sewer Authority)

31. The foregoing allegations of fact are incorporated by reference and realigned as if fully set forth herein.

32. At all times relevant to this Complaint water was supplied to the home in which Douglas lived by the D.C. Water and Sewer Authority ("WASA").

33. At all relevant times the WASA had a legal duty to deliver to Douglas's home water that complied with the restrictions found in the federal Safe Drinking Water Act ("SDWA"), 42 U.S.C. 300f *et seq.* Among the provisions of the SDWA are that drinking water should not contain more than 15 parts per billion of lead.

34. On information and belief, at all times pertinent to this Complaint the public water delivered to Douglas's home had lead levels that greatly exceeded those permitted by the SDWA.

35. On information and belief, WASA knew at least since 2001 that the water it was delivering to homes in the District of Columbia exceeded safe lead levels as established by the Environmental Protection Agency ("EPA"). Despite that knowledge, WASA actively concealed the unhealthy state of the water it was delivering to its customers.

36. Although those unhealthy lead levels were known to WASA, that entity deliberately failed to warn its customers, including Regina Lewis, that the water being delivered to their homes was contaminated with lead.

37. During his infancy Douglas was fed with formula that was mixed with tap water. He also drank tap water.

39. As a consequence of WASA's failure to either deliver water that complied with the SDWA or at least warn its customers, including Regina Lewis, of that failure, the minor plaintiff, ingested lead from his infant formula, which was made from tap water, and from his drinking tap water.

40. On information and belief, Douglas's ingestion of water delivered by WASA contributed to his significantly elevated blood lead levels, causing him great harm.

41. As a consequence of ingesting the water with abnormally high concentrations of lead the minor plaintiff has suffered lead poisoning, having lead content levels in his blood far in excess of the normal range. He has suffered brain damage and serious developmental and behavioral injuries.

42. During all pertinent times, defendants had a duty to use reasonable care to protect the minor plaintiff from exposure to water with excess levels of lead.

43. Defendant WASA breached its duty to plaintiff by exposing the minor to lead poisoning by negligently and carelessly:

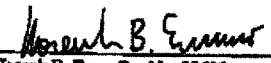
- a. failing to adequately maintain the municipal drinking water supply to prevent lead from leaching into water;
- b. failing to deliver water to its customers that did not contain lead levels above those permitted by the EPA;
- c. failing to warn D.C. residents and Regina Lewis about the known abnormally high lead levels in

drinking water supplied by WASA as required by
the SDWA, 42 U.S.C. § 300g-6(a)(2)

30. As a direct and proximate result of the negligence and carelessness of defendant WASA as set forth herein, the minor plaintiff was caused to suffer great harm, including, but not limited to, pain, anguish, mental distress, and permanent physical, mental and development injury.

WHEREFORE, the minor plaintiff, Douglas Steele, by and through his mother and next friend, Regine Lewis, demands judgement against the defendant District of Columbia Water and Sewer Authority in the sum of \$5,000,000.00 plus interest and costs.

Respectfully submitted,


Joseph B. Espo, Bar No. 29699
BROWN, GOLDSTEIN & LEVY, LLP
120 R. Baltimore Street, Suite 1700
Baltimore, Maryland 21202
(410)962-1030

Appendix 2.3.B.

10/29/04 FRI 12:18 FAX

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Assistant Attorney General
Civil Litigation Division

★ ★ ★

MEMORANDUM

TO: [REDACTED]

FROM: [REDACTED]

DATE: October 25, 2004

RE: [REDACTED]

OFFICE OF GENERAL COUNSEL
709 OCT 25 P 1:40

Please find enclosed the complaint in the above-referenced lawsuit. Plaintiff has filed this suit on behalf of her minor child Douglas Steele, for permanent brain damage her child allegedly suffered as a result of exposure to lead-based paint.

According to the complaint, the D.C. Department of Health performed a lead-based paint inspection evaluation of plaintiff's home in July 2003, and the inspection revealed numerous locations with lead-based paint that were an imminent threat to the minor child. The complaint alleges that the Department of Health, however, failed to notify anyone of the results of the inspection, causing the child's blood-lead levels to rise to such high levels that he had to be hospitalized in March 2004.

In order to assist with the defense of this case, please forward all information you have concerning the allegations in the complaint within ten (10) days of receipt of this letter. In particular, please provide our Office with the following documentation and information:

1. Any lead-based paint inspection evaluations performed in plaintiff's residence, and the results thereof.
2. All notices provided to the owners/occupants of the residence regarding the results of any such inspection evaluations.
3. Written procedures for the initiation, conduct and reporting of lead-based paint inspection evaluations.
4. Contact person(s) within the division responsible for lead-based paint testing and notification.

Thank you for your assistance. If you have any questions, please call me at 724-6624.

2.4. Tee L. Guidotti/DC DOH: Discussion of Joint George Washington University/DC DOH Faculty Position to be Partly Funded by DC WASA

In mid-2006, when the EHP paper was still being reviewed and revised, DC DOH and Dr. Guidotti held discussions about the possibility that DC WASA would fund a joint faculty position through GWU/DC DOH. The DC DOH contact who was involved in this discussion was EHP paper co-author John Davies-Cole, PhD. Dr. Guidotti's request to DC WASA to fund this faculty position was forwarded directly to DC WASA General Manager Jerry Johnson on May 31, 2006 from DC WASA Chief of Staff Johnnie Hemphill. In his introductory comments to Mr. Johnson, Mr. Hemphill said, **"I think we need to discuss this. I think this may be potential for protecting our interests a little better, but I haven't got into any details."** This e-mail illustrates the complex financial entanglements between DC WASA, DC DOH and GWU. This potential financial conflict with DC WASA should have been revealed by Dr. Guidotti and his DC DOH co-authors.

From: Johnny Hemphill
Sent: Wednesday, May 31, 2006 7:13 PM
To: Jerry Johnson
Subject: Fw: Environmental Health Epidemiologist
Importance: High
Attachments: DC BEHRA Vacancies.doc



DC BEHRA
vacancies.doc (35 KB)

I think we need to discuss this. I think this may be potential for protecting our interests a little better, but I haven't gotten into any details

----- Forwarded by Johnnie Hemphill@GMDC/WASA on 05/31/2006 07:11 PM -----

"Tee Guidotti"
<cohtlg@gwumc.edu>

05/31/2006 04:29 PM

To: <Johnnie_Hemphill@dc.wa.gov>
CC:
Subject: Fwd: Environmental Health Epidemiologist

At one point we spoke with the GM about cost-sharing for a position in the DOH, together with a faculty appt at GW. Is this still a possibility? TLG

----- Message from "Davies-Cole, John (DOH)" <john.davies-cole@dc.gov> on Thu, 25 May 2006 14:24:26 -0400 -----

To: 'Tee Guidotti' <cohtlg@gwumc.edu>
Subject: Environmental Health Epidemiologist

Tee,

We have a vacancy for an environmental health epidemiologist/program manager, please see attached information and forward to interested persons. The salary is \$59,853 - \$77,124. This is different from what we discussed some weeks ago. I hope you are still looking into the possibility of the shared position we discussed. In DOH, local funds that remain unspent for long periods are taken and used for something else. In WASA still interested? We should start moving forward on it so we don't lose the money. Thanks.

John

2.5. Tee L. Guidotti/DC WASA/DC DOH: DC WASA-Funded “DC DOH” Environmental Assessments in the Homes of Children with Elevated Blood Lead Levels

The EHP paper states that the homes of all children and adults with elevated blood lead levels (BLL) were investigated by DC DOH between 2/3/04-7/31/04.

The homes of all children and adults with elevated blood lead levels were investigated by the DC DOH. The results of public health investigations in the home for the elevated levels for adults and children were reviewed.

This, and similar public statements made by Dr. Guidotti, DC WASA and DC DOH about the “DC DOH” assessments, were false and misleading. In fact, almost all of the environmental assessments at the time were conducted by independent contractors directly hired by DC WASA (Appendix 2.5). They were prepared *for* DC WASA. They involved lead paint and dust sampling, but not always water testing. In fact, only a fraction (about 20%) of the DC WASA-funded risk assessments collected and analyzed drinking water in accordance with the standard EPA protocol. The DC WASA-funded assessments were apparently mailed to and housed at DC DOH.

Dr. Guidotti and his co-authors were obligated to tell the truth about DC WASA’s direct financial role in the environmental assessments discussed in their EHP paper, the suboptimal quality of these assessments in relation to water testing, and DC DOH’s lack of direct involvement in collection of data for the assessments. Moreover, they were obligated to disclose the potential conflicts of interest that the DC WASA contractors had in association with the interpretation of these assessments. As will be discussed later in Section 3.3, Dr. Guidotti and DC WASA also made numerous false statements about what the assessments revealed, not only in drafts of the EHP paper but also in sworn written testimony to the US Congress.

Appendix 2.5.

Lead-based Paint Inspection/Risk Assessment Report

Date: April 12, 2004

Prepared For:

D.C. Water and Sewer Authority
Office of Chief Financial Officer
5000 Overlook Avenue, 3rd Floor
Washington, DC 20032

Executive Summary

1. Identifying Information

a) Client Information

Progressive Environmental, LLC was contracted by:
Maxine Buchanan
DC WASA
5000 Overlook Avenue, SW, 3rd Floor
Washington, DC 20032

Relationship – DC WASA is contract originator in response to a reported child with an Elevated Blood Lead Level (EBL) that resides or frequently visits the residence.

Lead Risk Assessment

Washington, DC

**Prepared for – District of Columbia Water and Sewer Authority
DC Department of Health – Lead Division
51 N Street, NE
Washington, DC
Attn: Usen Bassey, Inspector**

I. Introduction

The District of Columbia Water and Sewer Authority (DCWASA) has retained the services of Wallace & Prior Consultants, LLC to perform a lead paint inspection/risk assessment of the subject property to determine the presence of any lead hazards and to determine the source of the lead that caused the hazardous conditions.

2.6. Tim Cote (Removed Author): Potential Conflict of Interest with CDC

In e-mails to his EHP co-authors, Dr. Guidotti twice cited a “potential for conflict of interest with CDC” (10/5/06) and “concerned about a conflict of interest with CDC” (12/28/06) as the reason that Timothy R. Cote, MD, Senior Federal Advisor and CDC assignee to DC DOH asked to be removed as co-author from the EHP paper one year after the paper was submitted and six weeks after it was accepted. I am uncertain if Dr. Cote and Dr. Guidotti’s concerns about the potential conflict of interest were disclosed to EHP staff.

Whatever the potential conflict with CDC may have been, removing Dr. Cote’s name from the list of co-authors on the EHP paper at the last minute and after the paper was accepted, did not eliminate that conflict. Dr. Cote was obviously a contributing author on the draft and final versions of the manuscript. Rather, removal of his name only *hid evidence* of the potential conflict. I have found no disclosure of Dr. Cote’s acknowledged potential conflict of interest with CDC to EHP readers, editors or reviewers.

From: Tee Guidotti [tehg@gwumc.edu]
Sent: Thursday, October 05, 2006 11:47 AM
To: chevelle.glymph@dc.gov; john.davies-cote@cdc.gov; maurice.knuckles@cdc.gov; thomas.calhoun@dc.gov; tim.cote@cdc.gov; Stokes.Lynette@doh.gov; David Goldsmith; Marina Moses; regain@speakeasy.net
Subject: BLL Paper - response from journal

.....

Tim Cote has asked to withdraw as an author in order to avoid any potential for conflict of interest with CDC, esp. insofar as they may issue their own report at some time in the future. He indicated no other reason for withdrawing.

From: Tee Guidotti [tehg@gwumc.edu]
Sent: Thursday, December 28, 2006 3:15 PM
To: John Davies-Cote
Subject: BLL paper

IF GARRET CAN GO AHEAD, WE HAVE TO TRY

Because Garret is putting so much additional time into this, and because Tim Cote has dropped out of authorship because he is concerned about conflict of interest with CDC, I would like to suggest that we insert Garret as a coauthor in Tim's place. Do you agree?

TJG

3. OTHER CONCERNS

The preceding section documents numerous undisclosed potential conflicts of interest. This section examines whether these potential conflicts and the associated lack of disclosure could shake the “*complete faith*” of EHP editors, individual scientists, the journals, and society that the “*research is not only of the highest quality but also is open, honest, and unbiased*” (see EHP editorial at <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1247576>).

Based on the evidence that follows, it would appear that the EHP paper is biased in a manner that is highly favorable to Dr. Guidotti’s client, DC WASA.

Six sections that support this concern are provided in sequence:

- 3.1 Erroneous Timeline
- 3.2 DC WASA/Tee L. Guidotti: “No identifiable public health impact from elevated lead levels in drinking water”
- 3.3 Fabricated DC DOH “Study” of “65 Children” with Elevated Blood Lead Levels
- 3.4 The DC WASA “Correlation Analysis”
- 3.5 The Study of 210 (or 201) Residents with > 300 ppb Lead in Water
- 3.6 DC DOH Forgery of Blood Lead Records in 2003-2004

A final section discusses Dr. Guidotti’s prior experiences and published opinions about biases in research that is conducted with industrial sponsors.

3.1. Erroneous Timeline

In the EHP paper, the authors put forth a lead-in-water timeline with incorrect dates. These dates, versus the actual events, are shown below in Figure 3.1.1.

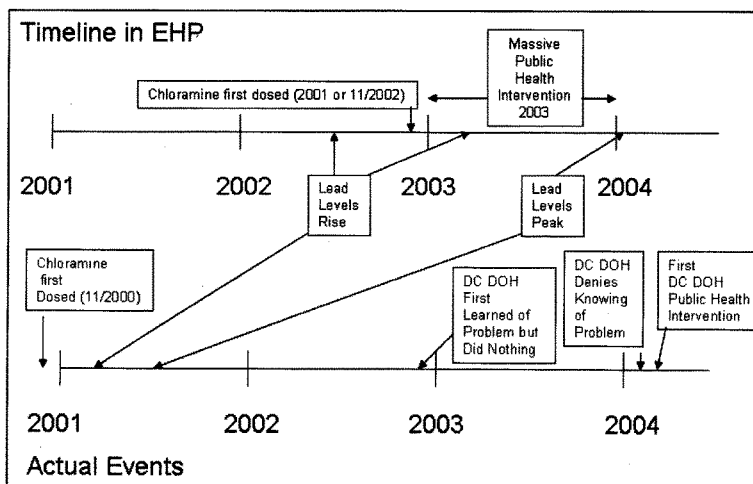


Figure 3.1.1. Comparison between EHP timeline and actual events.

Erroneous statements and dates in the EHP paper include the following:

- 1) That chloramine was first added to Washington DC's water supply on "1 November, 2002" (p. 695), and that the "change in water-disinfection treatment" took place "in 2001" (p. 695). **In fact, the actual date for the addition of chloramine to the water and the change in water-disinfection treatment was November 2000** (see Appendix 3.1.A).
- 2) That water lead levels (WLLs) showed an "abrupt rise" in 2003 (p. 695), and that lead concentrations in the water started to rise in 2002 (p. 695). **In fact, the rise in WLLs was first detected in early to mid-2001, but DC WASA hid the sampling results for the high lead** (see Appendix 3.1.B).
- 3) That "[a]t its peak in early 2004, the 90%'ile of homes sampled was 59 ppb" (p. 695) and that in 2002 the lead levels did not exceed the action level (p. 695). **This is incorrect, because DC WASA's own data show a 90%'ile level of 75 parts per billion (ppb) in July 2001-June 2002 and a level of 63 ppb in 2003** (see Appendix 3.1.C).
- 4) That "...in 2003 DC WASA implemented <<numerous health protective>> plans for families living in homes with lead lines or testing above the LAL (lead action level)" (p. 696). **In fact, the public health interventions listed by the authors did not begin until after the story was front page news in early 2004** (Table 3.1.1).

Table 3.1.1. Reported versus actual date of public health interventions

DC WASA-Implemented Public Health Intervention	Reported Date EHP	Actual Date
10 minute flushing advisory	2003	February 2004
Lead filters distributed	2003	March 2004
DC WASA voluntarily accelerated lead service line program	2003	July 2004
Offer to replace owner's lead service line at cost	2003	Required by Federal Law when action level is exceeded
Low cost financing	2003	November 2004
Free water testing offered to any customer	2003	February 2004

The net effect of these errors is that the actual events in DC from 2000-2004 were made unrecognizable in the narrative that is presented in the EHP paper. The paper also makes no mention of valid criticism regarding the DC DOH and DC WASA public health response. Any reasonable presentation of the public health response should have mentioned the following:

- 1) EPA's 2004 determination that DC WASA broke the law by failing to disclose to EPA the high lead-in-water samples that they collected in 2001 (Appendix 3.1.B);
- 2) DC WASA's firing in 2003 of a whistleblower who tried to reveal the high lead in water to EPA in 2003. The whistleblower was eventually vindicated and awarded hundreds of thousands of dollars in damages (Appendix 3.1.D);
- 3) The 2004 firing of two high level DC DOH employees for their failure to take the lead-in-water issue seriously in late 2003 (Appendix 3.1.D);

- 4) The fact that the substantive public health interventions were not initiated by DC DOH and DC WASA until more than a month after the high lead in water was front page news in 2004, and nearly 3 years after DC WASA first detected high lead in the water (Appendix 3.1.D);
- 5) The numerous congressional hearings and investigations into DC WASA and DC DOH actions.

One person who was intimately familiar with the actual timeline of events in DC was Dr. Daniel R. Lucey, MD, MPH, the Interim Chief Medical Officer for DC DOH in 2004 who actually led the District's public health response after the *Washington Post* broke the news in January 2004. Dr. Lucey was initially invited to be a co-author on the EHP paper and declined. Later he was included in the "Acknowledgements" section of the paper. But after seeing his name in a version that had already been submitted to EHP, with its erroneous dates and timeline, and other fabricated data, Dr. Lucey wrote an outraged e-mail message to the co-authors (see page 32).

In this e-mail, which was also copied to city administrators, Dr. Lucey demanded in capitalized letters that Dr. Guidotti "REMOVE MY NAME" from any place it appeared in the paper. He stated that ***"I do not want the journal editors, reviewers, or readers to think that I give my consent, even tacit consent, to this manuscript because I do NOT do so."*** Dr. Lucey further asked that Dr. Guidotti contact the editor of EHP, to clarify that he had not given permission for the use of his name. He closed by saying that, "I do NOT consent to the description of the DC Department of Health response....during the time that I was appointed by the DC City Administrator Deputy Mayor Robert Bobb to lead the DC Department of Health Response."

Although Dr. Lucey's name was removed from the "Acknowledgments" section, I can find no evidence that Dr. Guidotti ever complied with Dr. Lucey's request that he alert the EHP editors that Dr. Lucey had not given his approval to be mentioned anywhere in the paper.

From: Daniel Lucey [danielucey@mac.com]
Sent: Friday, February 17, 2006 1:51 PM
To: Tee Guidotti
Cc: John Davies-Cole; Maurice Knuckles; robert.bobb@dc.gov; ragain@speakeasy.net; gochfeld@ehs.rutgers.edu; Thomas Calhoun; Tim Cote; Edward Reiskin; 'Cheryl.Edwards@dc.gov'; Gregg Pane; Marina Moses; cschwartz@dccouncil.us; David Goldsmith; lynette.stokes@dc.gov
Subject: REMOVE my name from the DC Lead-in-the-water manuscript

Dear Dr. Guidotti:

Please REMOVE MY NAME from the "Acknowledgements" section, and any other place it might appear, in the revised manuscript titled "Elevated Lead in Drinking Water in Washington, DC: The Public Health Response, 2003-2004" that you sent earlier this week to me "as a courtesy" even though I had previously written to say that I declined authorship on this manuscript.

I do not want the journal editors, reviewers, or readers to think that I give my consent, even tacit consent, to this manuscript because I do NOT do so.

If the prior version of the manuscript you submitted to this journal included my name in the "Acknowledgements" section then please send an e-mail to the Editor, prior to resubmitting the revised manuscript, stating that I did NOT give approval to use my name in the "Acknowledgement" section of that prior submitted manuscript. Please copy me on this e-mail to the Editor.

While I respect the right of persons who are still working for the DC Department of Health to choose to be co-authors on this manuscript, I do NOT consent to the manuscript as described in the title as "The Public Health Response, 2003-2004" and particularly I do NOT consent to the description of the DC Department of Health response during the time (late February-April 30, 2004) that I was appointed by the DC City Administrator Deputy Mayor Robert Bobb to lead the DC Department of Health Response.

Daniel R. Lucey, MD, MPH

Appendix 3.1.

Appendix 3.1.A. Evidence that the date of chloramine addition was November 2000.

Excerpt from page 1 of final EPA Report at
http://www.epa.gov/safewater/lcmmr/pdfs/report_lcmr_elevatedleadindc_final.pdf.

- On November 1, 2000, WA converted the residual disinfectant from free chlorine to chloramines for the purpose of lowering disinfection byproducts to meet new regulatory requirements. This conversion facilitated a reduction in oxidation reduction potential (ORP) to a range that favors the predominance of Pb (II) scales, which are highly influenced by low and fluctuating pH levels. This conversion from free chlorine to chloramines likely changed the nature of the predominant scale from Pb (IV) to Pb (II) and thus facilitated an increase in the release of lead from the lead service lines into the water at consumers' taps.

Appendix 3.1.B. DC WASA withheld sampling results indicating high lead in early 2001.

EPA Concludes WASA Broke Lead Law

Order Cites Violations in Six Categories but Levies No Penalties

By Carol D. Leonnig Washington Post Staff Writer Friday, June 18, 2004; Page B01

"EPA officials said their most troubling discovery was that WASA officials withheld six crucial test results from customers' homes showing elevated lead levels in late 2000 and early 2001. If reported as legally required, EPA officials said, the results would have put Washington over the federal action level, forcing WASA to address the lead problem."

Appendix 3.1.C. Excerpt of data from EPA report on lead in D.C. Water. P 15.
http://www.epa.gov/OGWDW/lcmr/pdfs/report_lcmr_elevatedleadinde_final.pdf

Monitoring Period	DCWASA Results			HDR/EES Results			Reason for Different Results
	N	90th Percentile Lead (µg/L)	% Samples Lead Conc. > 15 µg/L	N	90th Percentile Lead (µg/L)	% Samples Lead Conc. > 15 µg/L	
Jan – Jun 1999	106	5	6	81	<10	4	Difference in total number of valid samples and conversion from ppb to mg/L. 90th percentile result affected.
Jul–Sep 1999	55	12	5	55	12	5	NA
Jul 2000 – Jun 2001	50	8	8	50	8	8	NA
Jul 2000– Jun 2001 (revised calculations – see 2.2.2)	52	36	17	53	36	17	One additional sample included. 90th percentile result not affected.
Jul 2001 – Jun 2002	53	75	49	53	75	49	NA
Jan – Jun 2003	104	40	26	104	40	26	NA
July – Dec 2003	108	63	32	108	61	32	Difference in 90th percentile calculation method. 90th percentile result affected.
Jan – Jun 2004	108	59	68	108	58	68	Difference in 90th percentile calculation method. 90th percentile result affected.
Jul – Dec 2004	130	69	31	142	51	28	Difference in number of valid samples due to difference in hard copy versus Excel spreadsheet data. 90th percentile result affected.

N = Number of samples used in 90th percentile calculation; NA = Not Applicable
 Note: **Bold:** Values in bold font indicate differences between HDR/EES and DCWASA calculations.

Appendix 3.1.D.

Manager's Firing Defended by WASA

Woman Told EPA of Problems With Water

By David Nakamura Washington Post Staff Writer Saturday, March 6, 2004; Page A05

WASA Whistle-Blower Wins Vindication, Reinstatement

By David Nakamura Washington Post Staff Writer Thursday, November 3, 2005; Page B02

A water quality manager fired by the D.C. Water and Sewer Authority in 2003 was ordered reinstated and awarded hundreds of thousands of dollars yesterday by a judge who said she was improperly terminated after warning federal authorities about excessive lead in the District's tap water

D.C. Knew Of Lead Problems In 2002 Timing of E-Mails Contradicts Claims

By Carol D. Leonnig and David Nakamura Washington Post Staff Writers

Monday, March 29, 2004; Page A01

Senior D.C. government officials knew that the city's water contained unsafe levels of lead 15 months before the public learned of the problem but failed to flag the issue as a major concern, according to internal documents that contradict the account provided recently by top managers.

Officials at the D.C. Department of Health, who have publicly maintained that they did not know of the lead problem until this year, first discussed the contamination in October 2002 with the D.C. Water and Sewer Authority, according to e-mails between the two agencies.

But after assisting WASA in drafting a 2002 educational brochure that has since been criticized for glossing over the high lead levels, Health Department officials largely ignored the mounting health threat last year and failed to issue clear instructions to residents about how to reduce their risk of lead poisoning.

D.C. Assailed for 25-Day Delay in Acting

Former Health Directors, Others Chide City, Saying Warnings Were Long Overdue

By Avram Goldstein Washington Post Staff Writer Thursday, February 26, 2004; Page A08

City health officials took center stage in addressing excessive lead in the District water supply yesterday, but many in the medical community criticized the 25-day delay in their response. Several public health specialists, including former directors of the D.C. Health Department, expressed relief that lead in drinking water is finally being treated as a full-fledged public health concern and that residents are being given guidelines on how to protect themselves. But they said it had taken the city far too long to act.

City officials said yesterday they will mail letters this week to 23,000 homes with lead water service lines, advising pregnant women and children younger than 6 not to drink unfiltered tap water.

Georges C. Benjamin, former director of the District and Maryland health departments and now executive director of the American Public Health Association, **said the actions should have occurred promptly after excessive lead in drinking water was reported Jan. 31.**

"That should have been done on Day One," Benjamin said yesterday. "That's Public Health 101."

Washington fires health chief over handling of lead in drinking water

By Brian Wingfield New York Times March 27, 2004

The mayor's office acknowledged it dismissed James A. Buford, the health director

3.2. DC WASA/Tee L. Guidotti: “No identifiable public health impact from elevated lead levels in drinking water”

In early 2006, DC WASA issued a press release stating that their research funded at DC DOH had “*confirmed that there was no identifiable public health impact from elevated lead levels in drinking water.*”

**District Drinking Water Meets Federal Requirements for Lead Levels:
WASA Fulfills Community Water Pledge**

FOR IMMEDIATE RELEASE January 10, 2006

Contact: Michele Quander-Collins (202) 787-2200

“In 2004, WASA funded a Department of Health program that conducted voluntary blood lead level screenings of more than 6,800 District residents. The results of the tests confirmed that there was **no identifiable public health impact from elevated lead levels in drinking water.**”

Dr. Guidotti’s original EHP submission contained nearly the exact same declaration as DC WASA’s 2006 press release:

There appears to have been no identifiable public health impact from the elevation of lead in drinking water in 2003 and 2004. However, the screening program developed

This and revised versions of the EHP manuscript were unequivocally rejected by the EHP reviewers and EHP in April of 2006, as evidenced by the following e-mail to Dr. Guidotti from EHP editor Burkhardt:

From: Burkhardt, Jim (NIH/NIEHS) [E]
Sent: Monday, April 3, 2006 3:18 PM
To: eohtlg@gwumc.edu
Cc: CNKCE J (NIH/NIEHS) [C]; CNKCE J (NIH/NIEHS) [C]
Subject: EHP ms 8722

Dear Dr. Guidotti,

I sent your revised manuscript for additional review. I have enclosed the reviewer comments for you. As you can see from the reviewer comments below I must reject this manuscript.

Dr. Guidotti then asked to be given another chance to respond to the reviewer criticisms, and EHP editor Burkhardt granted it to him:

Subject: Re: EHP ms 8722
Date: Thursday, April 6, 2006 10:05 AM
From: Tee Guidotti <eohtlg@gwumc.edu>
To: <burkhart@niehs.nih.gov>
Cc: <[NKCE]@niehs.nih.gov>, <[NKCE]@niehs.nih.gov>
Conversation: EHP ms 8722

We are, of course, dismayed and disappointed by the editorial decision. We spent considerable time and effort in revising the manuscript in response to reviewers. We wonder if our *References Eval. Comments* (requested by Reviewer 3) made it more difficult for reviewers to see the degree to which we did, indeed, respond to their original points. With your indulgence, we would like to respond to the comments and request from you consideration of our request to be allowed to make a further revision in the manuscript.

We are aware that the incident described in this ms. is important and of reader interest, so that an acceptable ms. based on this timely case would be attractive to the journal and to the environmental health community. On our side, it is to our advantage to attempt another revision rather than start over again with another journal and lose more time. We therefore request to be allowed to take the ms. through another round of revisions, if you would permit this.

Subject: EHP ms 8722
Date: Thursday, April 27, 2006 4:23 PM
From: Burkhardt, Jim (NIH/NIEHS) <burkhart@niehs.nih.gov>
To: Tee Guidotti <eohtlg@gwumc.edu>
Cc: [NKCE] <[NKCE]@niehs.nih.gov>
Conversation: EHP ms 8722

Dear Dr. Guidotti,

I have discussed your manuscript 8722 "Elevated Lead in Drinking Water in Washington, DC: The Public Health Response, 2003-2004" with another editor. After again reading the reviewer comments and responses I will permit a second revision to address the reviewer comments. It was reviewed by qualified colleagues familiar with the issues. All the reviewers were interested in seeing the manuscript published in some form. However, both reviewers 1 and 3 were not satisfied with the responses.

Sincerely,

Jim Burkhardt

In order to address the reviewer criticisms and have the manuscript re-considered for publication in EHP, Dr. Guidotti, in collaboration with DC WASA, set out to submit a revised version of the manuscript on July 10, 2006.

```

                                "Tee Guidotti"
                                <eohtlg@gwumc.edu>
                                To:
                                <Johnnie_Hemphill@dcwasa.com>
                                >
                                cc:      "Marina Moses"
                                Subject:  New version of
                                the BLL paper
                                07/10/2006 06:59
                                PM

Johnnie - here is the latest version. It is substantially changed - I
have dropped almost everything that does not directly deal with the
issue of blood leads, in order to stay within limits and still provide
detail that the reviewers wanted. The tone has also shifted - I am
trying to find common ground with the reviewers.

Thanks for confirming the Weston report date.
TLG

                                "Tee Guidotti"
                                <eohtlg@gwumc.edu>
                                To:
                                07/11/2006 01:29 PM
                                cc:
                                Subject: Re: New version of the BLL paper
                                <Johnnie_Hemphill@dcwasa.com>

Details, details. TLG

>>> <Johnnie_Hemphill@dcwasa.com> 7/11/2006 1:15 PM >>>
I think you forgot to attach the paper!

```

The revised manuscript was finally re-submitted to EHP on July 23, 2006. In his e-mail to the EHP editor, Dr. Guidotti urged vigilance for "unjustified assumptions and prejudgment on the part of reviewers with their own agendas."

----- Forwarded Message
 From: Tee Guidotti <eohtlg@gwumc.edu>
 Date: Sun, 23 Jul 2006 14:27:36 -0400
 To: <burkhart@niehs.nih.gov>
 Subject: Resubmission of EHP ms. 8722

Attached please find the revised manuscript, with a statement documenting changes and response to reviewers.

We are hopeful that these revisions will be viewed as responsive. At the same time, we trust in the editorial process to separate evaluation of the manuscript as it is written from unjustified assumptions and prejudgment on the part of reviewers with their own agendas.

Dr. Guidotti and DC WASA's 7/23/06 manuscript was apparently successful at addressing some of the reviewer concerns, but still inadequate, as indicated by an 8/22/06 e-mail from Dr. Guidotti to EHP about "reconciled text." In this chain of e-mails, Dr. Guidotti told the EHP editor that he had changed a "Key sentence." Specifically, he stated that he had removed "*There appears to have been no identifiable public health impact from the elevation from lead in drinking water*" and replaced it with, "*Measures to protect residents from exposure to lead in drinking water may have prevented more frequent elevations in blood lead.*" Because of this and a few other changes, on August 23, 2006 the EHP editor deemed the manuscript acceptable for publication:

>
 > ----- Forwarded Message
 > From: Tee Guidotti <eohtlg@gwumc.edu>
 > Date: Tue, 22 Aug 2006 16:33:57 -0400
 > To: <burkhart@niehs.nih.gov>
 > Subject: Ms. No. 8722 - reconciled text
 >
 > Dr. Burkhardt:

>
 > I have substituted the Key sentence: "There appears to have been no
 > identifiable public health impact from the elevation of lead in
 > drinking
 > water." with the following replacement sentence:
 >
 > "Measures to protect residents from exposure to lead in drinking
 > water
 > may have prevented more frequent elevations in blood lead."
 >

.....

>
 > I attach a newly wordsmithed version of the ms. with these changes
 and
 > a few minor corrections, which I have tracked. We sincerely hope
 that
 > these changes are responsive, render the manuscript acceptable for
 > publication, and that we can now proceed.
 >
 > TLC

> From: "Burkhart, Jim (NIH/NIEHS)" <burkhart@niehs.nih.gov>
 > Date: Wed, 23 Aug 2006 15:13:07 -0400
 > To: [REDACTED] <[REDACTED]@niehs.nih.gov>
 > Conversation: Ms. No. 8722 - reconciled text
 > Subject: FW: Ms. No. 8722 - reconciled text

>
 >
 > -- I'm going to go with this one so you'll need to get final PDF etc.
 so we
 > can finish.
 >

>>> NIEHS EHP Manuscripts <EHPManuscripts@niehs.nih.gov> 8/24/2006 4:39
 PM >>>

Dear Dr. Guidotti,

Dr. Burkhart is satisfied with your changes/additions, so please send
 the
 required files for your revision to me at EHPManuscripts@niehs.nih.gov.

In the fall of 2006, my research into DC WASA's environmental assessments revealed that, contrary to DC WASA and Dr. Guidotti's public claims in the EHP paper, not all children with elevated BLL had sources of lead exposure other than water in their homes. When my findings were disclosed, Dr. Guidotti asked EHP for guidance on what revisions he was permitted to make to the accepted paper. EHP's editor consented to certain revisions "as long as nothing substantive changes within the paper:"

"Burkhart, Jim (NIH/NIEHS)" <burkhart@niehs.nih.gov> 12/5/2006 9:34 AM I think everything will be fine as long as nothing substantive changes within the paper. As you know I'm officially retiring in January, but will continue under cover to take care of several outstanding issues - this being one. I hope you are soon successful. Regards, Jim Burkhart

At some point in the post-acceptance revision process, the controversial statement that, "There appears to have been no identifiable impact from the elevation of lead in drinking water," which had been removed in August 2006 in order to get the paper accepted, was reinserted in the manuscript. The final version of the paper was published with DC WASA's 2006 press release

statement virtually word for word. Moreover, the sentence that Dr. Guidotti had told EHP would be substituted for it had been deleted.

From the final version of the EHP manuscript:

“There appears to have been **no identifiable public health impact from the elevation of lead in drinking water** in Washington, DC, in 2003 and 2004. This may reflect effective measures to protect the residents, as 153 reported compliance with recommendations to filter their drinking water” (p. 701).

How did DC WASA’s misleading 2006 press release statement get back into the EHP paper, after Dr. Guidotti explicitly told EHP that he had removed it? Did Dr. Guidotti and DC WASA slip the phrase back into the manuscript, counting on the fact that the editors would simply trust that he would not make “substantive changes” to the accepted version of the paper? As evidenced from the e-mail below, DC WASA was given yet another version of the paper on September 12, 2006, after it had been accepted. Did DC WASA request that their 2006 press release statement be put back into the EHP paper?

“Tee Guidotti”
<eohlig@gwu.edu>
09/12/2006 04:18 PM
To: <Johnnie_Homph
cc: “Merina Moses” <
Subject: Re: Fw: Comments on LCR Short-Term Revisions

We are studying the LCR revisions and will report back shortly.
Also, here is the summary of the blood lead study, as promised.

DC WASA’s 2006 press release words, legitimized by inclusion in the peer reviewed EHP paper, have been used by DC WASA and Dr. Guidotti to maximum public relations effect. First, DC WASA posted the EHP paper on their website. They also handed it out to DC residents at public meetings on lead in water. Dr. Guidotti made numerous PowerPoint presentations and repeatedly mentioned the wording. Finally, he and his GWU colleagues discussed the EHP paper in a follow-up article in the *Journal of Public Health Management and Practice* (Jan/Feb 2008;14(1):33-41). This article describes “the lessons learned during a case study in environmental health risk management by the DC Water and Sewer Authority.” After a discussion that includes a citation of the EHP paper, the co-authors state that “No public health impact has, therefore, been identified from the elevation.”

**DC Water and Sewer Authority and Lead in
Drinking Water: A Case Study in Environmental
Health Risk Management**

Dee L. Gaudin, Maria S. Moses, David F. Goldsmith, and Lisa Rogers

No public health impact has, therefore, been identified from the elevation.

This incident illustrates how Dr. Guidotti successfully used EHP, a respected peer-reviewed journal, as a vanity publication for his DC WASA client. He inserted the words from the 2006 DC WASA press release into the body of the paper after acceptance by EHP, when this acceptance was made under the express condition that these words not be included.

3.3. Fabricated DC DOH “Study” of “65 Children” with Elevated Blood Lead Levels

One basis for Dr. Guidotti’s (and DC WASA’s) assertion that no public harm could be identified in DC from the years of elevated lead in water, was a purported study of environmental assessments conducted in the homes of “65” (or “64” – both numbers have been used at different times) children under the age of 6 who were identified with elevated BLLs between 2/3/04 and 7/31/04. This study was cited in sworn written testimony before the US Senate by DC WASA General Manager Mr. Johnson (7/22/04) and by Dr. Guidotti, in response to an investigation conducted by the DC Office of the Inspector General (1/5/05). Dr. Guidotti invariably included the “no harm” from water “conclusion” of the assessments in his public presentations made on behalf of DC WASA. Representative excerpts of Mr. Johnson’s and Dr. Guidotti’s statements are provided below:

Mr. Jerry Johnson’s Written Testimony to the US Senate, July 22, 2004.

Only sixty-five children (five of whom were identified through the very extensive schools testing) under the age of six have elevated blood lead levels, and only twenty of them live in homes with a lead service line. However, each member of the target population screened resides in a property that shows lead dust and/or soil that exceed federal guidelines.

Although the public health objective is to limit lead exposure from any source, the data strongly suggests that there is no correlation between the presence of lead service lines in the District and elevated blood levels.

Dr. Tee Guidotti’s response to DC Office of Inspector General on behalf of his client, DC WASA, “Audit of Elevated Levels of Lead in the District Water January 5th, 2005”

The public health risk of lead, and the level in blood of District children has been dropping in the District for many years. Screening for elevated blood lead levels is required in the District for children one and two years of age. The blood lead levels have continued to fall through the period when elevated lead occurred in some households. During the same period, the screening program identified 64 children aged less than six years old whose lead levels were above the CDC level of concern (10 ug/dL). Most, 70 percent, lived in homes without lead service lines. In all 64 cases, a source other than drinking water was documented, usually lead paint in the home. The risk that remains and individual cases of elevated blood lead levels among children are due almost entirely to lead exposure from other sources, not drinking water.

The purported DC DOH study was a central feature of the original EHP paper. The original version of the manuscript prominently mentioned it in the abstract, body and conclusions of the paper. The take-away message was that “in every case” a DC DOH investigation revealed lead sources other than (or sometimes in addition to) water in the homes, and these sources were *always* either the sole or the major cause of hazardous lead exposure. Example excerpts from the original EHP paper follow:

From 3 February 2004 to 31 July 2004, a total of 6,809 persons were screened for blood lead level. Children from 6 months to 6 years of age constituted 2321 of those tested; 64 had blood lead levels above 10 mg/dL and 2 had levels exceeding 45 mg/dL. In every case an investigation of their homes identified sources of lead exposure, almost always peeling lead paint.

In every case in which the blood lead level exceeded 10 µg/dL, an investigation of the homes identified at least one source of lead exposure, other than drinking water. The source in all but one case was peeling lead paint and dust exceeding standards of the US Department of Housing and Urban Development. In no case of elevated blood lead was drinking water the sole or major source of exceptional lead intake.

The weight placed on the environmental assessment data from the homes of the “65 children” is further emphasized in a response Dr. Guidotti sent to the EHP editors, regarding criticism leveled by reviewer #1 against his interpretations in the original manuscript:

Given the lack of ambiguity in the findings, we ask on what basis Reviewer 1 disputes our interpretation that there is no evidence for a public health effect on the population? Reviewer 1 dismisses data that all children found to have an elevated blood lead level had other sources of exposure sufficient to explain their elevation. Reviewer 1 also denies the

Thus, the “lack of ambiguity” in the DC DOH “study” of the “65 children” with the environmental assessments, was not only a key point in the original paper, but it was also used by Dr. Guidotti as part of his defense against reviewer #1’s criticism.

A source who approached me about “criminal” behavior on the part of DC DOH, DC WASA and Dr. Guidotti in relation to the EHP paper, specifically mentioned that I should examine the so-called “study” of “65 environmental assessments.” DC DOH refused to produce requested documents in response to my FOIA, and after months of delay, DC DOH revealed to me that there were actually well over 100 environmental assessments that had been funded by DC WASA in response to Washington DC’s lead-in-water problem. DC DOH also admitted that they could not locate some of them, and they further attested that *there never had been a study of 65 cases as Dr. Guidotti and Mr. Johnson had claimed*. I was forwarded over 100 of the environmental assessments for my review.

In reading the assessments I found uncontroverted evidence that statements in the EHP paper were false. In several cases, the DC WASA contractors had written draft reports, stating that lead in drinking water samples from children's homes had tested at undetectable levels, weeks before the samples were even analyzed by the laboratory. Furthermore, in direct contradiction to Dr. Guidotti and Mr. Johnson's statements under oath, 21 assessments reported no obvious lead hazard in paint, dust, or soil, and 5 listed water as the primary hazard. One assessment stated that no sources of lead, other than water, were identified in the child's home, and another reported that the only identifiable lead hazard in the child's environment was the drinking water at the child's school.

The guardians of the two children with water as the sole identified lead hazard verified the accuracy of the statements in the reports of DC WASA's own contractors, and further confirmed that no lead paint or sources other than lead in water had been identified. The results of my investigation were eventually reported in late 2006 on WAMU radio and *Salon*. The links to those reports are:

- 9/21/06: http://wamu.org/news/06/09/lead_questions.php
- 11/27/06: <http://www.salon.com/news/feature/2006/11/27/lead/>

In September 2006, when Dr. Guidotti was first queried about the environmental assessments by a radio reporter, he claimed that he was "astonished" by my discoveries (see WAMU link above). He later told several people, including science writer Rebecca Renner, that he had never actually seen the reports and pointed to his co-authors:

```
>
>>> Rebecca Renner <rrenner@nasw.org> 10/18/06 1:49 PM >>>
> Dear Dr. Guidotti,
>
> Thank you once again for your prompt reply. You mention to me that you
> haven't reviewed the environmental assessments. How can you be first
> author on the attached paper without having looked at the assessments?
> I am raising this question because others are raising it to me.
>

On Wednesday, October 18, 2006, at 07:28 PM, Tee Guidotti wrote:

> Then let them raise it to me.
>
> You will note that I am not the only author and my coauthors were
> involved in the environmental assessments.
>
```

In conjunction with my research into the environmental assessments, I went out of my way to make sure that the authors of the EHP paper understood the stakes that were involved in this issue – not only for the sake of the science, but also for their own reputations. For example, when informed by WAMU that Dr. Guidotti claimed to have never actually seen the assessments, I encouraged them to share with him their copy of my FOIA for at least the two assessments that reported water as the only lead source. In late 2006, I also called Dr. Guidotti's co-author Lisa Ragain. I made it clear to her that I was very concerned about Dr. Guidotti's persistence in trying to publish a peer reviewed paper in spite of his knowledge that the results of the

environmental assessments were different from what he had been portraying to the public (I was aware of the EHP paper at the time, because it was produced to me through the FOIAs of DC DOH).

At the time, Ms. Ragain confided to me that both she and Dr. Guidotti knew that the DC DOH was so “completely screwed up” that in her opinion the US Government Accountability Office needed to do a complete criminal investigation of the agency “from top to bottom.” In November of 2006, I followed up on this conversation with a few e-mails, in which I reinforced to Ms. Ragain “the complete absurdity of the DC DOH results” in relation to the environmental assessments and conclusions in the EHP paper.

Date: Thu, 02 Nov 2006 15:51:07 -0500 To: ragain@speakeasy.net
From: Marc Edwards edwardsm@vt.edu Subject: Another FOIA memo

It differs from the earlier memo by assuming much lower water intake for infants (e.g., no reconstituted formula). It also considers 3 scenario's of exposure based on the DC data for homes with lead pipe.....This, and the prior studies on blood lead versus lead in water, point to the complete absurdity of the DC DOH results.

After my exchanges with Ms. Ragain, which allowed me to point out clearly the undisputed discrepancies between the facts related to the environmental assessments and Mr. Johnson and Dr. Guidotti's prior public statements about these assessments (i.e., sworn written testimony to US Congress, public presentations, written comments to the DC Office of the Inspector General, and a submitted paper to EHP), I felt assured that Dr. Guidotti would not present the purported “environmental assessment” study again. But this was not to be.

From the limited e-mails that I possess, Dr. Guidotti's state of mind regarding the assessments appears to have evolved over time. On September 19, 2006 Dr. Guidotti admitted to EHP that he had “seen the two environmental assessments” that WAMU had sent him and noted that “the DC DOH has to settle the issue definitively before we proceed to publication (see page 46).”

Throughout the environmental assessment controversy, Dr. Guidotti maintained close contact with DC WASA public relations personnel, who kept tabs on the developments. On the morning of the September 21, 2006 WAMU broadcast, in the midst of an e-mail exchange between DC WASA staff and Dr. Guidotti, someone suggested that DC WASA's response to the delivery of potentially unsettling information about the possible harm from lead in water include “*referencing the peer reviewed article*” (see page 46). It is impossible for me to tell, exactly, who wrote this statement. But at that time, Dr. Guidotti's EHP paper was the only peer reviewed article describing Washington DC's lead-in-water problem and its public health implications. The statement again makes clear that the authors, and DC WASA, viewed the EHP paper as a public relations tool. WAMU noted on the air that they reviewed the environmental assessments *independently* and discovered water problems in 7 instances. Dr. Guidotti refused to speak on tape.

EHP EHP response Wed, Sep 20, 2006 11:11 AM

Subject: EHP Manuscript #8722
Date: Tuesday, September 19, 2006 4:51 PM
From: Tee Guidotti <tehtlg@gwumc.edu>
To: <burkhart@niehs.nih.gov> <NKC@niehs.nih.gov>
Conversation: EHP Manuscript #8722

We have run into a totally unexpected complication with our manuscript:

NPR reporter Lisa Murnburg has obtained (through FOIA) two DC cases in which contractor (not DOH) wrote in the report that water was the most likely source of exposure in cases of children with elevated blood lead. Story will be filed later today so will probably air tomorrow. This will cause further controversy.

The DC Dept. of Health is currently investigating the apparent discrepancies. At issue is both the completeness and correct interpretation of the contractors' reports of home environment evaluations of two cases of elevated blood lead. These reports were prepared by contractor hired by DOH to do the assessment and transmitted to DOH on completion. At this time, we do not know whether there was additional information in both cases that was not sent in response to the FOIA request. Until there is an explanation, DOH is standing by their information that all such cases had other sources of exposure to lead documented. The Director and staff of DOH is investigating and until they are finished we cannot proceed.

We have seen the two environmental evaluations ourselves and have our own thoughts about their interpretation. We will take suitable action, reaffirm validity of original information and/or make necessary correction in the manuscript once the full story is in. However, the DC DOH has to settle the issue definitively before we proceed to publication.

This all happened today. We thought that you would want to know as soon as possible.

TLG

Michele Quander-
Collins

09/21/2006 10:19 AM

To: "Tee Guidotti" <tehtlg@gwumc.edu>
 CC: Jerry Johnson/GM/DC/WA
 Subject: Re: Media Inquiry...WAMU-FM (possibly spam: 6.2768) (possibly spam)

Good morning, Dr. Guidotti...

As an FYI... I'm told that WAMU-FM is reporting the Blood Level Testing story on this morning's broadcast. The premise I'm told, is that the Department of Health wasn't truthful in its reporting of the blood level test results and that WASA officials continue to downplay the significance of the test results. I'm also told that their report featured interviews from mothers of those tested - one of whom says her son's test results were very high...etc. WAMU has indicated the full report/story will be the topic of discussion tomorrow (Friday) at 1:00 pm on the station's MetroWatch program.

Michele

We should have a response on the significance of the findings as reported to WASA - perhaps referencing the peer reviewed article as well as the attached

Originator of the above e-mail is uncertain, since WASA deleted the person's name.

The exposure of the problems with the DC WASA-funded risk assessments caused Dr. Guidotti grave concern. He commented to EHP co-author Marina Moses, DrPH, MS that *"unless this is resolved, there will always be a cloud and confusion over what happened to DC residents."* He further stated that unless this issue was resolved *"we will not be able to publish our BLL paper."* And that, *"An explanation of how the discrepancies MIGHT have occurred is not enough. It leaves open the possibility that the original contractors' reports were correct and that water was the source in those cases. DOH needs to present a direct, simple and accurate explanation of the discrepancies DID occur, no speculation. At this point it is essential for DOH to fix this."* Further, he argued that if we cannot resolve the problem that *"the lawyers will use this in future legal actions"* and *"WASA will be vulnerable forever"* and *"nobody will believe DOH or WASA in the future."* Given that the EHP paper had been described by DC WASA as a "Health Message," it is probably not coincidental that the words *"publish our BLL paper"* were written in the very same sentence that raised the legal and public relations predicament of DC WASA.

>>> Tee Guidotti 09/22/06 10:53 AM >>>

Marina - for reasons I don't pretend to understand, your email was not copied to the others and when I tried to respond by punching "Reply" it kept bouncing me out of the system. So, I have pasted your email below.

I think that EPA is making a mistake in underestimating this development. Taking the announcement off their website is the worst thing they could do in terms of appearances. They don't seem to realize that EPA's own credibility is on the line.

The issue is not really whether water was the source - that remains unlikely and the two cases did not, in my opinion, provide good evidence for this. The problem is that unless this is resolved, there will always be a cloud and confusion over what happened to DC residents. If we cannot resolve this issue, we will not be able to publish our BLL paper (which is essential to putting this matter to rest and describing what really happened), nobody will believe DOH or WASA in the future, the lawyers will use this in future legal actions, the scientific analysis will be clouded and will undermine EPA's own credibility, and WASA will be vulnerable forever.

An explanation of how the discrepancies MIGHT have occurred is not enough. It leaves open the possibility that the original contractors' reports were correct and that water was the source in those cases. DOH needs to present a direct, simple and accurate explanation of the discrepancies DID occur, no speculation. At this point it is essential for DOH to fix this.

TLG

Later that day, Dr. Guidotti wrote to one of his GWU co-authors calling for an expeditious "answer" by DC DOH that would explain away the discrepancies credibly and allow him to proceed with the EHP paper. Specifically, he wrote that *"...DOH has to answer the fundamental issue of transparency and documentation of the basis for their judgment or everyone involved will have zero credibility."*

"Tee Guidotti"
<eohtlg@gwumc.edu>

09/22/2006 09:59 PM

To: Goldsmith" <echdltg@gwumc.edu>, "Marina Moses" <echmsm@gwumc.edu>
cc:
Subject: Re: WAMU report and TEWG response

??

David - I am not giving the science credence. I am saying that DOH has to answer the fundamental issue of transparency and documentation of the basis for their judgment or everyone involved will have zero credibility.

BTW, I have been in touch with the editor. He wishes us luck on the outcome and is standing by to see how the issue is resolved.

TLG

A few days later he cited a potential resolution to the problem. That is, in late September 2006 WAMU announced that the Centers for Disease Control and Prevention (CDC) would step in to investigate the environmental assessments. Dr. Guidotti then e-mailed the EHP editors on September 25, 2006 that CDC would review all evidence regarding blood lead levels and sources of exposure in 2004, to "...restore credibility to the public health system in DC," and "that it is premature to consider withdrawal of the manuscript."

Subject: Re: EHP Manuscript #8722
Date: Monday, September 25, 2006 3:01 PM
From: Tee Guidotti <eohtlg@gwumc.edu>
To: <burkhart@niehs.nih.gov>
Cc: <C NKcE J@niehs.nih.gov>
Conversation: EHP Manuscript #8722

In the latest development, CDC has been asked to review all evidence regarding blood lead levels and sources of exposure in 2004. This is a reasonable move to clarify the situation and to restore credibility to the public health system in DC. I have no choice but to ask that you suspend plans for publication until this is sorted out, which may take weeks.

I have seen the disputed reports and am familiar with the context, if not the exact circumstances at DC DOH. Based on what I have seen, I believe that it is premature to consider withdrawal of the manuscript.

TLG

Having already discussed the data in the assessments with me, and fully aware that some assessments reported water as either the sole or a contributing source of lead, Dr. Guidotti's GWU co-author Ms. Ragain urged careful preparation of a defense, in case a sufficient explanation was not found for the discrepancies between the assessments and Dr. Guidotti's/DC WASA's statements about them. Again, the public relations aspect of the work between the

GWU researchers and DC WASA is clear. Ms. Ragain states, *"We need to make sure our own ducks are in a row. WASA is teetering on a thin line right now, just a small tip could make for another fiasco at some level."* The e-mail closed with a recommendation to "try and get ALL the documents that Dr. Edwards got from DOH with his FOIA request."

>>> Lisa Ragain <ragain@speakeasy.net> 10/24/2006 12:40:26 AM >>>
Tee -

Just finished scrolling down - you can see the original message from Jerry that helped touch off this maelstrom. We need to make sure our own ducks are in a row. WASA is teetering on a thin line right now, just a small tip could make for another fiasco at some level. I strongly suggest that you try and get ALL of the documents Dr. Edwards got from DOH with his FOIA request.

L

In reference to Ms. Ragain's idea that the GWU authors should obtain -- and actually read -- the assessments they had so frequently cited (in the EHP paper, sworn written testimony to US Congress, presentations, and to DC OIG), Dr. Guidotti mentioned that it would *"not be so easy to get them all but Edwards is doing it for us."* In anticipation of the CDC's action, Dr. Guidotti also offered his assessment of the likelihood of different outcomes of the CDC investigation.

"Tee Guidotti"
<tehg@gwumc.edu>
10/24/2006 11:42 AM
To: <ragain@speakeasy.net>
Cc: <tehg@gwumc.edu>
Subject: Re: Fwd: The LEAD Coalition and New Opportunities

Not so easy to get them all but Edwards is doing it for us.

One of three things could happen:

1. CDC will say it could have been the water: this won't happen. If it did happen, they had better be able to back it up and they know it. DC DOH will have no credibility. The argument will be over how DC DOH could possibly have been so wrong.
2. CDC will say that they don't think it was the water but the documentation is poor. DC DOH will then have to defend why the records for the contractors and the additional information on which they relied was not in the same place or conveyed in response to the FOIA.
3. CDC will say that it cannot possibly have been the water. They will present the missing documentation and DC DOH will be exonerated.

I am betting on #2.

TLC

He did not consider a fourth possibility, which is that the CDC would find the assessments so ambiguous and contradictory to prior public statements on the subject that they would decide not to intervene. CDC eventually stated to *Salon*:

“It’s not CDC’s job to investigate apparent discrepancies between public statements about these assessments and the results themselves, the spokesperson says.”

In late November of 2006, even if they did not have it before, DC WASA and Dr. Guidotti were given unambiguous information from DC DOH that the DC DOH “study” of “65 environmental assessments” never existed. Dr. Stokes – the only person at DC DOH who oversaw these assessments – had only analyzed the first 49 of the 121 assessments, through May 17, 2004.

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-----Original Message-----
From: Sansone, Marie (DOH) [mailto:marie.sansone@dc.gov]
Sent: Wednesday, November 29, 2006 9:11 AM
To: 'Johnnie_Hemphill@dcwasa.com'; Hubbard, Drew (EOM)
Cc: Onwuche, Nkechi (DOH)
Subject: RE: Pb on www.salon.com

Johnnie . . . According to Sandra Haddon, all of the lead-based paint records are now
placed in one central location. Christine Onwuche and I are going to start going thru
them today and matching them up to any CLPPP information. Lynette Stokes left me a voice
message to the effect that she never did any further analysis after the May 17, 2004
summary of results from reviewing the initial 49 reports. I have to have some dental work
this morning; let's try to touch bases this afternoon.

Sent from my GoodLink synchronized handheld (www.good.com)

>>> <Johnnie_Hemphill@dcwasa.com> 11/29/2006 7:22 PM >>>

Can you take a look at the attached, and please give me a call. Also,
I
spoke with maire sansone this evening. She says that tokes did not
complete the analysis of all the environmental assessments (only 49 of

121). Marie's review of 10 of the 49 indicates that the ones that
suggested that water was the source of the problem were of
demonstrably
poorer quality. She also said that the review of the DOHcase files
(records other than the assessment files) will be reviewed beginning
tomorrow.
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Dr. Guidotti then revealed that he knew that DC WASA had actually funded at least 121 assessments, not 65, and admitted that he, himself, had been unable to make sense of an environmental assessment database he had obtained from DC WASA. This database only included 71 data points. He stated it was completely unclear which of the 192 data points in total (i.e., 71 in DC WASA's database and 121 in DC DOH's database) corresponded to the “65 children” whose cases had been supposedly analyzed by DC DOH.

From: Johnny Hemphill
Sent: Monday, December 04, 2006 9:01 AM
To: Rachel Lazarus
Subject: Fw: WASA Tests

Give me a call

----- Forwarded by Johnny Hemphill/GMUC/WASA on 12/04/2006 09:00 AM -----

"Tee Guidotti"
<tehg@igwumc.edu>

To: <Johnn
12/02/2006 03:40 PM
cc:
Subject: Re: Fw: WASA Tests

This is exactly the same problem we were facing (and we have our answer now). The databases are not clear on which of the subjects were the 65 cases and which (of the 71 on our sheet and the 121 in the CDON list) were others.

Marie Sansone's impression confirms my own - that the contractors did not do their work well on those particular cases. In a charged situation like this, one should not speculate - there should be positive evidence for a cause, not conclusion by the process of elimination.

We have also had conversations with the person who did the work, who says that all necessary information was in fact left behind at DOH but not in the same file as the contractor work (just as we suspected).

I have a call in to John Davies-Cole to sort some of this out.

I don't think that the epidemiologists at CDC have any idea of the context of the database they are examining. I would be happy to speak to them about it.

Our top priority, however, is to get the 65 cases identified in our database so that we can run the stats one more time and finish conclusively with the subjects of the screening study.

TLC

In this same e-mail that essentially acknowledged that the "study" of the "65 children" never existed, Dr. Guidotti stated the top priority *"is to get the 65 cases identified in our database so that we can run the stats one more time and finish conclusively with the subjects of the screening study."* But he also claimed that *"just as we suspected,"* all necessary information to resolve the problem with the assessments *"was in fact left behind at DOH but not in the same file as the contractor work."*

Dr. Guidotti could not abandon the quest to find data for this specific "study" of "65 children," possibly because he had often cited the study prominently in the EHP paper and elsewhere. *"For the purposes of the paper,"* he wrote to two of his DC DOH co-authors in December 2006, *"we just want the data on the 65 because the question to be answered is whether there was a correlation in just these children."* He then made it clear that locating the data was both essential and urgent for the EHP publication because:

"We would not like to explain to the reviewers and critics why we are not describing the same 65 subjects we describe in the paper and that form the tail in the figures. That would undermine the credibility of the DOH data in its entirety."

From: Tee Guidotti [tehg@gwumc.edu]
 Sent: Monday, December 04, 2006 5:45 PM
 To: Garret (DOH) Lum
 Cc: John Davies-Cole
 Subject: Re: Original 65?

I am talking about the 65 subjects identified in the screening program, only, who had BLL 10 or greater. We have a database from WASA (which was asked to investigate the houses) that includes the 65 but also some others, presumably houses and children who were found to have elevated blood lead levels at other times. The database has coded premises number (we also have a key for which address it is), the BLL (sometimes multiple) and the first-draw tap water lead.

For the 71 subjects we identify as individuals, for the subset of 58 who have BLL >10 but not 10, for the 112 individual data points, and for the 67 unique addresses, the r is < 0.01 in each case. We know that the 65 children identified in the screening program are among them all and that there cannot be a sig correlation if there is not one for entire group that includes them - they are too big a subset.

For the purposes of the paper, however, we just want the data on the 65 because the question to be answered is whether there was a correlation in just these children.

We would not like to explain to reviewers and critics why we are not describing the same 65 subjects we describe in the paper and that form the tail in the figures. That would undermine the credibility of the DOH data in its entirety.

Garret - this is fairly urgent. This analysis is all that is standing in the way of getting this paper out. If you could possibly answer the question we would be eternally grateful.

TLG

Dr. Guidotti then approached his DC DOH co-author Dr. Davies-Cole, querying him about a "red plastic portfolio" that Dr. Stokes had supposedly left behind that had a "great deal" of documentation about the assessments, even though Dr. Stokes had made it clear to DC DOH's Marie Sansone, JD that she had stopped her review with 49 cases and had not examined the other assessments.

From: Tee Guidotti [tehg@gwumc.edu]
 Sent: Monday, December 04, 2006 7:58 PM
 To: John Davies-Cole
 Subject: Documentation on the 65 cases with elevated BLL

You probably already know this, but I am told that Lynette Stokes left behind a red plastic portfolio in her desk and that it contains a great deal of documentation on specific houses and children. This information was available to her while she was actually making the risk assessments and were the basis for her decisions.

We are so close to wrapping this paper up!

TLG

After weeks of seeking data that could be attributed to the assessments of 65 children (a quest that is discussed further in Section 3.4), and repeatedly being told by DC DOH that no evidence that such a study existed, Dr. Guidotti ended this phase of his search by lamenting that the documents in the "*red plastic portfolio*" could have enabled him to reconstruct "*the identification of a proven environmental source in every situation*" (emphasis added). And that this "*hope seems to have disappeared with the little red folder Lynette kept in her desk.*"

From: Tee Guidotti [techg@gsuvmc.edu]
 Sent: Friday, December 29, 2006 4:07 PM
 To: Garret (DOH) Lum
 Subject: RE: WLL v. BLL

OK - that's fine.

I think that it too much to expect to get all environmental data. (In fact, Marie Sansone has had difficulty getting all the info she needs.) The evaluations I have seen vary enormously in quality and two (the most controversial and also the weakest) seem to jump to unsubstantiated conclusions. For our purposes today, I don't think that we will be able to sort it out with respect to reconstructing the identification of a proven environmental source in every situation. That hope seems to have disappeared with the little red folder Lynette kept in her desk.

Although Dr. Guidotti abandoned his search, he did not disclose to EHP that the “study” of “the 65” never existed and the data could not be explained or reconciled. I speculate he calculated that no one would ever be able to discover these facts, because in response to a prior FOIA request I had made, DC DOH had acted to protect his communications.

3.3.1. Analysis of Specific Misstatements About the Environmental Assessments

The following is an analysis of the specific misstatements about the “65 children” and the environmental assessments that appeared in the published version of the EHP paper.

1) The paper states that the homes of all children and adults with elevated blood lead were investigated by DC DOH. This is a false statement for several reasons. First, there were many individuals with elevated blood lead levels who had no assessments at their homes. Second, the investigations were done by DC WASA contractors, and not DC DOH. Finally, DC DOH did not review all the assessments until at least late 2006.

The homes of all children and adults with elevated blood lead levels were investigated by the DC DOH. The results of public health investigations in the home for the elevated levels for adults and children were reviewed.

2) Data on the percentage of the 65 children who lived in homes with and without lead service lines are fabricated (p. 698, Table 2). Unless it is known who the children were and where they lived (information that Dr. Guidotti searched for unsuccessfully), it is impossible to know the type of pipe material in front of each child's home. I have requested this information from DC DOH and they cannot find it.

Children < 6 years of age (percent of all children screened)	65 (84.4)
Children < 6 years of age living in homes with lead service lines	19 (29.2)
Children < 6 years of age living in homes without lead service lines	46 (70.8)

3) When Dr. Guidotti submitted the final version of the manuscript, he told EHP Editor Burkhardt that “documentation to back up the original statement” (i.e., that in all 65 cases a lead source other than drinking water was identified) was “*no longer available*.” This statement implied that such documentation had been available in the past, which Dr. Guidotti knew to be untrue

since DC DOH's Dr. Stokes (an EHP co-author) had stated she had reviewed "only 49 of the 121" reports.

----- Forwarded Message

From: Tee Guidotti <eohtlg@gwumc.edu>

Date: Tue, 09 Jan 2007 17:07:09 -0500

To: "Jim (NIH/NIEHS) Burkhardt" <burkhart@niehs.nih.gov>

1. The statement that all 65 children identified as having elevated BLL during the screening program of 2004 were found to have another source of lead exposure has been modified. We now state that this was true in most cases, that in some cases no positive identification was made, and that the investigation is continuing. The reason for this change is that documentation required to back up the original statement is no longer available.

4) In the published paper, Dr. Guidotti covered up the 2 environmental assessments that pointed directly to the water as the cause of the child's elevated blood lead as follows:

In every case in which the blood lead level exceeded 10 µg/dL in a subject in the target population, an investigation of the homes was conducted. Most identified at least one source of lead exposure other than drinking water, usually peeling lead paint and dust. Two cases remain in dispute because a source has not been positively identified, but there is no evidence that either is water related. This investigation is continuing.

The above wording is false and misleading. For one of the cases, Dr. Guidotti had reports in his possession showing that the child in question attended Wilkerson Elementary School, where lead-in-water samples as high as 7,300 ppb had been found. This level of lead in water is about 1.5 times higher than the threshold for classification as a hazardous waste, and 365 times higher than the EPA lead-in-school standard. Indeed, the **average** first-draw lead at Wilkerson Elementary School was 342 ppb, and the average second-draw lead was 538 ppb (both more than 20 times the EPA standard). The child's blood lead, in fact, had been tested precisely because of the high level of lead in water at the child's school. This was clear evidence of a possible "water related" source of lead exposure that should have been disclosed.

The second case in dispute also pointed directly to the water, as revealed by very high lead in the second-draw sample collected at the child's home. DC DOH has never denied that they told this child's mother that water was the only significant lead source in the home (see WAMU report cited earlier).

Dr. Guidotti's statement that the "investigation is continuing" is also false. In his e-mail above (page 54), Dr. Guidotti states that all hope of finding the environmental source disappeared with the loss of the red plastic portfolio. In 2007 I also spoke with the child's guardians and confirmed that there was no ongoing investigation of lead sources in the child's environment.

5) Dr. Guidotti and his DC DOH co-authors discuss the case of a child with excessively high BLLs that had been hospitalized for lead poisoning:

els > 10 µg/dL, and all but 1 had a level < 45 µg/dL, a level that may be associated with clinically symptomatic lead poisoning. That 1 child had a level of 68 µg/dL and was hospitalized. A decision to treat by chelation was deferred because a repeat blood lead determination showed that the level was falling. A source of lead exposure unrelated to either lead paint or water has been identified in that case but has not been revealed in order to protect the confidentiality of the family.

I investigated this case in detail through FOIA requests for internal agency documents and interviews with the child's family and neighbors. As demonstrated in a separate document that I have sent electronically along with this letter, the above statements are false.

On March 24, 2004, EHP co-author Dr. Stokes presided over a public press conference on this child's case (see streaming video in the attached PowerPoint file). The day before the press conference, DC DOH issued a press release titled, "Child Admitted to DC Hospital with Elevated Blood Lead Level: Environmental Assessment Strongly Suggests Water is Not the Source." The announcement claimed that lead dust and paint had been identified as the most likely causes, and did not reveal that *no sample of this child's drinking water had been collected*. Moreover, the two risk assessments that had been conducted at the child's home prior to the press conference (on 10/15/02 and 7/23/03) had resulted in only a single elevated lead dust sample on the kitchen floor. At the press conference, Dr. Stokes asserted that the child lived in a home with a service line of undetermined or non-lead material. When DC DOH finally measured lead in the water weeks after the press conference, they found elevated levels, but never admitted it publicly. Through conversations with neighbors and DC WASA's own records, I later discovered that the service line at the child's home was indeed made of lead.

Therefore, the statement in the EHP paper, that a "source of lead exposure unrelated to either lead paint or water has been identified, [...] but has not been revealed in order to protect the family" is untrue. In addition, in the press conference Dr. Stokes made her theory about the source explicit: "overwhelming amounts of lead dust." Clearly, this information was not being kept confidential to protect the family.

It is important to also note that this hospitalized child discussed in the EHP paper was the very child at the center of the *Regina Lewis v. the District of Columbia and DC WASA* \$10 million lawsuit. Dr. Guidotti, on behalf of DC WASA and DC DOH, used the EHP paper as a peer reviewed platform to lie about the facts of this child's situation.

3.3.2. On the Possible Origins of "the 65"

It is worth speculating on the possible origins of Dr. Guidotti and DC WASA's fabricated claims about the DC DOH study of "the 65" environmental assessments. Ultimately, the burden of proof should fall on the authors, but I have uncovered information that may shed light on the question.

A 2005 "Scope of Work" document between DC WASA and GWU (see next page) noted that, "We [GWU] are an academic center of excellence in this field..." of communications support. The same document mentioned that GWU had developed a "strategic plan for the anniversary of the media coverage of the lead issue," and "...a document of strategies to work with the DC Lead Elimination Task Force" (i.e., a coalition of community, advocacy, governmental, and academic groups that formed in 2004 to improve lead poisoning prevention efforts in the District). Further, the document stated:

"In our previous contract with WASA, we met a similar charge by providing WASA with a write-up on the DC Department of Health children's blood lead level results..."

GWU's previous contract with DC WASA was in 2004, and their "write-up" about DC DOH children's blood lead level results may have been a document entitled "Dr.Calhoun'sExecutiveSummary10-13-2004.doc." I have a copy of this document which was mailed by Dr. Guidotti to Ms. Renner on April 12, 2006. This document features edits that are still clearly visible via MSWORD track changes. The edits are labeled, "Calhoun,5-4-2005," which suggests that Dr. Calhoun revised the document in 2005. While the author of the document is not mentioned, it would seem odd for Dr. Calhoun himself to write a document entitled "Dr.Calhoun'sExecutiveSummary." It seems possible that this document originated at GWU and was produced for DC WASA.

This document is the only information I have, which is even remotely associated with the DC DOH (i.e., edited by Dr. Calhoun). It mentions "the 64" environmental assessments. Specifically, the following text appears:

Sixty-four children under the age of 6 had elevated BBL (10mcg/dl or higher), of whom 2 had levels of 45 or greater (45 mcg/dl is the BBL at which medication is recommended by the Centers for Disease and Prevention (CDC). It has been well documented that those 2 children were hospitalized and treated at local hospitals and have been relocated from their homes, which were found to have high lead levels from paint, dust and soil, and lead abatement techniques. It is also significant that all the residents of the 64 children under age 6 with elevated BLL (i.e., 10 mcg/dl or higher, and the nursing mothers with elevated levels except for 1 residence) have shown lead dust, paint and/or soil levels that exceed Environmental Protection Agency (EPA) and HUD guidelines.

2.3 Scope of Work Involving Communications Support.

The CRSPH team views risk communication as a specialization distinct from crisis communications, health education or corporate communications, although individual situations may involve these other aspects of communication. We are an academic center of excellence in this field, particularly with respect to conceptualizing and framing the message in ways that the public and concerned communities will find useful in making decisions and understanding the message. This view of the communications function goes beyond the two specific tasks listed below but the CRSPH team views this mission as integral to our role.

2.3.1 Communications support

CRSPH will continue to support communications functions by participating in the development and/or review of WASA testimony, advisories, brochures, etc., that are intended to provide information to customers, the general public, media or special audiences on water quality generally, potential negative health effects, at risk populations, etc.

In our previous contract with WASA, we met a similar charge by providing WASA with fact sheets on drinking water and health for immunocompromised patients and health care providers, a distribution plan and strategy for frequently-asked questions for those audiences, a strategic plan for the anniversary of the media coverage of the lead issue, a review of utilities' practices and policies on translating health-related materials into languages other than English, a review of how utilities present research data in newsletters and websites, and a document of strategies to work with the DC Lead Elimination Task Force.

2.3.2 Support for policy development.

The CRSPH team will continue to provide advice and counsel to senior WASA executives, in advance of or during policy level briefings, public statements, testimony, etc. – providing a source of authoritative information necessary to ensure accuracy and timeliness in communications.

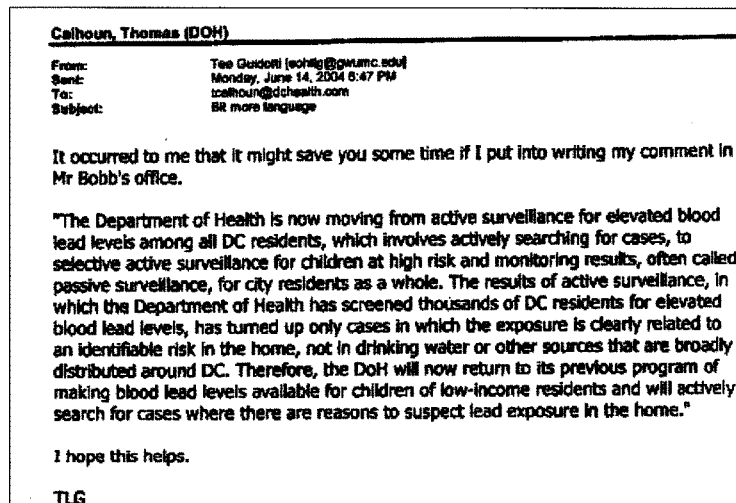
In our previous contract with WASA, we met a similar charge by providing WASA with a write-up on the DC Department of Health children's blood level results, a recommendation for risk communication training for WASA management and staff, and several briefings for use in testimony.

The likelihood that "Dr. Calhoun's Executive Summary" was written as a strategic communication tool for public relations by DC WASA is further indicated by the following excerpts that are unlikely to have originated with Dr. Calhoun or even the DC DOH. Specifically, "Dr. Calhoun's Executive Summary" states (misspellings are in the original):

- 1) *The DOH is supportive of the plan for the replacement of lead service lines as put forth by WASA, and the prioritization thereof, as recommended by DOH. DOH concurs with the service line replacement process underway to the target population and those with elevated BLL.*

- 2) *Table 1 shows schools tested by the Water and Sewage Administration (WASA) along with the DCPS engineers, immediately closed the drinking unit and proceeded to remove all the sinks, faucets, and fountains which were identified as being the source of the increased water lead levels (WLL).*
- 3) *It is significant to point out that the increased WLL were due not from lead service lines to the school, but from lead fountain and sadder in the units.*
- 4) *The DOH recommends continued use of water filters, with appropriate changes of the filtering units as recommended by the manufactures.*
- 5) *There is no documented evidence of any individual in the District of Columbia who has required medical intervention due to known exposure to lead in the water!*

The above may explain the origins of the "DC DOH study" of "the 65 (or 64)" environmental assessments, when the DC DOH itself has no record of such a study. The tendency of Dr. Guidotti to put words in the mouth of DC DOH, that were favorable to his DC WASA client, is also revealed in the only e-mail produced to me between DC DOH and Dr. Guidotti:



The next section will reveal even greater manipulation of DC DOH by DC WASA and Dr. Guidotti.

3.4. The DC WASA/DC DOH "Correlation Analysis"

On March 2, 2006, Dr. Guidotti e-mailed EHP apologizing "for all the problems with this manuscript." Even at that very early stage in the publication process, he acknowledged that it had been a "disorganized experience," "starting with the DC Dept. of Health (nice people, but like herding kittens)." Dr. Guidotti explained that DC DOH "did not initially understand that a database used for research had to be much cleaner," and that he had "spent hours double-checking the data, just to be sure that the backtracking at DOH did not compromise the data."

Subject: Re: EHP ms 8722
Date: Thursday, March 2, 2006 11:07 AM
From: Tee Guidotti <eohtlg@gwumc.edu>
To: NIEHS EHP Manuscripts <EHPManuscripts@niehs.nih.gov>
Conversation: EHP ms 8722

I have to apologize for all the problems with this manuscript.

Frankly, I have never had such a disorganized experience with a ms., starting with the DC Dept. of Health (nice people, but like herding kittens), which is accustomed to managing public health programs but did not initially understand that a database used for research had to be much cleaner. I have spent hours double-checking the data, just to be sure that the backtracking at DOH did not compromise the data.

The way in which Dr. Guidotti and DC WASA "herded" the DC DOH kittens is revealed in a correlation analysis that was added to the EHP paper immediately before its publication in 2007. As background, my 2005-2006 FOIA requests to EPA had prompted a US Senate staffer to inquire about the fabricated DC DOH study of the 65 environmental assessments. In response to this request, the Senate staffer received a "fact sheet" written by EPA/WASA/DOH/Washington Aqueduct, which prompted her to ask EPA how, exactly, DC DOH had determined that the high lead in DC water had not contributed to any elevated blood lead in DC children. Unable to answer the question, EPA then approached DC DOH for additional information. On the basis of EPA's previous experience with DC DOH, it is clear that EPA did not expect much of the DC health agency. At the end of EPA's exchange with DC DOH, EPA reported, "*As expected*, DC DOH was not helpful in answering the question's..." [sic].

As expected, DCDOH was not helpful in answering the question's posed by Inhoff's staff.
 We'll have to work with WASA and DOH's address data to get to the answer. Bottom line is that DOH's "environmental assessment" of homes of children with elevated lead levels did not include testing their water by DOH.
 Veronica, was there a time frame to get the answers back?

 EPA Wireless E-Mail Services.

At that point, EPA turned to DC WASA for an explanation of how DC DOH had determined that no elevations in children's blood lead had occurred back in 2004, and how possible links to

water had been ruled out. The first query was on August 22, 2005, and a second was sent on September 29, 2005.

-----Original Message-----
From: Rogers.Rick@epamail.epa.gov [mailto:Rogers.Rick@epamail.epa.gov]
Sent: Monday, August 22, 2005 9:00 AM
To: rgans@dcwasa.com
Cc: John_Dunn@dcwasa.com; Saxe.Jennie@epamail.epa.gov;
 nkechi.onwuche@dc.gov
Subject: Fw: DC Tap water lead and Blood lead levels draft fact sheet

Roger,

EPA has been posed a question by Senator Inhoff's staff (Senate Environment and Public Works Committee) regarding children that had been found to have elevated blood lead levels last year. A fact sheet that we (EPA, WASA, DOH and the Aqueduct) put together made a statement that



Rick Rogers/R3/USEPA/US
 09/29/2005 07:38 AM

To: Roger_Gans@dcwasa.com
 cc
 Subject: Re: Fw: DC Tap water lead and Blood lead levels draft fact sheet

Roger,

any word on the remaining address matching regarding the blood lead data and tap water samples?

Our GIS folks got the data they needed for those overall lead occurrence maps. Thanks, again, for making those arrangements.

Thanks,

Rick Rogers
 EPA Region III

Roger_Gans@dcwasa.com

DC WASA never responded to EPA's requests. Pressured from persistent questioning by myself via FOIA and more questions from the Senate staffer, in May 2006, EPA acknowledged to DC WASA that, "Now that our e-mail string will have to be released through a FOIA request, we may get the question asked, again."

Rick Rogers/R3/USEPA/US To: Roger_Gans@dcwasa.com
 05/11/2006 07:17 AM cc:
 bcc:
 Subject: Fw: DC Tap water lead and Blood lead levels draft fact sheet

Roger,

I was searching through Emails to answer FOIA requests for info on D.C. water supply and blood lead levels and I came across this exchange we had last August (see attached Emails). Do you recall what the final outcome of this search was? The original question was related to a question asked by staff from the Senate's Environment and Public Works Committee, which was of those tested in D.C. who had elevated blood lead levels (>10 micrograms/deciliter) that were claimed by DCDOH to not have lead service lines, was their tap water sampled to see if there were high first draw lead levels in those homes.

It looked like you had a contractor going through the data, matching up addresses to WASA's lead sampling data. I don't recall ever getting the final information on that search.

Did your contractor complete the address matching? I don't recall ever receiving the outcome of that search. The Senate Committee never followed up on this. But, now that our Email string will have to be released through a FOIA request, we may get the question asked, again.

I'd appreciate anything you can do to dig up the results of that review.

Thanks,

Rick Rogers
 EPA Region III

Around that same time, DC WASA, with guidance from Dr. Guidotti, began preparing data to retroactively construct answers to the Senate staffer's questions.

Johnnie Hemphill To: Roger Gans/ENGI
 05/03/2006 11:40 AM cc: "Tee Guidotti" <ec
 <eohmsm@gwumc.edu>, John Dunn/GM/DC/WASA@WASA
 Subject: Information on Priority replacements

Roger, I need you to contact Tee and Marina, asap. They may need your assistance in obtaining information we have pertaining to the lead line replacements we have completed at residences where a child with a high blood lead level was identified.

Thank you for your assistance.

DC WASA started with a DC DOH list of several hundred children (roughly 260) that had elevated blood lead in 2004. Devoid of WLL measurements, this list provided no information about possible links between elevated BLLs and contaminated water that the Senate staffer had requested. To try to generate such a dataset, DC WASA and Dr. Guidotti began matching home addresses from the DC DOH list with DC WASA's own measurements of WLLs from DC homes in 2003, 2004, and 2005. They found 71 matches. DC WASA's WLLs included only 2nd draw measurements that had come from DC WASA's own sampling program, which had turned out to be entirely unrelated to the environmental assessments of the purported "study of 65." Another challenge for Dr. Guidotti and DC WASA was making it appear as if this information came from DC DOH – the agency that purportedly did the studies and collected the information – and not DC WASA.

One month after the September 21, 2006 WAMU broadcast on the problems with the DC government's representation of the environmental assessments, and in reaction to follow up media inquiries about the same issue, DC DOH requested a meeting with "WASA reps" on October 16, 2006.

"Hubbard, Drew (EOM)" <Drew.Hubbard@dc.gov>
10/16/2006 03:09 PM

To: "'jhemphill@dcwasa.com'" <jhemphill@dcwasa.com>
CC:
Subject: Meeting request re: lead assessments

DOH would like to sit down with the appropriate folks from WASA to discuss this issue further. They have gotten more inquiries from reporters on the topic. Can you advise a time in the next couple of days that WASA reps could meet?

Thanks,

The meeting between DC DOH and DC WASA, which included Dr. Guidotti, occurred on the week of October 30, 2006. This also happened to be the time when the EHP publication had been placed on hold, and Dr. Guidotti was in urgent need of addressing the problems with "the 65" data for his paper.

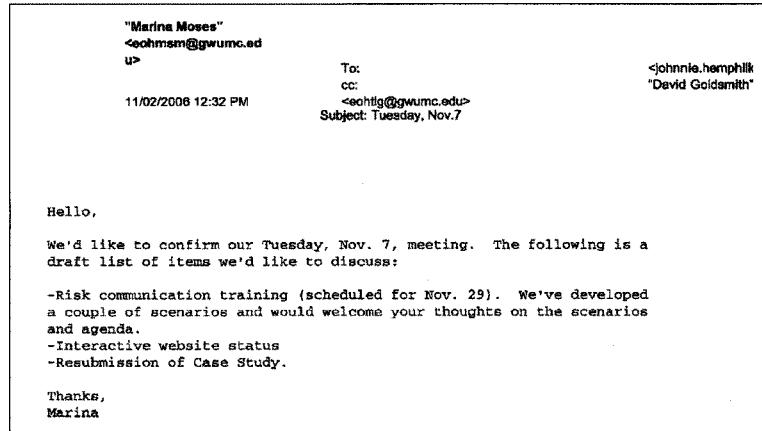
From: Hubbard, Drew (EOM) [Drew.Hubbard@dc.gov]
Sent: Monday, November 06, 2006 11:31 AM
To: 'Sansone, Marie (DOH)'; 'Onwuche, Nkechi (DOH)'; 'Key, Tori (EOM)'; Aleizha Batson; Rachel Lazarus; 'eohtig@gwumc.edu'; Johnnie Hemphill
Subject: WASA-DOH Meeting Re: Lead Response

All,

This serves as the follow up to last week's meeting. This message will go out to all who attended. If there is a need to communicate with whole group collectively please respond to all. As an update, I received a voice message from Michelle Nellenbach this morning. Of interest, she mentioned that WASA is in the process of forwarding the rest of the assessments to her office. Also that she was reaching out to me in order to have a conversation with DOH. I have not responded yet.

Drew E. Hubbard
Federal Affairs Policy Analyst
Office of Policy & Legislative Affairs
1350 Pennsylvania Ave., Suite 511
Washington, DC 20004
Phone: (202) 727-8038
Fax: (202) 727-3765

On November 7, 2006, just days after the DC DOH/DC WASA meeting, Dr. Guidotti and his collaborators at GWU held another meeting with DC WASA to discuss, amongst other issues, "Resubmission of the case study" – a clear reference to the EHP paper.



The very next day, Mr. Hemphill sent DC DOH an e-mail making two requests:

- a. That, because DC WASA did not have the environmental assessments requested by the US Senate staffer, the responsibility lay with DC DOH to forward those assessments to Capitol Hill, and
- b. That, because DC WASA had “determined that it could not undertake any lead-health analyses independently some years ago,” it was advisable for DC DOH to include with the assessments to the US Senate a “correlation analysis” showing the relationship between BLLs and WLLs.

Although Mr. Hemphill did not reveal this to DC DOH, this type of analysis would also work perfectly for the EHP paper. To his e-mail, Mr. Hemphill attached a spreadsheet that was part of some “information” DC WASA had promised to DC DOH at the DC DOH/DC WASA meeting. These data turned out to be DC WASA’s 71 data points with unredacted home addresses, date of water samples, 2nd draw WLLs, gender of child, date of birth, date of blood test, method of blood test, and BLL (several data points had multiple BLLs or WLLs per child).

Mr. Hemphill then suggested that the “correlation analysis” of this data could be sent in graph form to the US Senate staffer, to illustrate the relationship (or lack thereof) between BLLs and WLLs. Specifically, Mr. Hemphill wrote:

“It may be additive to the DOH response to Nellenbak’s [the U.S. Senate staffer’s] request if DOH or DOE [DC Department of the Environment] graph the correlation (or lack thereof) of blood lead and lead water samples. A graph may clearly demonstrate any correspondence between the two pieces of data. It would also be useful, as we discussed last week, to include a few paragraphs that provide context for the real question that is being asked – how does DOH explain its conclusions about the sources of lead exposure. Toward that end it may be useful to provide background on recognized sources of environmental exposure...”

Johnnie Hemphill

(BOM) * <Drew.Hubbard@dc.gov>, *Sansone, Marie (DOH) *
 11/08/2006 02:53 <marie.sansone@dc.gov>

PM cc:

Subject: Re: WASA-DOH Meeting Re: Lead

Response (Document link: Johnny Hemphill)

Hello -

As you know, WASA does not have access to the environmental assessments conducted under DOH's contract(s). Those assessments are owned by the District (DOH and/or DOE), so I would appreciate it if you would reply to Ms. Nellenback that DOH/DOE will respond to the request.

I did, however, promise to respond to her original request (made through EPA). I am forwarding the un-redacted information to you as I said I would in your meeting last week (this must be redacted to remove premise numbers, and addresses to protect WASA customer and patient privacy before it is distributed. I

I have only "eye-balled" the data, but there is no apparent correlation between blood lead levels and tap water samples. WASA determined that it could not undertake any lead-health analyses independently some time ago.

It may be additive to the DOH response to Nellenback's request if DOH or DOE graph the correlation (or lack thereof) of blood lead and lead water samples. A graph may clearly demonstrate any correspondence between the two pieces of data. It would also be useful, as we discussed last week, to include a few paragraphs that provide context for the real question that is being asked -- how does DOH explain its conclusions about the sources of lead exposure. Toward that end it may be useful to provide background on recognized sources of environmental exposure, how public health authorities conduct clinical assessments of patients and the likely source(s) of exposure, how lead is absorbed, etc...).

(See attached file: Updated High Lead Address_3 8.17.05.xls)

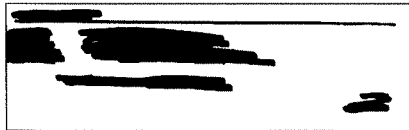
In immediate contradiction to his preceding statement that DC WASA could do no "lead-health analyses," Mr. Hemphill added that he had "eye-balled" the data" and it revealed no apparent correlation between BLLs and WLLs. He did not point out to DC DOH, however, that fewer than 60% of the WLLs he had provided had been obtained between 2/3/04 and 7/31/04 (the time period of the non-existent "study of 65"). Mr. Hemphill's e-mail also did not mention the EHP paper, or acknowledge the importance to the EHP paper of a data analysis (ideally, one based on 65 data points, but in reality at this point *any* data analysis) coming from DC DOH.

Mr. Hemphill immediately forwarded a copy of his e-mail to Dr. Guidotti. This sequence of events strongly suggests that the data-manufacturing strategy had been developed at the GWU/DC WASA meeting the day before. Mr. Hemphill's introductory note to Dr. Guidotti stated that he had already followed up with DC DOH by phone and had invited them to contact Dr. Guidotti for "assistance" with the correlation analysis. Such collaboration was wished for by Dr. Guidotti and DC WASA far more than by DC DOH for two reasons. First, it would provide Dr. Guidotti one more opportunity to explore if DC DOH did, in fact, have any data that he could present to EHP as the "study of 65," and it would also allow him to oversee (and potentially influence) DC DOH's calculation of the "correlation analysis." Mr. Hemphill also made it clear that DC DOH could use the attached DC WASA data to explain to the US Senate staffer "how DOH arrived at their conclusions" back in 2004. Mr. Hemphill completed the follow-up call with DC DOH, and composed and sent his e-mail update to Dr. Guidotti within 9 minutes.

From: Johnny Hemphill
Sent: Wednesday, November 08, 2006 3:02 PM
To: 'Tee Guidotti'; 'Marina Moses'
Subject: Fw: WASA-DOH Meeting Re: Lead Response
Attachments: Updated High Lead Address_3 8.17.05.xls


 Updated High Lead
 Address_3 8.... This is what I sent to DC re lead today. I followed-up with a call to encourage them to take the opportunity to submit the spread sheet (redacted) along with background info in order to provide a "quick" response to the Senate staff that includes an explanation of "how" DOH arrived at their conclusions, roll-up the MMWR, etc.....
 I told them they could contact you for assistance

The next e-mail in the chain was completely redacted by DC WASA.



Two days later, on November 10, 2006, a worried Dr. Guidotti, who had not yet heard from DC DOH despite Mr. Hemphill's prompting and hints, sent an e-mail to Mr. Hemphill urging him to be "more explicit" with DC DOH about the importance of turning over the data analysis to DC WASA's GWU consultants: "I suggest that you be more explicit in asking them to ask *us* to run the correlation. This is a little indirect. It will be worthwhile!"

"Tee Guidotti"
 <eohlg@gwumc.edu>
 11/10/2006 01:41 PM

To: <Johnnie_Hemphill@dcwasa.com>
cc:
Subject: Fw: WASA-DOH Meeting Re: Lead Response

Johnnie - I suggest that you be more explicit in asking them to ask us to run the correlation. This is a little indirect. It will be worthwhile! TLG

Mr. Hemphill ran Dr. Guidotti's idea by another party at DC WASA, and reported back to Dr. Guidotti: "FYI, he thought it was a good idea, and made a commitment to discuss it with DOH." Dr. Guidotti's response was brief: "Excellent. You are way ahead of me."

>>> <Johnnie_Hemphill@dcwasa.com> 11/12/06 9:49 AM >>>
 FYI, he thought it was a good idea, and made a commitment to discuss it with DOH

From: Tee Guidotti [eohlg@gwumc.edu]
Sent: Sunday, November 12, 2006 10:18 AM
To: Johnny Hemphill
Subject: Re: Fw: WASA-DOH Meeting Re: Lead Response

Excellent. You are way ahead of me. TLG

By November 15, 2006, DC WASA had still not heard back from DC DOH. Evidently, Dr. Guidotti was resigned to look at the bright side of the situation, and wrote to DC WASA and his GWU collaborators that, “the spotlight is now on DOH, not WASA, and we have access to our own data now” (i.e., the dataset with the 71 DC DOH/DC WASA entries).

"Tee Guidotti" <tehtfg@gwumc.edu> 11/15/2006 05:32 PM	To: <ragain@speakeasy.net> cc: <tehtfg@gwumc.edu> Subject: Re: More lead news	"Marina Moses" < <Johnnie_Hemphill@dc.doh.gov>
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How very interesting. Rebecca Renner emailed to ask for an interview on the epidemiology. I told her it would have to wait until next week, when I am back (and after I have had time to download the publications and read them very carefully). The NC data looks convincing, coming from CDC, but I need to look very closely at their exposure assessment methodology. However, the spotlight is now on DOH, not WASA, and we have access to our own data now.

But problems remained. The dataset of the 71 was clearly DC WASA's. And despite Dr. Guidotti's best efforts, neither that data nor the idea of "the correlation" could be construed to originate with the DC DOH co-authors. Hence for the purposes of the EHP paper and the response to the US Senate staffer this dataset was inadequate.

Two weeks later, the day after *Salon* published the article exposing the problems with DC DOH's environmental assessments, Mr. Hemphill tried again to get DC DOH to respond by sending an e-mail denoted "**Importance: High**" and titled "Pb on www.salon.com." Mr. Hemphill wrote, "Any progress on the information/clinical case evaluations that were discussed at the last meeting (i.e., information that Dr. Stokes may have collected/produced and upon which DOH's conclusions regarding the lack of evidence of an impact from tap water)? Was Dr. Guidotti able to provide any assistance? Has there been a response to Senate staff, yet?"

From: Johnny Hemphill
Sent: Tuesday, November 28, 2006 6:58 PM
To: 'Hubbard, Drew (EOM)'; 'Sansone, Marie (DOH)'
Subject: Fw: Pb on www.salon.com
Importance: High

Where are DOH and DOE in their effort to collect the assessments?

Any progress on the information/clinical case evaluations that were discussed at the last meeting (i.e. information that Doctor Stokes may have collected/produced and upon which DOH's conclusions regarding the lack of evidence of an impact from tap water)? Was Dr. Guidotti able to provide any assistance? Has there been a response to Senate staff, yet?

Please give me a call. Thanks!

About one week later, DC DOH employee Garrett Lum, MPH was enlisted to seek out Dr. Guidotti. Mr. Lum affirmed that Dr. Guidotti was "asking about running a simple correlation of the water and blood levels on the original 65," but noted that, "I'm uncertain of who are the original 65. I have perused our data and did not find anything with 65 associated to it. Could you clarify?"

```
>>> "Lum, Garrett (DOH)" <garrett.lum@dc.gov> 12/4/2006 2:38 PM >>>
Dr. Guidotti,

Dr. Davies-Cole mentioned to me that you were asking about running a simple correlation of
the water and blood levels on the original 65. However, I'm uncertain of who are the
original 65. I have perused our data and did not find anything with 65 associated to it.
Could you clarify? I do recall that a correlation was performed, but it was on a size
larger than 65.

Sincerely,

Garrett R. Lum, MPH
Epidemiologist
District of Columbia Department of Health Bureau of Epidemiology and Health Risk
Assessment Division of Disease Surveillance and Investigation
825 W. Capitol Street NE, 3rd Floor
Washington, DC 20002
202-442-5893 office
202-822-9707 mobile
202-442-4796 fax
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It is worth reiterating that throughout his quest for a correlation analysis involving 65 data points, Dr. Guidotti was fully aware that there had never been any actual DC DOH evaluation of 65 environmental assessments of children with elevated blood lead. But continuing the search for "the 65" kept the pressure and the spotlight on DC DOH, while simultaneously furthering DC WASA's goal of finding data (at this point, *any* data) showing "no apparent correlation between BLLs and WLLs."

Dr. Guidotti responded (page 68) that he was "talking about the 65 subjects identified in the screening program," and that he had "a database from WASA (which was asked to investigate the houses) that includes the 65 but also some others." Note that in this 12/04/06 e-mail, Dr. Guidotti admitted that it was actually DC WASA who investigated the houses. He further stated that for the purposes of the paper, "we just want the data on the 65 because the question to be answered is whether there was a correlation in just these children." And he told Mr. Lum that "this is fairly urgent. This analysis is all that is standing in the way of getting this paper out. If you could possibly answer the question we would be eternally grateful."

From: Tee Guidotti [tehtlg@gwu.edu]
 Sent: Monday, December 04, 2006 8:45 PM
 To: Garret (DOH) Lum
 Cc: John Davies-Cole
 Subject: Re: Original 65?

I am talking about the 65 subjects identified in the screening program, only, who had BLL 10 or greater. We have a database from NIOSH (which was asked to investigate the houses) that includes the 65 but also some others, presumably houses and children who were found to have elevated blood lead levels at other times. The database has coded premises number (we also have a key for which address it is), the BLL (sometimes multiple) and the first-draw tap water lead.

For the 71 subjects we identify as individuals, for the subset of 65 who have BLL >10 but not 10, for the 112 individual data points, and for the 67 unique addresses, the r is ~ 0.01 in each case. We know that the 65 children identified in the screening program are among them all and that there cannot be a sig correlation if there is not one for entire group that includes them - they are too big a subset.

For the purposes of the paper, however, we just want the data on the 65 because the question to be answered is whether there was a correlation in just these children.

We would not like to explain to reviewers and critics why we are not describing the same 65 subjects we describe in the paper and that form the tail in the figures. That would undermine the credibility of the DOH data in its entirety.

Garret - this is fairly urgent. This analysis is all that is standing in the way of getting this paper out. If you could possibly answer the question we would be eternally grateful.

TLG

Two hours later, Dr. Guidotti sent a second e-mail to Mr. Lum advising him on how to find "the 65." *"You may be able to identify the 65 because they would all have been screened before the end of the lead screening program on 31 July 2004."*

-----Original Message-----
 From: Tee Guidotti [mailto:tehtlg@gwu.edu]
 Sent: Monday, December 04, 2006 7:54 PM
 To: Garret (DOH) Lum
 Cc: John Davies-Cole
 Subject: Re: Original 65?

Some other thoughts.

You may be able to identify the 65 because they would all have all been screened before the end of the lead screening program, on 31 July 2004.

Also, I am told that there is a contractor who should know a lot about the current lead data base and may be able to separate out the cases by date or otherwise. He is Mr. Dhi Offor (202) 535-2826. Hopefully, the quality control measures regarding the data can be checked using the LeadTraks database, I believe. I have not met or contacted him personally.

TLG

Mr. Lum responded, *"are you asking for a line listing of the 65?"*

>>> "Lum, Garret (DOH)" <garret.lum@dc.gov> 12/5/2006 11:47 PM >>>
 Are you asking for a line listing of the 65?

Dr. Guidotti responded the next day. If Mr. Lum could identify "the original 65," Dr. Guidotti and his colleagues could "do the correlation quickly here" at GWU. "If for some reason they do not match, we have another round of reconciliation to do. But at least we will have the original

65 pinned down..." Or, he offered, "you could look at the list we have and indicate to us which are the original 65..."

From: Tee Guidotti [mailto:teeguidotti@gwmc.edu]
Sent: Tuesday, December 03, 2006 10:05 AM
To: Garret (DOH) Lum
Subject: RE: Original 65?

The objective is to identify the original 65 and then to correlate their BLL and the first-draw tap water lead at their address.

You could do that (we would need address or premises number and birthdate) and if you have the BLL in the database, too, that would help us cross check and validate. We would prefer this but we are aware of the sensitivity of the information. The advantage is that as long as they lived at the time at one of the 67 addresses we have, we can match them with first-draw tap water lead and can do the correlation quickly here.

If for some reason they do not match, we have another round of reconciliation to do. But at least we will have the original 65 pinned down if we have the list.

Or you could look at the list we have and indicate to us which are the original 65. That would mean that you would have to do the cross checking and if we cannot match exactly 65 we would then have another round of reconciling to do.

Supplying us with the list is easier if it can be done.

RLS

The impasse was tentatively broken with Mr. Lum's "discovery" of "the 65" on December 6, 2006. Obviously never told by Dr. Guidotti or Dr. Stokes or Ms. Sansone that the study of "65 children" never existed, he thought he had found the "original 65." "The 65 DC residents who are less than 6 years of age and had a BLL ≥ 10 were identified," Mr. Lum wrote to Dr. Guidotti. But before he reaped Dr. Guidotti's eternal gratitude, he acknowledged that something was amiss. Specifically, "only 6 addresses matched (8 individuals)" for WLLs in the DC WASA database. If Dr. Guidotti's previous assertion was correct, and DC WASA's database of 71 included the "Original 65," there should have been 65 matches. Mr. Lum suggested that DC WASA could send a different database of WLL, and he would try to match that data to the list that he now believed were "the 65."

From: Lum, Garret (DOH)
Sent: Wednesday, December 06, 2006 12:57 PM
To: Tee Guidotti
Cc: Davies-Cole, John (DOH)
Subject: RE: Original 65?

Dr. Guidotti,

The 65 DC residents who are less than 6 years of age and had a BLL ≥ 10 were identified in the database. We also had a database from WASA with homes that had their WLL tested. We manually matched addresses just to get a sense of it. We found that only 6 addresses matched (8 individuals). If you have a different database from WASA with WLL, you could send it to us and we will match them and then send you the data without identifiers to run the correlation.

Sincerely,

Garret R. Lum, MPH
Epidemiologist
District of Columbia Department of Health Bureau of Epidemiology and Health Risk Assessment Division of Disease Surveillance and Investigation
825 W. Capitol Street NE, 1st Floor
Washington, DC 20002
202-442-5893 office
202-921-9707 mobile
202-442-4796 fax

Dr. Guidotti then faxed this information to Mr. Lum. In attempting to match the data this time, they came up short again. There were only ***“18 or 19 on the list you faxed that match with our 65 list.”*** Clearly, Dr. Guidotti’s prior assertion that DC WASA’s database must have contained “the 65,” did not match up with DC DOH’s “list of 65.” Dr. Guidotti’s response conceded the point to Mr. Lum: “We expected there to be 65 matches within the total. That means the list was generated from some other source, not the screening program. Very important for us to know.”

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>>> 'LUM, Garret (DOH)' <garret.lum@dc.gov> 12/7/2006 11:15 AM >>>
Dr. Guidotti,

I got your fax. Is the list in an excel spreadsheet? If so, would you email it to me. I
can add a column to indicate which of the individuals on the list are part of the 65 that
were < 6 years of age and had a BLL >=10 ug/dl.
There are about 18 or 19 on the list you faxed that matched with our
65
list.

Garret E. Lum, MPH
Epidemiologist
District of Columbia Department of Health Bureau of Epidemiology and Health Risk
Assessment Division of Disease Surveillance and Investigation
825 N. Capitol Street NE, 3rd Floor
Washington, DC 20002
202-442-5893 office
202-621-9707 mobile
202-442-4796 fax

----- Original Message -----
From: Ted Guidotti (mailto:eguid@gsuvmc.edu)
Sent: Thursday, December 07, 2006 11:51 AM
To: Garret (DOH) Lum
Cc: Malissa Greer; Marina Monea
Subject: Re: Pb List

We don't have the electronic version of the original list but we have made an excel
spreadsheet using the residence codes. Malissa Greer is our student research assistant.

If only 18 or 19 match, that is a surprise. We expected there to be 65 matches within the
total. That means that the list was generated from some other source, not the screening
program. Very important for us to know.

Thanks for your help!

TLC
```

Further confusing matters, Mr. Lum noted that the WLL draws by DC WASA were done separately from the blood lead screenings by DC DOH and that there were “multiple entries for some individuals on your list.”

```
>>> 'LUM, Garret (DOH)' <garret.lum@dc.gov> 12/8/2006 11:23 AM >>>
The water lead level draws by WASA were done separately from the blood lead level
screenings performed by DOH.

I attached your list with an additional column indicating whether or not that individual
was part of the 65 of interest. There was one individual that was in question because of a
different birthdate. We also noticed multiple entries for some individuals on your list.

Feel free to contact me with any questions.
```

Proving that he did not have the foggiest idea as to what data he, DC DOH or DC WASA actually had, Dr. Guidotti said that “we think” the multiple entries are different BLL

determinations. He then stated the obvious, that “the database we have” is not “the 65,” but “probably a mix of cases from late 2004 and 2005.” Moreover, “WASA does not know how DC DOH compiled the list.” Dr. Guidotti then added:

“It would all be much simpler if you have the BLL and first-draw water leads for all 65 subjects...and can compare a small database with just that information. If we have just that, we can run the one last regression and we will be done with it.”

-----Original Message-----
From: Tee Guidotti (mailto:teguid@gwumc.edu)
Sent: Friday, December 08, 2006 11:54 AM
To: Garret (DOH) Lum
Cc: John (DOH) Davies-Cole
Subject: RE: Pb List

Yes, we think that the multiple entries are different BLL determinations.

There is not nearly as much overlap as we expected. Apparently, the database we have is a mix of cases, probably from late 2004 and 2005 that includes some repeat BLLs for some but not all of the 65. WASA does not know how DOH compiled the list.

It would all be much simpler if you have the BLL and first-draw water leads for all 65 subjects <6 and >10 mcg/dl and can prepare a small database with just that information. If we have just that, we can run the one last regression and we will be done with it.

TLG

By mid-December 2006, the US Senate staffer began getting impatient at the lack of answers to her question about how DC DOH had determined that water had caused no cases of elevated blood lead back in 2004.

From: Hubbard, Drew (EOM) [Drew.Hubbard@dc.gov]
Sent: Tuesday, December 19, 2006 9:58 AM
To: 'Sansone, Marie (DOH)'; Johnnie Hemphill
Subject: Lead Info

Michelle from the Senate left me a message and she is getting a little impatient about setting a date to meet. She asked for a concrete date to meet during the first two weeks of the new year. I am not 100% sure but more than likely I will be transitioning out of this position. Either way tomorrow is my last day for the rest of the year so I would like to be able to get this coordinated today if possible.

Dr. Guidotti again e-mailed the DC DOH, asking yet again, “have we managed to isolate a database with the 65 children...?” He reiterated that “we can do the regression [analysis] here if we have the data.” In addition, he created a fallback position, since it was becoming apparent that his efforts to “herd” DC DOH into finding data that he could construe as “the 65” might be unsuccessful. He again noted that if “the 65” could not be identified, “we are aware that there is a database of 121 children from all screening activities...from around 2003-2005...we can work with those data if we have to.” He further noted that, in relation to the EHP paper, “we are so close to wrapping this up”, and that there was new urgency since the “window of opportunity may close...because the journal is changing editors.”

-----Original Message-----

From: Tee Guidotti (mailto:tehg@gwumc.edu)

Sent: Tuesday, December 19, 2006 5:10 PM

To: Garret (DOH) Lum

CC: John Davies-Cole

Subject: 65 Children Identified in WLL Screening Project in 2004

Garret - have we managed to isolate a database with the 65 children <6yo with BLL >= 10 mcg/dL in the designated screening program that ended August 2004, that includes their blood lead levels and the first-draw lead in tap water at their homes?

If so, we can do the regression here if we have the (redacted) data. If you do the regression, please let us know the result and if possible use the highest blood leads and the highest water levels if there are multiple entries (in order to minimize the risk of missing an association).

If not, what are the prospects? We are aware that there is a database of 121 children from all blood lead screening activities (both the 2004 program and the result of routine surveillance) from around 2003-2005. If we cannot isolate the data for the 65 (which would be much better), we can work with those data if we have to.

We are so close to wrapping this up. The window of opportunity may close after the beginning of the new year because the journal is changing editors.

TIG

Co-author Dr. Davies-Cole then e-mailed Dr. Guidotti acknowledging the obvious "problem we are having identifying the 65 children."

>>> 'Davies-Cole, John (DOH)' <john.davies-cole@dc.gov> 12/20/2006 2:43 PM >>>
 Hope you had a nice trip. I spoke with Christina Onwuche, the Manager of the DC Lead Program about the problem we are having with finding the 65 children. She said that someone from the Department of the Environment who used to handle the data would probably be able to assist us. She did contact him and later forwarded some data which I hope will include the 65. I forwarded it to Garret for review. Unfortunately, we were all very busy with the Norovirus outbreak at Catholic University last week, and were unable to work on it. He will be back in the office next week, Wednesday, and will start working on it.
 Happy Holidays!
 John

A few days after Christmas, Mr. Lum finally responded, "I requested data with WLL of all the children (< 6 y/o) whose BLL was greater than 10 mg/dL; however, I'm not sure I received the correct data from the [DC DOH's] lead program."

>>> 'Lum, Garret (DOH)' <garret.lum@dc.gov> 12/26/2006 2:05 PM >>>
 I requested data with WLL of all the children (<6 y/o) whose BLL was greater than 10 mg/dL; however, I'm not sure I received the correct data from the lead program. I received a list of children whose BLL measured above 10 ug/dL and will see if this matches with the water draw data. I'll let you know as soon as I know more.

Dr. Guidotti responded, "Excellent - If we can identify and do the regression on the original 65 subjects identified in the screening program up to August 2004, that is ideal. If we cannot, a regression on as many children (< 6 yo) from 2004 as we can get, without any other attempts at

selection, will be second best and allow us to finish up this work.” Still recognizing the need for “the 65” to come from DC DOH, Dr. Guidotti said:

“I suppose that there is no way of confirming in individual cases that they were identified by the 2004 screening program. The data for those 65 children may have been mixed in with every other child who showed an elevated BLL during the time period. Please confirm that this is what happened! It would explain why we are having so much trouble finding the 65 subject children.”

From: Tee Guidotti [teegid@gwumc.edu]
Sent: Thursday, December 28, 2006 3:09 PM
To: Garret (DOH) Lum
Cc: John (DOH) Davies-Cole
Subject: RE: 65 Children Identified in BLL Screening Project in 2004

Excellent - If we can identify and do the regression on the original 65 subjects identified in the screening program up to August 2004, that is ideal. If we cannot, a regression on as many children (< 6 yo) from 2004 in DC as we can get, without any other attempts at selection, will be second best and allow us to finish up this work.

I suppose that there is no way of confirming in individual cases that they were identified by the 2004 screening program. The data for those 65 children may have been mixed in with every other child who showed an elevated BLL during the time period. Please confirm that this is what happened: It would explain why we are having so much trouble finding the 65 subject children.

Here is how I suggest we proceed:

Plan A: Were there 65 in your data set and if so were they detected within the relevant time frame? If not, you might want to check children whose blood lead levels were 10 or above, and see if the inclusion of children whose BLL was right at 10 adds up to 65. If so, we can check the distribution of BLL against what we know for the 65 subjects to confirm that they are the same group.

If that does not add up to 65, there is a "Plan B." "Plan B" would be to obtain the paired BLL and first-draw water lead for as many children for which the data exist in 2004 - as many as can be found. Then, the regression can be done on the full-year (2004) convenience sample rather than the subset we have. That would be better because sample selection is less likely to be biased and at least would include the children from the screening program in the mix.

TLG

Dr. Guidotti followed up this e-mail with a hopeful message to co-author Dr. Davies-Cole:

“I see that Garret is working on trying to identify the original 65 subjects from the 2004 screening program. If he succeeds, that would be wonderful. Because the paper would be much stronger.”

This bizarre statement came just a few minutes after Dr. Guidotti had asked Mr. Lum to affirm his belief that *“there is no way of confirming in individual cases that they were identified by the 2004 screening program.”*

Apparently as an added inducement to Mr. Lum to find “the 65,” Dr. Guidotti decided to offer him co-authorship on the EHP paper, *“Because Garret is putting so much additional time into this, and because Tim Cote has dropped out of authorship because he is concerned about conflict of interest with CDC...”*

From: Tee Guidotti [teehdg@gsuvmc.edu]
Sent: Thursday, December 28, 2006 3:15 PM
To: John Davies-Cole
Subject: BLL paper

John - I see that Garret is working on trying to identify the original 65 subjects from the 2004 screening program. If he succeeds, that would be wonderful because the paper will be much stronger.

If he cannot reconstruct the original group, then the only practical thing to do, in my opinion, is to create a database of BLL and water lead from all children < 6 yo who had a BLL greater than 10 during all of 2004 for whom the data are available. (We'll need the total number of children in that year, as well, to determine what % had both data points available.) At the very least, that would protect us from the criticism that the sample is biased and unrepresentative.

If Garret can do this, we will be very close to finishing.

Because Garret is putting so much additional time into this, and because Tim Cote has dropped out of authorship because he is concerned about conflict of interest with CDC, I would like to suggest that we insert Garret as a coauthor in Tim's place. Do you agree?

TEG

On December 28, 2006, Mr. Lum sent Dr. Guidotti what appears to be his best guess at the correlation for "the 65." But that correlation did not show what Dr. Guidotti needed. The results of the pasted-together dataset showed a negative correlation of -0.47 and -0.29 (see page 75). That is, the higher the lead in the children's water, the lower their blood lead. Such a result could not be published in EHP or given to the US Senate staffer. Mr. Lum further stated that he was still unsure "if the data exists that has BLL for every WLL tested or WLL for the 65 children with elevated BLL. We need to ask Dr. Davies-Cole if the lead program actually went to every address where children < 6 y/o with elevated BLL lived and collected WLL. However, he will not be back from vacation until next week."

At that point, Dr. Guidotti (page 75) finally conceded that, "we have enough evidence to conclude that we cannot recover enough information to do a proper correlation with the original group." He then told Mr. Lum that there was no option but to move to "Plan B": the 121-point dataset.

>>> "Lum, Garret (DOH)" <garret.lum@dc.gov> 12/28/2006 3:48 PM >>>
Dr. Guidotti,

The lead program sent me a list of children whose BLL was >10 ug/dL. I compared it to the WLL data that I have access to and only 7 of the addresses matched. I am also able to identify the 65 children with elevated BLL in the data I have access to and tried to match that with the WLL data as well. However, there was only 8 matches.

This first table shows the BLL data sent to me by the lead program that matched with WLL data (n=7).

BLL_well	WLL
27	36
30	39
11	77
17	31
11	96
10	30
10	60

correl= -0.47112

The second table show the BLL collected during the special screening that matched with WLL data (n=8).

BLL_doh	WLL
11	23
25	23
10	23
22	36
11	96
12	77
10	30
17	31

correl= -0.29596

It appears that the address where WLL data was collected may not have had the individuals' BLL tested. The results of the BLL data from the special screening was open to all individuals in the District of Columbia that had a concern. The special BLL screenings may not have necessarily included the individuals from the homes/addresses that had WLL tested. I'm unsure if the data exists that has BLL for every WLL tested or WLL for the 65 children with elevated BLL. We need to ask Dr. Davies-Cole if the lead program actually went to every address where children < 6 y/o with elevated BLL lived and collected WLL. However, he will not be back from vacation until next week.

Sincerely,

Garret R. Lum, MPH

-----Original Message-----

From: Tee Guidotti [mailto:teegtlg@gwumc.edu]
Sent: Thursday, December 28, 2006 4:28 PM
To: Garret (DOH) Lum
Cc: John (DOH) Davies-Cole
Subject: Re: WLL v. BLL

I will reread the results and think about them carefully tonight. However, I think that we have enough evidence to conclude that we cannot recover enough information to do a proper correlation on the original group.

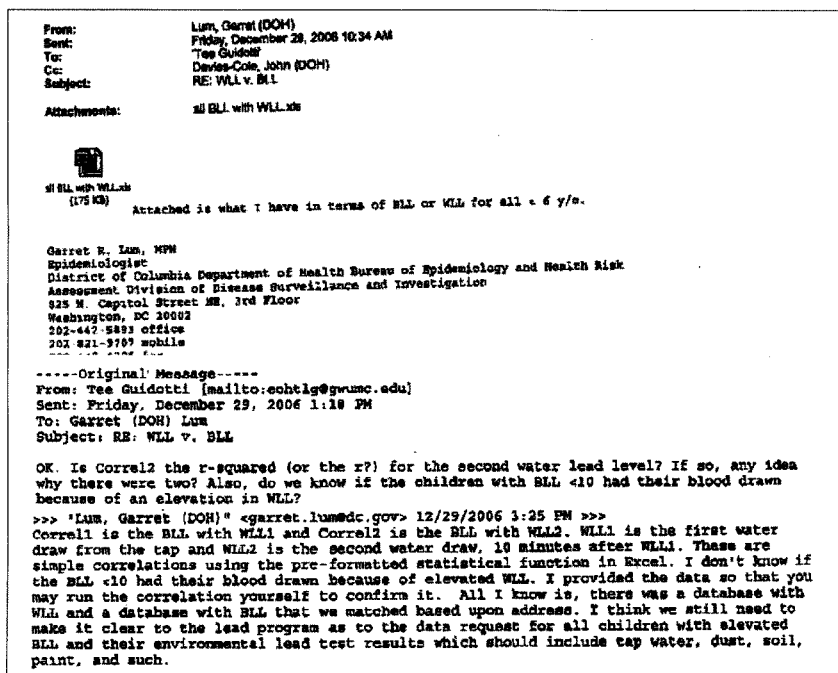
So, can we move to Plan B? As many children as we can find who have both BLL and water levels recorded in 2004?

I don't see any other option.

TLG

The next day, Mr. Lum sent Dr. Guidotti a DC DOH spreadsheet for about 121 children with BLL or WLL measurements. A few hours later Dr. Guidotti asked Mr. Lum some basic questions about what this data was, including "...any idea why there were two? Also, do we know if the children with BLL<10 had their blood lead drawn because of an elevation in WLL?" Mr. Lum responded:

"I don't know if the BLL<10 had their blood drawn because of elevated WLL. I provided the data so that you may run the correlation yourself to confirm it. All I know is, there was a database with WLL and a database with BLL that we matched based upon address."



By this time, Dr. Guidotti had spent weeks on the futile quest for "the 65" and the DC WASA correlation analysis. He responded to Mr. Lum, "OK- that's fine." He had a correlation from DC DOH with a low R^2 (-0.031416) and was finished. Dr. Guidotti did not address Mr. Lum's admission that he had no idea where the data had come from or meant. He lamented that if only "we could get that data for the specific 65 children identified in the special 2004 supplemental screening program, we would have had it nailed. However, I have a feeling that...it may not be possible to reconstruct the group."

From: Tee Guidotti [tehtlg@gwumc.edu]
 Sent: Friday, December 29, 2006 4:07 PM
 To: Garret (DOH) Lum
 Subject: RE: WLL v. BLL

OK - that's fine.

I think that it too much to expect to get all environmental data. (In fact, Marie Sansone has had difficulty getting all the info she needs.) The evaluations I have seen vary enormously in quality and two (the most controversial and also the weakest) seem to jump to unsubstantiated conclusions. For our purposes today, I don't think that we will be able to sort it out with respect to reconstructing the identification of a proven environmental source in every situation. That hope seems to have disappeared with the little red folder Lynette kept in her desk.

3.4.1. What Data Are In the "Correlation Analysis" and What Do They Show?

In the final paper submitted to EHP the two new "correlation analyses" were added without ever being subjected to peer review. One of the correlations was attributed to DC WASA and the other, to DC DOH. In an attempt to better understand what these correlations might mean, I e-mailed Dr. Guidotti more than a year ago and asked him for the raw data. Dr. Guidotti responded, "We feel under no obligation to provide these data but WASA may feel otherwise." Dr. Guidotti did not respond to two later queries that I made of him about the same data.

Date: Tue, 04 Mar 2008 11:21:37 -0500
 To: Rich Giani <Richard.Giani@dcwasa.com>
 From: Marc Edwards <edwardsm@vt.edu>
 Subject: Tee/WASA health effects data
 Cc: Maureen Donnelly <Maureen.Donnelly@dcwasa.com>, Tee Guidotti <tehtlg@gwumc.edu>, Charles Kiely <Charles.Kiely@dcwasa.com>

Can I also get copies of the spreadsheet(s) in which these correlations are done in Tee's DC WASA health effects paper. Some colleagues and I are working on a paper related to lead in D.C., and we'd like to have the raw data. Just the paired values with dates of each measurement is fine. Obviously, delete the names as you see fit to protect privacy.

Marc

At 10:27 AM 3/5/2008, Tee Guidotti wrote:

We feel under no obligation to provide these data but WASA may feel otherwise. (Remember that the BLL data were supplied by the DoH and they may or may not agree to providing it to third parties, although it is stripped of identifiers.

TLG

The raw data for the correlations were eventually provided to me from other sources. The "correlations" are not at all what they seem to be. Dr. Guidotti is fully aware that "*lead levels in the blood fall sharply within weeks after lead exposure is cut off*" (see his quote to the *Washington Post* on page 78). It is therefore pointless to try to correlate BLLs to WLLs after

even a few weeks of stopping exposure to the high lead in water, because any evidence of public health impacts (i.e., high blood lead) would disappear soon after the lead source was removed.

Water a Minor Source of Lead, WASA Is Told [CORRECTED 12 MAY 2004]

D'Vera Cohn Washington Post Staff Writer 7 May 2004

The Washington Post

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The D.C. Water and Sewer Authority's new public health adviser said yesterday that lead in drinking water is a minor source of exposure for children and poses the greatest risk to those who already have high lead levels in their blood from other sources.

.....
Last month, WASA hired a six-member team, headed by Guidotti, on a six-month renewable contract to provide advice on protecting public health and improving communication with residents. Lead is a toxin that stunts growth and development, with fetuses and infants most at risk.

.....
Guidotti also said lead levels in the blood fall sharply within weeks after lead exposure is cut off.
Staff writer Avram Goldstein contributed to this report.

DC WASA Correlation. In his 12/8/06 e-mail to Mr. Lum about the DC WASA correlation, Dr. Guidotti stated that "we think that the multiple entries are different BLL determinations," and that "the database we have is a mix of cases, probably from late 2004 and 2005...WASA does not know how DOH compiled the list."

-----Original Message-----

From: Tee Guidotti (mailto:tehtlg@wvumc.edu)

Sent: Friday, December 08, 2006 11:54 AM

To: Garrett (DOH) Lum

Cc: John (DOH) Davies-Cole

Subject: RE: Pb List

Yes, we think that the multiple entries are different BLL determinations.

There is not nearly as much overlap as we expected. Apparently, the database we have is a mix of cases, probably from late 2004 and 2005 that includes some repeat BLLs for some but not all of the 45. WASA does not know how DOH compiled the list.

It would all be much simpler if you have the BLL and first-draw water leads for all 45 subjects <6 and >= 10 mcg/dl and can prepare a small database with just that information. If we have just that, we can run the one last regression and we will be done with it.

TLG

Indeed, the DC WASA "correlation" includes several lead-in-water measurements taken as late as June 2005. This is 6 months after the 2003-2004 time frame that is purportedly described in the EHP paper. The June 2005 sample was collected about 9 months after corrosion control was implemented and water lead levels (WLLs) had supposedly plummeted. The WLL collected in June 2005 of 1.7 ppb is then paired to a child's BLL of 10 ug/dL that was collected in January 2004 (about 17 months earlier). The average gap between collection of a child's BLL and the corresponding WLLs in the DC WASA correlation is on the order of 6 months. Given that Dr. Guidotti knew that even a gap of a few weeks is highly problematic, this potential confounding factor should have been prominently revealed.

DC DOH Correlation. The DC DOH made no representations to Dr. Guidotti about any aspect of the correlation they conducted between BLLs and WLLs. In his last e-mail on the subject, Mr. Lum made it perfectly clear that he had no understanding of what the data were, where they were from, or what they might mean. Indeed, in response to very simple questions about the

data from Dr. Guidotti, Mr. Lum stated “*All I know is, there was a database with WLL and a database with BLL that we matched based upon address.*” The e-mail transmitting the complete dataset and the DC DOH correlation to Dr. Guidotti attests to this fact, as the 3 pages of data are nothing more than a column of BLLs, two columns of WLLs and the resulting correlation results.

Page 1

BLL	WLL1	WLL2	Correl1	Correl2
1	1.04	0.98		
8	1.99	2.8		
5	1.99	1.99		
3	1.99	1.99		
3	1.99	1.99		
2	1.99	1.99		
2	1.99	1.99		
1	1.99	1.99		
1	1.99	1.99		
4	2.9	3		
2	2.9	4.1		
2	3.7	4		
8	3.84	3.87		
3	3.84	3.87		
6	3.98	1.8		
1	4.02	0.57		
3	4.2	4.5		
1	5.5	25		
3	7.6	8.7		
7	8.88	8.88		
3	9.1	8.2		
8	9.81	14		
3	9.81	14		
1	11	8.6		
2	14	5.97		
1	14	9.1		
8	15	43		
2	16	14		
2	18	14		
3	19	84		
2	20	129		
2	20	129		
2	21	17		
2	22	21		
2	22	37		
1	22	37		
26	23	14		
11	23	14		
10	23	14		
8	23	14		
6	23	14		
4	23	14		
3	23	88		
4	26	87		
2	28	16		
10	30	180		
9	30	85		
17	31	30		

Page 2

4	32	27
3	32	27
1	32	27
8	33	36
1	33	59
4	36	29
22	36	29
4	36	88
6	38	38
8	38	80
5	38	80
3	42	330
3	48	37
2	47.2	40.2
4	48	36
3	48	48
4	50	23
4	50	40
4	53	85
3	53	340
2	53	340
2	56	96
7	56	23
1	59	86
8	64	47
9	66	52.6
8	69	250
6	74	85
3	75	73
12	77	48
4	78	78
2	81	96
2	84	71
5	88	383
3	88	383
3	91	57
1	91	281
1	91	281
4	95.6	34.7
1	96	75
1	96	58
1	108	34
2	124	301
1	124	301
2	136	384
4	140	320
4	140	320
4	141	170
3	147	71
1	150	260
1	181	37
1	183	412

Page 3

3	210	550
7	220	180
8	210	300
88		
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I do recognize one data point in the DC DOH correlation. The line with a BLL of 3 ug/dL that is paired to a first draw WLL of 210 ppb and a second draw water lead of 550 ppb belongs to the grandson of DC resident Charles Eason. Mr. Eason would not (and did not) classify his grandson as a “resident” of his home, because his grandson only visited him on weekends. Moreover, Mr. Eason had been using a lead filter for at least 3 months before his grandson’s blood lead was measured by the DC DOH. Yet this child’s low BLL appears in the DC DOH correlation analysis, as if the child resided in Mr. Eason’s home with 210 ppb first draw and 550 ppb second draw lead.

In summary, given the temporal gaps between collection of the children's blood lead data and water lead data, and the fact that at least some residents in the correlation were not exposed to the high WLLs indicated or even resided at the addresses in question, the "correlations" presented in the EHP paper cannot serve any valid scientific purpose. Instead, the correlations are used to fulfill the goal articulated by Mr. Hemphill on November 18, 2006 (see page 64), which was to explain to the US Senate staffer "*how does DOH explain its conclusions about the sources of lead exposure,*" and to imply further that "*there is no apparent correlation between blood lead levels and tap water samples.*" It appears that DC WASA did manage to manipulate the data and analysis through its relationship with Dr. Guidotti, who guided DC DOH toward his pre-determined conclusions published in the EHP paper. In early 2007 DC WASA also sent a copy of the analysis to the US Senate Staffer.

3.5. The Study of 210 (or 201) Residents with > 300 ppb Lead in Water

In two different instances, the EHP paper presents results of a research study of homes with WLLs above 300 ppb lead as follows:

Page 697

A subset of 177 houses with water lead levels of > 300 ppb was identified by the DCWASA through its sampling program, and the residents were invited to participate in the lead-screening program.

Page 699

Of the 177 homes with > 300 ppb lead in drinking water, the residents or owners of 44 could not be contacted after multiple home visits and telephone calls; the residents of 14 had their lead levels tested privately; the residents of 10 homes refused to participate; and 210 residents of 119 houses participated in the screening program. None had a blood lead level > 10 µg/dL.

What these references to the study of the "> 300 ppb lead" fail to mention is that the data from which they were derived had already been published by the CDC *Morbidity and Mortality Weekly Report* (MMWR) (<http://www.cdc.gov/mmwr/pdf/wk/mm53d330.pdf>). There are, however, slight differences between the data in the MMWR and the data in the EHP paper. For example, the EHP paper refers to 210 residents who participated in the DC DOH blood lead screening program, instead of 201. It is also worth noting that no one has been able to find the data for "the 201" or "the 210" residents, after years of FOIA requests I have made of DC DOH and CDC.

The EHP paper, not only lacks explicit acknowledgement about previous publication of this research, but it is also lacking important caveats. For example, Guidotti et al. do not mention that only 17 of the 201 residents tested were in the 1-5 year age group.

From Original CDC MMWR <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5312a6.htm>

TABLE. Blood lead levels (BLLs) of residents in homes with >300 parts per billion in drinking water, by age group — District of Columbia, March 2004

Age group (yrs)	BLL (µg/dL)	
	Median	Range
1-5 (n = 17)	3	1-6
6-15 (n = 13)	2	1-4
16-40 (n = 56)	3	1-14
41-60 (n = 69)	4	1-20
≥61 (n = 46)	6	2-22
Total (n = 201)		

Moreover, in direct contradiction to the EHP paper, the CDC did find that at least 3 of the 201 residents tested with BLLs above 10 µg/dL (see the upper end of the BLL range above -- 14, 20 and 22 µg/dL for age groups 16-40, 41-60, and > 61, respectively).

Following the publication of the EHP paper, Dr. Guidotti and DC WASA further morphed the CDC's 300 ppb study and the EHP's "study of 65" into a new non-existent and very confusing study that they featured frequently in "public education" materials. For nearly 2 years, information such as the following was inserted into DC WASA's educational "fact sheets" and distributed widely in DC under Dr. Guidotti's supervision (available at http://www.dcwasa.com/site_archive/news/documents/LSR%20Program%20Facts%202-08-08.pdf) :

In 2004, the CDC analyzed results from a District Department of Health examination of blood lead levels among children during the period of elevated lead levels in tap water at many homes. According to the CDC report, there were no children, from a sample group of 201, identified with blood lead levels above the CDC level of concern (>10 micrograms/deciliter) that were not explained by other sources, primarily the conditions of the household paint.

Most of those reading the above would conclude that the DC DOH measured blood lead in 201 children under 6 and found that some of these children had elevated BLLs. This is factually erroneous. In the CDC study, the DC DOH measured blood lead in 17 children under 6, out of a sample group of 201 residents, and found no cases of elevated BLLs among them. But DC WASA also never mentions that the DC DOH data indicate that 100% of these children were drinking bottled water or using lead filters. DC WASA also mixes in the fabricated conclusion from the DC WASA-funded environmental assessments (that all children with elevated BLLs had non-water sources of lead in their homes). In so doing, DC WASA and their public health advisor, Dr. Guidotti, attribute a finding to the CDC that was never obtained. At no point did CDC make any claims about specific sources of lead in the homes of children with elevated blood lead.

Finally, the EHP paper failed to acknowledge well-publicized problems in the CDC > 300 ppb study ("the 201" or "the 210" residents cited in the EHP paper). For example, in mid-2006, Ms. Renner wrote an article in *Environmental Science & Technology* citing important qualifying

statements by the CDC co-authors about the 300 ppb study (<http://www.naider.com/upload/071506news.pdf>):

However, Tee Guidotti, health adviser to WASA and director of occupational medicine and toxicology at George Washington University, and officials at WASA and DOH have frequently noted in presentations that when CDC measured blood lead levels in the residents of ~98 homes with drinking-water lead >300 ppb, the study did not find elevated blood lead levels.

But Mary Jean Brown, head of CDC's lead poisoning prevention branch and the principal author of the study, doesn't agree. She tells *ES&T* that up to a year separates collection of the water and the blood samples. "This study does not say that 300 ppb lead in drinking water is safe," says Brown.

Dr. Guidotti's knowledge about the months to a year sampling gap between the time the select DC residents were warned that their water had high lead, and the collection of blood lead do not appear in the EHP paper.

Recently, when asked about data for "the 300 ppb" study in the CDC study, the Chief of the CDC's Lead Poisoning Prevention Branch, Mary Jean Brown, ScD, RN, stated to the *Washington Post*:

"In retrospect, some people have misinterpreted the intent and scope of the health consultation, including characterizing it as a scientific study, which it clearly was not."

If the first author of the CDC MMWR study admits that her paper "clearly was not" a "scientific study," it is misleading to publish the same data in EHP as scientific research. The additional failure to acknowledge the sampling gap in the EHP paper, and also failing to disclose that several residents actually did have blood lead measurements over 10 ug/dL is also of concern.

3.6. DC DOH Forgery of Blood Lead Records in 2003-2004

In 2003 about half of the blood lead records for Washington DC children did not appear in reports to the CDC. In response to a written query on this issue from Ms. Renner, Ms. Brown (CDC) recently revealed that she did an investigation of the problem in 2004. She stated that *"During that exercise it was apparent that DC's numbers for 2003 were very different*

compared to 2004. They [DC DOH] admitted they had forged the quarterly reports, they claimed for only 2003.”

The forgery and falsification of the blood lead data at DC DOH is not mentioned in the EHP paper, even though it clearly occurred in the very time frame under discussion. It remains possible, perhaps even likely, that the DC DOH co-authors themselves were directly involved in the forgery and fabrication that occurred in blood lead records during 2003. This issue needs further investigation, and it calls into question the veracity of other statements and data generated by these co-authors.

3.7. Dr. Guidotti’s Expertise on the Influence of Industry in Research and “Good Science”

Ladou et al. recently published an article entitled “American College of Occupational and Environmental Medicine (ACOEM): A Professional Association in Service to Industry” (*Int. J. Occ. and Env. Health*, 13(4) 404-436 (2007)). In the article the authors criticize ACOEM and occupational medicine for protecting corporate interests. Dr. Guidotti, the past President of ACOEM, responded to this and other criticisms in a 2008 article that appeared in the journal *New Solutions* (Guidotti, 18(3) 285-298).

Dr. Guidotti spoke out against “those who would libel” or “discredit the field of occupational medicine and the American College of Occupational and Environmental Medicine (ACOEM).” He stated:

“...occupational medicine is the practice of medicine out of the comfort zone of the health care system, with all its (illusory) safeguards...” But that, *“...occupational medicine faced up to these challenges much earlier than the rest of medicine, dealt with them, and reaffirmed its social benefit.”* *“...<G>etting there early came at a cost, reflected in what Draper calls ‘the stigma of corporate employment.’”*...While *“ACOEM is far from a perfect organization and its leaders are only human, [...] it is not evil and its leaders have worked hard for the good as they saw it in the era in which they lived.”* He then extolled the virtues of those who *“worked by creating—not destroying—effective institutions, by the methods of science...”*

Several authors responded. For example, Michael B. Lax, MD wrote that “Guidotti Fails to Convince” (*New Solutions*, 18(3) 325-328 (2008)). Lax supported Ladou et al.’s “main point ...that corporate money corrupts the science and practice of occupational medicine...” Lax further stated that Dr. Guidotti has:

“[B]lindness to the powerful impact of corporate power on professional thought and behavior” and that Guidotti had mounted a *“...vehement defense [that] fails to uncover a trace of negative corporate influence, and does not even acknowledge...the need to guard against it.”* He further noted that *“...the dependency of the professionals in ACOEM on corporate funding makes such claims of independence fantastic.”* Elsewhere Lax stated that *“ACOEM members and officials become extremely offended at the idea that corporate ties influence their thought and action. [...] The scientific method, they assert, protects them from being unduly influenced by ‘special interests’ with an agenda.”*

Elsewhere, Dr. Guidotti wrote an editorial (*Archives of Environmental Health*, 59(12) 625-627 (2004)) in which he “*explore[d] what constitutes good science in general and in the sciences of environmental and occupational health...*” He stated that “*Environmental and Occupational Health has had a bad reputation among many scientists because it appears to them that there are no standards.*” And that despite difficulties and obstacles, there is “*no excuse for compromise. To advance the science has to be held to high standards...*”

I stumbled upon the above quotations when researching Dr. Guidotti’s extraordinary career as part of my research for this report. I am not a party to this debate. I have nothing against ACOEM or research by academics on behalf of corporations using the scientific method if potential conflicts are properly disclosed. I have done such work for corporations myself. But I cannot help but note the direct relevance of the Lax warnings in relation to the written record of Dr. Guidotti’s activities on behalf of his DC WASA client. Far from upholding the scientific method, Dr. Guidotti and his EHP co-authors butchered it beyond recognition in their role of advocacy for DC WASA.

I also identified with Lax’s comment that Dr. Guidotti used the archives of the ACOEM to make certain points in his article, but that unfortunately, “*Guidotti has taken on the role of guardian to the archive, willing to grant access only to “neutral, qualified” historians “to ensure rigor and to validate the results.”* And that “*the fact that he and/or ACOEM appears intent on continuing to limit access to the archive to individuals cleared by them, certainly gives the appearance of an attempt to control any information and interpretation that becomes public.*” Lax’s experiences with Dr. Guidotti are completely consistent with my own futile efforts over the years to obtain the EHP authors’ research data that was presented in EHP and elsewhere. As evidenced by details in this report, the authors’ claims that they are under “no obligation” to produce the data can only be considered a deliberate effect to hide their numerous fabrications.

The CDC’s recent revelation that they discovered forgery in the DC DOH lead program in 2003-2004 (the exact time frame covered in the EHP paper), is completely consistent with the research standards established by Guidotti et al. in their EHP paper. The erroneous timeline, the fabricated study of “the 65,” the misinterpreted study of DC residents with > 300 ppb lead in water, the DC DOH “correlation analysis,” and the case of the “hospitalized child” are not accurately portrayed. The net result is to make the “Public Health Response” by DC WASA and DC DOH into something that it was not.

4. WHAT ACTION SHOULD EHP TAKE?

This report documents numerous undisclosed conflicts of interest related to the Guidotti et al. paper in EHP. The most egregious are Dr. Guidotti’s extensive financial entanglements with DC WASA, the lawsuit(s) against DC DOH and DC WASA, Dr. Guidotti’s expert witness work in the lawsuit(s), and DC WASA’s clear contract language requiring final say in any publication citing DC WASA by name.

The EHP’s guidelines state that “..if the omission of a conflict is serious enough to have caused the journal to reject the paper had it been communicated initially, the journal will formally retract the paper, noting the action in the journal and removing the paper from its website.”

I reiterate that the Guidotti et al. paper was unequivocally rejected by the EHP reviewers. It was only after Dr. Guidotti appealed to the EHP editor to reconsider, that EHP reversed its position and accepted Dr. Guidotti's paper without obtaining further input from the reviewers. This is important, because the standard that should be considered in determining whether this paper should be formally retracted is ***whether knowledge of these numerous undisclosed conflicts by EHP's editor would have prevented the reversal of the decision to reject the paper.*** I am highly doubtful that if the extent of the authors' conflicts of interests and control by DC WASA had been known and fully disclosed, the decision to reject the paper would have been reversed.

A separate but nonetheless very serious issue is the quality and accuracy of the so-called "research" presented by Dr. Guidotti and his co-authors. It is undeniable that Dr. Guidotti reinserted into the paper his main conclusion regarding "no identifiable health impact" after he promised to remove it. Moreover, the words he used for this conclusion are virtually identical to those used in a 2006 press release by his DC WASA client.

Even unambiguous facts, such as the date that chloramine was added to the water, are in error. While the motivation for such errors cannot be established, the net effect of all the errors is to portray DC WASA in a more favorable light.

In response to reviewer criticisms about the EHP paper, Dr. Guidotti once stated that, "Our paper is a description of exactly what happened in Washington DC during an episode of elevated lead in drinking water." In written comments that he sent to the press and others in February 2009, he further stated that:

- 1) "Our research team did nothing wrong."
- 2) "The data are valid and the conclusions were agreed upon by the Department of Health, EPA, and CDC."
- 3) "This [recent public criticism about the EHP paper] is all about a new study that came out that is being promoted by activists and certain people with an interest in the issue, not always disclosed."
- 4) "Actually, there is only one major error, which is that typo: 2002 should be 2000."

Aside from disagreeing with many of the above comments, I challenge Dr. Guidotti to substantiate his claim that "the data and the conclusions were agreed upon by the Department of Health, EPA, and CDC." It strikes me as highly unlikely, given their knowledge of forgery of blood lead records from 2003-2004 at the DC DOH, that the CDC ever agreed with the data and the conclusions.

In fact, the version of events presented in the EHP paper is scarcely recognizable when compared to the actual events. The idea that the Guidotti et al. version of the DC lead-in-water fiasco was written into the scientific record as some kind of "model" public health response, even if only temporarily, is a serious indictment of modern science as it relates to public health. Had I not volunteered my time to work on this issue as an outsider for the past 6 years, this fantastic fiction would have gone unchallenged. In my opinion, the collective actions of DC DOH, DC WASA, Dr. Guidotti and the CDC in relation to handling of the DC lead in water issue from 2001-2004, will become one of the most infamous case studies in the history of environmental health science.

Considering these points and other facts presented in this report, I ask that you consider retraction of the Guidotti et al. article in EHP.

Appendix B



VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY

The Charles Edward Via, Jr. Department of
Civil and Environmental Engineering

418 New Engineering Building, Mail Code 0246
Blacksburg, Virginia 24061

Secretary Kathleen Sebelius
US Department of Health and Human Services
Hubert Humphrey Building
200 Independence Avenue, SW
Washington DC 20201

May 27, 2010

Re: False statement in the CDC MMWR May 21, 2010 / 59(19); 592

We draw your attention to a false statement in a Centers for Disease Control and Prevention (CDC) *Morbidity and Mortality Weekly Report* (MMWR) "Notice to Readers" regarding blood lead in DC children (<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5919a4.htm>). The key assertion of this new report, is that in 2004, the CDC concluded that blood lead of DC children was over the 10 ug/dL CDC "level of concern" from lead contaminated water because:

"...the percentage of test results $\geq 10 \mu\text{g/dL}$ and the percentage of test results $\geq 5 \mu\text{g/dL}$ at addresses with lead service pipes were higher than at addresses without lead service pipes."

In reality, in 2004, the CDC did not conclude (or even imply) that the blood lead of even a single child was $\geq 10 \mu\text{g/dL}$ due to lead-contaminated drinking water. The above sentence, extracted from the 2004 report for insertion into the 2010 report, was from a paragraph in the original report that asserted just the *opposite* – that the higher percentage of blood lead levels $\geq 10 \mu\text{g/dL}$ for children in homes with lead service pipes resulted from exposures to lead paint and dust hazards. The original text is reproduced below (<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5312a6.htm>):

"Homes with lead service pipes are older, and persons living in these homes are more likely to be exposed to high-dose lead sources (e.g., paint and dust hazards). For this reason, in all years reported, the percentage of test results $\geq 10 \mu\text{g/dL}$ and the percentage of test results $\geq 5 \mu\text{g/dL}$ at addresses with lead service pipes were higher than at addresses without lead service pipes."

The CDC's 2010 "Notice to Readers" is an attempt to defend the indefensible (the 2004 CDC MMWR), by extracting part of a sentence completely out of its original context and claiming it was the CDC's "original conclusion" of health harm from lead in drinking water. The fact that no such conclusion exists in the 2004 CDC MMWR, makes this an Orwellian attempt to re-write history. CDC should take responsibility for its historic betrayal of the public trust, and immediately retract both the 2004 and 2010 reports, because they are dangerous falsifications that can further jeopardize the public's health.

Sincerely,

Marc Edwards
Charles Lunsford Professor of Civil Engineering

CDC

MMWR**Morbidity and Mortality Weekly Report**

Weekly

April 2, 2004 / Vol. 53 / No. 12

Editorial Note: The findings in this report indicate that although lead in tap water contributed to a small increase in BLLs in DC, no children were identified with BLLs $\geq 10 \mu\text{g}/\text{dL}$, even in homes with the highest water lead levels. In addition, the longitudinal surveillance data indicate a continued decline in the percentage of BLLs $\geq 10 \mu\text{g}/\text{dL}$. The findings in this report suggest that levels exceeding the EPA action level of 15 ppb can result in an increase in the percentage of BLLs

$\geq 5 \mu\text{g}/\text{dL}$. Homes with lead service pipes are older, and persons living in these homes are more likely to be exposed to high-dose lead sources (e.g., paint and dust hazards). For this reason, in all years reported, the percentage of test results $\geq 10 \mu\text{g}/\text{dL}$ and the percentage of test results $\geq 5 \mu\text{g}/\text{dL}$ at addresses with lead service pipes were higher than at addresses without lead service pipes.

Notice to Readers: Examining the Effect of Previously Missing Blood Lead Surveillance Data on Results Reported in MMWR

May 21, 2010 / 59(19);592 These results do not change CDC's original conclusions that "the percentage of test results $\geq 10 \mu\text{g}/\text{dL}$ and the percentage of test results $\geq 5 \mu\text{g}/\text{dL}$ at addresses with lead service pipes were higher than at addresses without lead service pipes."

In the 2004 MMWR report, the first sentence of the Editorial Note referred to a cross-sectional study of homes with very high lead levels in drinking water and stated that "no children were identified with blood lead $\geq 10 \mu\text{g}/\text{dL}$, even in homes with the highest water lead levels." This sentence was misleading because it referred only to data from the cross-sectional study and did not reflect findings of concern from the separate longitudinal study that showed that children living in homes serviced by a lead water pipe were more than twice as likely as other DC children to have had a blood lead level $\geq 10 \mu\text{g}/\text{dL}$.

IN SUPPORT

Parent advocates

Andy Bressler

Father of twin boys who had elevated lead that was likely caused by lead in our water
Washington DC
202.544.3537
abbressler@msn.com

Marilia Duffles

Ward 4 resident, appalled observer of the hideous negligence, active in DC's struggle for
safe drinking water since January 2009
Washington DC

Liz Festa

Parent, involved since January 31, 2004, witness to early shenanigans by agencies
involved
Washington DC
twodecks@comcast.net
202.543.1115

Katie Funk

Parent and former DC resident
At the time of the DC lead water crisis, I was a new mother living in a house with
"unclassified" pipes. Our lead water levels tested 10-20 higher than the 15 ppb EPA
threshold. My newborn tested at a blood lead level in excess of 15. Subsequently, the
city replaced the service line (which was lead) and our internal house service line (which
was lead). Within 2 years, our daughter's blood lead levels dropped to less than 2 ppb.
Now, at age 6, her blood lead levels are not measurable. I worked with members of our
Capitol Hill neighborhood to hold WASA, the DC Government and the Federal
Government accountable for this public health fiasco. In May 2004, I testified before the
House Government Oversight Committee on this issue.
Bethesda MD
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kfunk5131@gmail.com

Satu Haase-Webb

Parent in Ward 6, with house that had high lead levels in water in 2004 (over 300 ppb),
who then became actively involved in learning more about the issue and informed others
about it (via community meetings, Council hearings, DC WASA meetings etc.), and
finding the truth about the effects of the DC lead-in-water-crisis.
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202.546.1717
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Ruth Long

Parent to two children living in DC's Ward 6 & a public health professional
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Elizabeth Pelcyger

Parent working to bring about unleaded DC water since 2004
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Kat Song

Ward 1 parent, involved in the struggle for safe drinking water and reliable scientific information since 2004
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Thomas Walker

Parent in Ward 4
I knew that lead-contaminated water alone can poison children in 2002-2003, when my daughter's pediatrician told me that specially hired risk assessors had linked the elevated blood lead of one of his young patients to contaminated water at the child's home. When the 2004 CDC report came out, claiming that not a single DC child had been poisoned from the water, I knew it was false.
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Mary C. Williams

Former ANC 6D03 Commissioner and representative for the Southwest Carrollsbury Place neighborhood in Ward 6
We were part of the original test group in 2003, a neighborhood where homes tested as high as 500 ppb.
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Appendix C. EPA final action on their falsified report, that was used to justify Washington D.C. partial pipe replacement program, wasted \$100 million dollars and increased the incidence of childhood lead poisoning.

NOTICE: EPA does not have the data, a Quality Assurance Project Plan, or a Quality Management Plan associated with this 2006 report entitled, "Effects of External Currents and Dissimilar Metal Contact on Corrosion from Lead Service Lines." The report was prepared by Dr. Steve Reiber, Formerly of HDR Engineering, and Laura Dufresne of The Cadmus Group, Inc., and finalized in November 2006. Readers are cautioned that other research has not reached the same conclusion as the report and the Science Advisory Board (SAB) has discussed reasons for the discrepancy. When asked to comment on whether partial lead service line replacement (PLSLR) might cause elevated lead levels at the tap due to galvanic corrosion, the SAB concluded that:

The number of studies to examine the ability of PLSLR to reduce lead exposure is small and those studies have major limitations (small number of samples, limited follow-up sampling, lack of information about the sampling data, limited comparability between studies, etc.). Overall the SAB finds that, based on the current scientific data, PLSLRs have not been shown to reliably reduce drinking water lead levels in the short term, ranging from days to months, and potentially even longer. Additionally, PLSLR is frequently associated with short-term elevated drinking water lead levels for some period of time after replacement, suggesting the potential for harm, rather than benefit during that time period. Available data suggest that the elevated tap water lead levels tend to then gradually stabilize over time following PLSLR at levels both above and below those observed prior to PLSLR.

More information can be found in the Science Advisory Board report

at: [http://yosemite.epa.gov/sab/SCsabproduct.nsf/964CCDB94F4E6216852579190072606F/\\$File/EP A-SAB-11-015-unsigned.pdf](http://yosemite.epa.gov/sab/SCsabproduct.nsf/964CCDB94F4E6216852579190072606F/$File/EP A-SAB-11-015-unsigned.pdf)

Final Report

Effects of External Currents and Dissimilar Metal Contact on Corrosion from Lead Service Lines

Prepared for:

George Rizzo, Work Assignment Manager
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Contract Number 68-C-02-069
Work Assignment Number 47

Prepared by

Dr. Steve Reiber
Formerly of HDR Engineering

and

Laura Dufresne
The Cadmus Group, Inc.

Finalized November 2006

Appendix D

Discussion: Effect of Changing Water Quality on Galvanic Coupling

MARC A. EDWARDS

A famous colloquium (Langmuir, 1953) explains how well-intentioned scientists have been tricked into false results by wishful thinking and other factors. That analysis may provide a partial explanation for substantive errors in the March 2012 peer-reviewed Journal article (Effect of Changing Water Quality on Galvanic Coupling) written by Boyd et al. The authors state they have gathered data demonstrating that elevated lead in water arising from galvanic corrosion between direct connections of lead and copper pipe will be "transient" and "short-lived." Moreover, they assert that bringing lead and copper into direct contact (as sometimes occurs in the field) poses a much smaller risk of galvanic corrosion and lead contamination of water than laboratory simulations in which the metallic pipes are slightly separated with a dielectric spacer and connected externally with a wire (likely to become a more common practice in the field). Their claims have immediate implications for water utility approaches to partial lead service line replacements, which have been linked to a higher incidence of childhood lead poisoning and expenditures exceeding \$100 million at one utility (Brown et al, 2011; Frumkin, 2010; Leonnig, 2008). My analysis

of this article has revealed serious problems with some of the data, analysis, text, and figures.

CLAIM CONTRADICTED BY ELECTROCHEMICAL THEORY AND PRACTICE

According to the authors, when lead and copper pipe are brought into direct contact, "accelerated metal release . . . may be minimal" because of galvanic corrosion. In contrast, if the lead pipe (anode) and copper pipe (cathode) are separated by 1–15 cm and electrical contact is maintained with an external wire, the potential of "the entire lead coupon shifts in an anodic direction," and "the galvanic coupling has likely accelerated lead release by up to ten-fold." These statements are supported by two figures (Figures 9 and 10) in the March Journal article. This claim is contrary to the well-established "distance effect" as summarized by Bradford (2001):

This 'distance effect' offers another way to combat galvanic corrosion: space anode and cathode far enough apart and galvanic corrosion will virtually cease even though the metals are still electrically connected by an external conductor To prevent galvanic corrosion, the plumbers often put insulated connectors between the two kinds of piping. Building codes, however, require

the plumbing to be electrically continuous for grounding purposes so electricians fasten external metal straps across the insulated couplings The insulated spacer between the two pipes separates them enough so that the water's resistance prevents the exchange of much current.

At no point do Boyd et al acknowledge that their new theory is contradicted by decades of prior peer-reviewed research and practical experience, and a recent paper has verified that the claims in their March Journal AWWA article are incorrect (St. Clair et al, 2012).

KEY FIGURES ARE FLAWED

The results from the Journal AWWA article described in the preceding section were presented at two national AWWA conferences, a graduate engineering ethics seminar, and a US Environmental Protection Agency (USEPA) special Science Advisory Board (SAB) meeting (Reiber, 2011a–c; Boyd et al, 2010a). Indeed, the final USEPA SAB report cited the preliminary presentations of the March Journal article seven times (USEPA, 2011). In their presentations, the authors highlighted their new theories on "so-called galvanic corrosion" of direct connections between lead and copper and used two figures (the same as Figures 9 and 10 that were published in the

March article) to assert that results of other researchers were experimental artifacts that would not occur in practice. As peer-reviewed research of my graduate students was among the studies called into question by these claims (e.g., Triantafyllidou et al, 2011), our group invested more than two person-years of effort trying (without success) to reproduce the data presented in Figures 9 and 10. We eventually came to the conclusion that the results featured in these figures and associated text were not scientifically valid. When the authors did not immediately provide data supporting these figures in response to my requests, I obtained the original PowerPoint® slides used by the authors in their USEPA SAB presentation through a Freedom of Information Act (FOIA) request (USEPA, 2012). I observed that the lines in the graphs floated completely independent of the graphical axis. When magnified, the lines did not have the appearance of scientific data, but looked like lines drawn electronically with Microsoft Draw® or a similar program, as evidenced

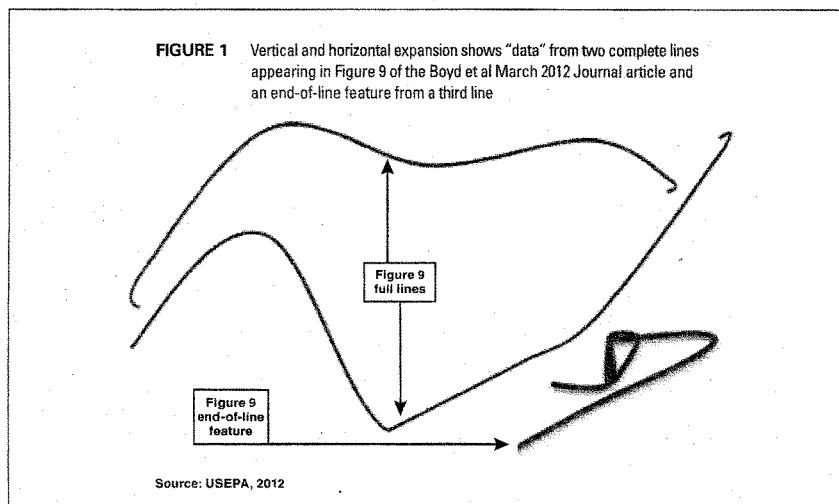
by curled ends and other aberrations (Figure 1). Journal editors confirmed that these same graphs were submitted as Figures 9 and 10 in the March Journal article. Agreeing to a proposal made by the authors that they would answer my questions and provide data if the chair of the Journal's Peer Review Editorial Board (PREB) served as intermediary, I again requested the original data behind these figures and a detailed description of the mathematical methods used by the authors to generate the lines.

ERRONEOUS DATA IN FIGURES 9 AND 10 ASCRIBED TO GRAPHIC ARTIST

In written responses that were "discussed and agreed upon by all the co-authors of [the Journal] paper," the authors explained that "[they] couldn't get the clear and colorful presentation [they] wanted using Excel® graphics routines and asked [an on-staff graphic artist] to prepare the slides from the Excel data." The graphic artist "was given the instructions to make the images colorful and

large." According to the authors' written statements, the artist also:

- made quantitative errors of 156–200% in labeling every x-axis for lead surfaces in Figures 9 and 10;
- created 5 cm of new electrochemical data not collected in experiments and added them onto data for the lead line in Figure 10 of the March Journal article (Figure 2);
- developed erroneous single composite lines from multiple datasets in the Excel spreadsheet given to him or her. For example, the authors stated that the graphic artist somehow combined two sets of data to generate one erroneous composite line in Figure 10 of the Journal article [Figure 2], which had obvious errors exceeding 75 mV compared with the cited spreadsheet data, even after correcting for the flawed x-axis;
- created composite lines for Figure 9 in the Journal article by combining Excel data from four datasets (my analysis shows that the graphic artist composite line is erroneous by more than 50 mV from a simple point-by-point averaging of the four datasets [results not shown but



available upon request; error similar to that illustrated in Figure 2)); and

- created another erroneous composite line in Figure 9 in the Journal article after he or she decided to exclude one of the Excel datasets as an "outlier."

According to this version of events, none of the authors created Figures 9 or 10, which were used in the Journal article and in their numerous presentations. All errors and extra data added onto lines in the figures were attributed to actions of the unnamed graphic artist, and to the authors' "lack of oversight" of the unidentified individual's work. When asked to provide documents

corroborating their claim by the PREB intermediary, the authors did not do so.

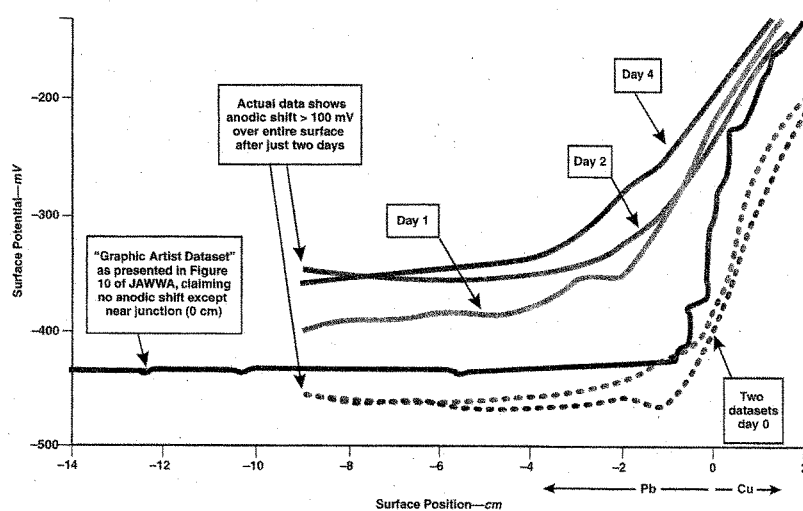
DATA FROM AUTHORS CONTRADICT THOSE IN THE JOURNAL ARTICLE

The data the authors provided to me in spreadsheets do not agree with those presented in the Journal article and actually support conclusions contrary to those stated in the article (Table 1). The magnitude and importance of the discrepancy are illustrated by the following two representative examples.

Example 1. The Journal article states that for a "typical" result,

when lead and copper surfaces were separated by distance and connected by wire externally, the lead surface potential was shifted more than 100 mV, which "likely accelerated lead release by up to tenfold." Figure 9 and other text in the article describe the anodic shift as "approximately 150 mV" or "about 150 mV." The authors also assert in the article that this large shift was "stable for periods extending to weeks and likely months." Expectations for the spreadsheet data based on these assertions are summarized in Figure 3. But according to the actual spreadsheet data identified by the authors as the basis for Figure 9 of

FIGURE 2 Comparison of the line created in Figure 10 of the Boyd et al March 2012 Journal article with data provided in the spreadsheet



Aside from the nonexistent data at a position of 9–14 cm (i.e., -9 to -14 cm above), the composite line also features large errors (> 75 mV at points) compared with day 0 data that the authors stated was the source of the line. More important, the spreadsheet reveals that after day 0, the potential of the entire lead surface shifted anodically, contradicting the authors' discussion in the Journal article claiming that there was no shift on the midpoint of the lead surface if it was directly connected to copper. Data trends collected after day 0 were not presented or discussed in the Journal article.

Cu—copper, Pb—lead

the Journal article, the lead anodic shift (using their approach of comparing jumpered and unjumpered data) started out at only 58 mV on day 0 and dropped to 6 mV in five days, at which point the experiment was terminated. Thus, the discussion in the Journal article is in error by a factor of greater than 16 times after just five days. According to the data files the authors provided to the PREB and me, the experiments were not run for even a single week.

Example 2. The authors state in the Journal article that when lead and copper were directly connected

and “when the surface potential was measured at midpoint of the copper surface as well as midpoint of the lead surface, . . . the surface potential of each surface appear[ed] unconnected.” The authors further state that “. . . the mapping of the surface potential across the entire bimetallic pipe coupon indicated that the galvanic effect was limited to the immediate vicinity (~ 5 mm) of the lead-copper interface.” When all data from the experiment identified by the authors as the basis for Figure 10 are graphed, a markedly different result is apparent. By day

1 the entire 9-cm lead surface had risen anodically by more than 50 mV versus day 0, and by day 2 the entire 9-cm lead surface had shifted anodically by more than 100 mV versus day 0 (Figure 2). The anodic shift 10 mm from the junction was more than 200 mV after just four days. Such short-term acceleration to galvanic corrosion has been noted and is explained elsewhere (Hu et al, 2012; Francis, 2010; Nguyen et al, 2010).

Overall, the spreadsheet data provided by the authors suggest much greater galvanic acceleration for the

TABLE 1 Illustrative comparisons of Journal article text with galvanic narrative and spreadsheet data

Journal AWWA text	Galvanic Narrative	Actual Spreadsheet Data
“In the absence of external electric connection, the coupons exhibited a difference of OCP of approximately 400 mV; in contrast, when the coupons were connected externally, that difference was only 120 mV, most of which was attributed to an anodic shift (polarization) of about 150 mV on the lead surface.”	“Whereas un-jumpered, the coupons gave a potential difference of approximately 400 mV; jumpered, the difference is now only 120 mV, most of which is due to an anodic shift (polarization) of about 150 mV on the lead surface.”	The minimum difference when connected externally was always > 280 mV on day 0. As noted below, the anodic shift was never close to 150 mV.
“In this indirect (externally wired) configuration, the shift of the OCPs can be stable for periods extending to weeks and likely months.”	“... in this configuration, it is stable for periods extending to weeks and likely months”	Trial 1 experiment terminated after four days after OCP shift dropped to an average of 5 mV.
“The galvanic shift induced by this mode of galvanic coupling can significantly affect lead surface corrosion because an anodic shift of the OCP of more than 100 mV is equivalent (based on relevant Tafel data) to a corrosion current increase approaching an order of magnitude. In other words, when copper and lead are coupled using the indirect mode, the galvanic coupling has likely accelerated lead release by up to tenfold.”	“The effect of the galvanic shift (polarization) on the lead surface corrosion is huge, the anodic shift of more than 100 mV suggests (based on Tafel) a corrosion increase approaching an order of magnitude. . . . In other words, in this jumpered configuration, the galvanic coupling has likely accelerated Pb release by up to tenfold.”	Average anodic shift on day 0 was only 58 mV, on day 1 it was 26 mV, and on day 5 it was 5 mV. For experiment 2, anodic shift was only 29 to -5 mV between zero and five days.
“Figure 10 shows that when the surface potential was measured at the midpoint of the copper surface as well as midpoint of the lead surface, the observations were strikingly different from those for the indirectly jumpered coupons (Figure 9). In this abutted (end-to-end) configuration, the potential of each surface appears unconnected except in the area directly adjacent to the physical juncture.”	“... If we measure the surface potential midpoint of the copper surface, as well as midpoint of the lead surface, the observations are strikingly different than the jumpered coupons measured previously. . . . In this configuration, the surface potential of each surface appears unconnected. . . . both surfaces (midpoint) retain the electrical potential when they were unconnected.”	The midpoint potential difference for the lead surface between the two configurations was only 20-30 mV on day 0 of both trials. But this is expected for the direct connection, given that the actual midpoint of this lead surface was 29% larger.
“In fact, the mapping of the surface potential across the entire bimetallic pipe coupon indicated that the galvanic effect was limited to the immediate vicinity (~ 5 mm) of the lead-copper interface, whereas on the copper surface the effect was limited to a few centimetres of the interface.”	“If we map the surface potential across the entire bi-metallic pipe coupon, we find there is a galvanic effect, but on the lead surface the effect is limited to the immediate vicinity . . . (> 5 mm) of the lead-copper interface; whereas, on the copper, the effect is limited to within a few centimetres of the interface.”	Within four days, the potential of the entire lead surface (9 cm) has risen upwards by 100-200 mV (Figure 2). Experiment was terminated.

OCP=open circuit potential, Pb=lead

direct connection than for the indirect connection and confirm prior research and theory. The discrepancy is exacerbated by the fact that there was actually a 28% larger surface area in the case of the direct versus the indirect connection, as opposed to the results shown in Figures 9 and 10 and in the text of the Journal article, which falsely made it appear as if the surface areas tested were of equal size.

JAWWA TEXT WRITTEN BEFORE EXPERIMENTS WERE CONDUCTED

A chronology of the authors' e-mails (available on request) reveals that key erroneous statements in the March Journal article text were written before the experiments identified as the basis for figures in the article were conducted or analyzed. For example, the data identified by the authors as the basis for Figure 10 were not collected until Oct. 4, 2010 (according to dates on the data

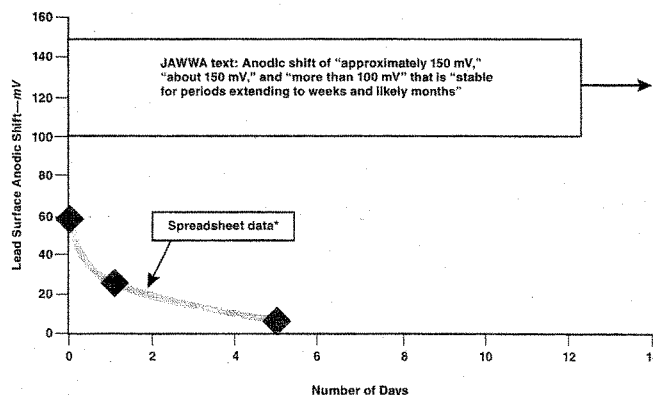
spreadsheet released by the authors and in supporting photos). Yet one week earlier, on Sept. 26, 2010, the first author offered to write a results and discussion section after reviewing self-described "preliminary data" of dubious value and viewing some pictures of the apparatus. He stated his write-up for the paper to be submitted to Journal AWWA could be "based on what I see in the photos and on our previous discussion." On Sept. 30, 2010, in an e-mail with the subject line "Galvanic Narrative," the second author wrote text that became the Journal AWWA article and openly acknowledged that a technician "will provide photos and data as we proceed, assuming [he or she] agrees with the narrative." The authors and technician did not meet to "discuss the data and decide how to present the results" from the experiment until Oct. 13, 2010, more than two weeks after the "Galvanic Narrative" and

Journal AWWA article text were written. As is demonstrated in a point-by-point comparison (Table 1), the authors never substantially updated or altered their "Galvanic Narrative" text for the Journal article based on the actual experimental data. This disconcerting chronology explains the origin of inaccurate discussion in the March 2012 Journal AWWA article. In letters sent to the PREB and me, the authors wrote that the dataset identified as the basis for Figure 10 was dated Aug. 4, 2010. That statement is contradicted by dates in the e-mails, the data spreadsheet itself, and supporting photos.

LARGE ERRORS IN MEASURING TOTAL LEAD NOT DISCLOSED

Serious problems with the work presented in the March Journal article are not limited to the section discussing Figures 9 and 10. In the final report of the project on which Jour-

FIGURE 3 Comparison between the experimental results the authors identified as the source of Figure 9 of the March 2012 Boyd et al Journal article to expectations based on information presented in the article text



*Spreadsheet data were provided by the authors. Results of the actual spreadsheet data were obtained by determining a point-by-point difference between paired jumpered and unjumpered results and taking an overall average for each day. (One out of 192 data points was excluded because it was missing a minus sign.)

nal article Figures 1–6 were based (Boyd et al, 2010b), the authors acknowledge that, “Our setup and operations were not designed to conduct mass balance calculations of all lead and copper, specifically including particulates that accumulated in dead zones” Recent research has consistently demonstrated that this deficiency is problematic relative to tracking accelerated lead release from galvanic corrosion because almost all the extra lead released to the water tends to be particulate (Cartier et al, 2012, 2011; Giammar et al, 2012, 2011; Triantafyllidou, 2011). Giammar and others have demonstrated that unless mass balances such as reservoir acidification are used to recover all of the settled particulate lead, the data can be misleading and can generate false conclusions, even during constant recirculation (Giammar et al, 2012, 2011). Galvanic accelerations to lead release as large as 300% would be completely missed without acidification (Giammar et al, 2011). A third-party review was commissioned by DC Water and the Water Research Foundation, in which the investigators were charged with examining the data that ultimately appeared in Figures 1–6 of the March Journal article (Giammar et al, 2012). The investigators concluded that the work described in the Journal article did not use methods that detected “. . . all of the lead released from the pipe, so these measurements represent lower bounds on the total lead released.” The review also determined that the “. . . underestimation may be mild (a factor of two) or possibly quite significant (a factor of 10 or more).”

It is inappropriate for the authors of the March Journal article to omit knowledge of the large potential errors in their lead measurements. At the very end of the data collection phase described in the article, I contracted with their consulting firm to use the same rigs, pipe samples, waters, and personnel on a followup project. I directed my contacts at the

firm to conduct the first quality assurance/quality control test to quantify the extent of the potential underestimation of lead release. After viewing the results that proved very large error rates—the magnitude of which varied from rig to rig and from experiment to experiment—my contact at the company wrote “. . . youch. We need to get the word out about these reservoirs” (Sandvig, 2008a). Rather than frankly disclosing the large possible errors and their implications, the authors simply state “. . . a small fraction of particulate lead might not have been accounted for because of its potential settling . . .” and further imply the errors would not affect their conclusions.

OTHER DATA SUGGESTING A LARGE ACCELERATION TO LEAD RELEASE WERE IGNORED

At the start of my work with the authors’ rig, I asked for and received a written update on the rig’s status (Sandvig, 2008b). It was stated that all pipe samples had been removed from the rig, stored wet elsewhere, and that the reservoir was full of water and otherwise unaltered from the last experiment described in the March Journal article. I then coordinated with personnel to collect the first (and only) measurement of total lead in the reservoir in accordance with the experiments described in the Journal AWWA article, using the acidification techniques later proven by others to detect accelerated particulate lead release caused by galvanic corrosion (Giammar et al, 2012, 2011). Blind samples were mailed to Virginia Polytechnic Institute and State University. When they were decoded by the consulting firm, the total lead detected in the two reservoirs with lead pipe was 2,639 and 3,243 µg/L. The total lead in the galvanically connected rigs was 9,182 and 9,189 µg/L, showing excellent reproducibility between duplicates. These results are cited in Boyd et al (2010b) and bring the authors’ results into agreement with theory and the

findings of other researchers. That is, they indicate a large contribution to total lead release (> 300%) from galvanic corrosion between directly connected lead and copper pipes.

CITATIONS IN ARTICLE SUPPORTING AUTHORS’ CONCLUSIONS ARE BASED ON DATA THAT ARE ALSO UNAVAILABLE

A report written by the second author (Reiber and Dufresne, 2006) and funded by USEPA Region III is cited in the March Journal article as an example of prior research demonstrating that “lead release effects” due to galvanic coupling are “minimal for aged and passivated surfaces of lead service lines coupled with new copper surfaces.” I submitted an FOIA request to USEPA Region III requesting this lead-in-water data six years ago. These data were never provided to me. Other graphs appearing in this 2006 USEPA report also appear unscientific, as per the prior discussion of Figures 9 and 10 of the March 2012 Journal article. I then requested via the FOIA any data, spreadsheets, or other information that could support the graphs in the 2006 USEPA report and also made another request for the 2006 “lead release effects” data cited in the March 2012 Journal article. On June 1, 2012, USEPA Region III informed me that no one has any data, spreadsheets, or other information to support the authors’ statements in the March 2012 Journal article or to otherwise support graphs appearing in the 2006 USEPA report.

SUMMARY

Many statements and figures in the March 2012 Journal article are without scientific basis, are contrary to established theory and practice, and have been refuted by other investigators who report there are sometimes significant problems with elevated lead from galvanic effects in direct lead–copper connections during partial lead service line replacements. The latter results are based

on situations using new lead pipe (Cartier et al, 2012; Hu et al, 2012; Clark et al, 2011; Triantafyllidou et al, 2011), aged/passivated lead pipe (Cartier et al, 2011; Giammar et al, 2011), examination of field samples (DeSantis et al, 2009), and in experiments using “real” brass connections between lead and copper pipe (Cartier et al, 2011; Clark et al, 2011; DeSantis et al, 2009). Galvanic effects are also sometimes very persistent and depend on a wide range of factors (Cartier et al, 2012; Giammar et al, 2012; Hu et al, 2012; Clark et al, 2011; Giammar et al, 2011; Triantafyllidou et al, 2011; Nguyen et al, 2010; DeSantis et al, 2009). As unfortunate as it would be, I believe that the serious and extensive errors documented in the March 2012 Journal article by Boyd et al justify its retraction from the peer-reviewed literature.

ABOUT THE AUTHOR



Marc A. Edwards is the Charles P. Lunsford Professor of Civil and Environmental Engineering at Virginia Polytechnic Institute and State University, Department of Civil and Environmental Engineering, 418 Durham Hall, Blacksburg, VA 24061; edwardsm@vt.edu. Edwards received the Praxis Award in Professional Ethics in 2010, a MacArthur Fellowship 2008–12, and the IEEE Barus Award for defending the public interest in 2012. He received PhD and MS degrees in engineering from the University of Washington and a BS in biophysics from the State University of New York at Buffalo.

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Chairman CHAFFETZ. The gentleman yields back.
 Ms. Walters, you are now recognized for 5 minutes.

STATEMENT OF LEEANNE WALTERS

Ms. WALTERS. My home used to be a place of comfort and safety for my family. It used to be what a home should be, a place of peace and protection from the outside world. That was taken from us and not just from my family, but from every home and every citizen in Flint.

Now my home is known as ground zero. The people in Flint now stand with the people in D.C., who suffered their own lead crisis a decade ago, because we now know the horror of poison running through our taps and the negligence of the agencies paid to protect us.

In 2014, in a city with no democracy, forced under an emergency manager hand-picked by Governor Snyder, a decision was made to switch the water source without the proper testing and enforcement of regulation.

The MDEQ claims they misinterpreted Federal law recording corrosion control. They were allowed to tell EPA they were following the law without any verifications. The citizens in Flint were assured for 18 months that the water was safe. My home was being tested because of the discoloration of my water and the health issues my family was experiencing. We fought the city and the State saying there was something wrong, and we were dismissed. I decided we need to get to the science if anyone was ever going to believe us. I started researching and educating myself about water.

I had three tests done by the city of Flint, using extra steps that tend to minimize lead in water. Those numbers were 104 parts per billion, 397 parts per billion, and 707 parts per billion. I contacted the EPA and started working with Miguel Del Toral and Jennifer Crooks at the EPA. Mr. Del Toral was very thorough and knowledgeable in assisting me. I told Mr. Del Toral I did not believe there was corrosion control in the water, provided him documentation about this fact. And he verified my findings, and he was furious.

Mr. Del Toral questioned the MDEQ and at first they lied and then later admitted the truth. I figured out that Ms. Crooks was aiding the MDEQ with their lies, and Mr. Del Toral was the only one willing to address the problem. I requested a copy of Mr. Del Toral's report and I made it public because people had a right to know. With the report public, Susan Hedman, EPA, apologized to the mayor of Flint and to the MDEQ because of policy. No one but Mr. Del Toral was willing to do their job.

Mr. Del Toral was told by the ethics attorney to forward all media requests, including those during his personal time. He was also advised not to talk about Flint or to anybody from Flint.

In a meeting I had with MDEQ, Liane Shekter Smith bragged to me about how Mr. Del Toral had been handled, that his report was flawed, and that there would be no final report. This was the ultimate betrayal for the citizens. Susan Hedman cared more about policy than the welfare of an entire community while punishing and silencing the one person that was willing to help us.

I started doing independent testing with Virginia Tech, and 30 tests were done, tests that were performed in accordance with the LCR. My average was 2,500 parts per billion. My highest was 13,500 parts per billion. Hazardous waste is 5,000. Regardless of this information and the fact that my son had lead poisoning, the city and the MDEQ still continued to tell everyone the water was safe as the EPA sat by and watched in silence.

Because the State and Federal Governments failed us, with the help of Virginia Tech, we conducted citizen-based samplings. We educated and distributed 300 samples equally throughout the city. We collected back 277 samples. All of this was done in a 3-week turnaround. Here are the facts: After the tragedy in D.C. from 2001 to 2006, where children were poisoned by lead in water, the EPA should have immediately closed the loopholes to protect all citizens. Had the EPA closed the loopholes, then it could have 100 percent prevented what just took place in Flint.

EPA has failed to protect people by refusing to ban partial lead service line replacements. The EPA's LCR National Report from 2006 states that the lack of system response for lead exceedance is especially true to inform the public. It is done less than one-third of the time. From my research, I have found that this is not a Flint problem or a rare anomaly. This is a national problem. Only 10 States test accurately in according to the LCR; 21 States do not reveal their sampling instructions; and 19 States have testing similar to loopholes to the Michigan ones. There's no justifiable reason for testing with loopholes, except to hide lead. These loopholes that need to be eliminated are pre-flush, small-mouth bottles, and cap on stagnation.

I spoke against the NDWAC recommendations that are now currently under advisement by the EPA to change the LCR. These recommendations will weaken an already broken system and I'm outraged that the EPA continues to allow this type of dishonesty with testing to continue nationally.

The citizens in Flint are relying on each of you because we have no choice. We trust no one but Virginia Tech. There are people in Flint today still not being assisted during this crisis: illegal immigrants, disabled and shut-ins. Broken policies and procedures are smothering the outcry of an entire community suffering financially, physically, mentally, and emotionally. I urge you to help restore some of the trust lost and protect all of the citizens in the United States by never allowing this happen again. We need this to happen now, not 10 years from now. Thank you.

[Prepared statement of Ms. Walters follows:]

Testimony of Lee-Anne Walters
Examining Federal Administration of the
Safe Drinking Water Act in Flint, Michigan
Testimony Before the U.S. House of Representatives
Committee on Oversight and Government Reform
Lee Anne Walters
February 3, 2016
9:00 a.m.

Hello I am Lee-Anne Walters. My home used to be a place of comfort and safety for my family. It used to be what a home should be, a place of peace and protection from the outside world. That was taken away from us, and not just from my family but from every home and every citizen in Flint. Now my home is known as ground zero. The people in Flint, now stand with the people in DC who suffered their own lead crisis a decade ago, because we now know the horror of poison running from our taps and the negligence of the agencies paid to protect us.

In 2014 a decision was made to switch the water source without the proper testing and enforcement of regulations. The MDEQ claims they misinterpreted federal law regarding corrosion control. They were allowed to tell EPA they were following the law without any verification. The citizens in Flint were assured for 18 months that the water was safe. My home was being tested because of the discoloration of my water and health issues my family was experiencing. We fought with the city and the state that something wrong and we were dismissed. I decided we needed to get to the science if anyone was ever going to believe us. I started researching and educating myself about water.

I had three tests done by City of Flint, using extra steps that tend to minimize lead in water. Those numbers were 104 ppb, 397 ppb and 707 ppb. I contacted the EPA and started working with Miguel Deltoral. He was very thorough and knowledgeable in assisting me. I told Mr. Deltoral I did not believe corrosion control was being used, provided him documentation about this fact, and he verified my findings. Mr. Deltoral questioned the MDEQ, and at first they lied and then later admitted the truth. Mr. Deltoral was the only one willing to address the problem. I requested a copy of his report and made it public because people had a right to know.

With the report public, Susan Hedman, EPA apologized to the Mayor of Flint and the MDEQ, because of policy. No one but Mr. Deltoral was willing to do their job. Mr. Deltoral was told by the ethics attorney to forward all media requests, even during his personal time to them. He was also advised not to talk about Flint or with anyone from Flint. In a meeting I had with MDEQ, Liane Shektor-Smith bragged to me about how Mr. Deltoral was handled, that his report was flawed and there would be no final report. This was the ultimate betrayal for the citizens. Susan Hedman cared more about policy than the welfare of an entire community, while punishing and silencing the one person willing to help.

I started doing independent testing Virginia Tech and thirty tests were done, tests that were performed in accordance to the LCR. My average water lead was 2500 ppb and my highest was 13,200 ppb. Hazardous waste in water is 5,000ppn. Regardless of this information and the fact that my son had lead poisoning, the city and the MDEQ still continued to tell everyone the water was safe, as the EPA sat by and watched in silence.

Because the state and federal government failed us, with the help of Virginia Tech we conducted a citizen based sampling test. We educated and distributed 300 samples equally through the city. We collected back 277 samples. All of this was done in a 3 week turn around.

Here are the facts:

After the tragedy DC from 2001-2006 where children were poisoned by lead in the water, the EPA should have IMMEDIATELY closed the loop holes to protect all citizens.

Had the EPA closed the loop holes then it could have 100% prevented what now took place in Flint

EPA has failed to protect people by refusing to ban partial lead service line replacement.

The EPA's LCR National Report from 2006 states the lack of system response for lead exceedance is especially true to inform the public. It was done less than 1/3 of the time.

From my research I have found this is not a Flint problem or a rare anomaly, this IS a NATIONAL problem.

Only 10 states accurately test according to the LCR, 21 states do not reveal their sampling instructions, and 19 states have testing similar loopholes to Michigan

There is no justifiable reason for the testing loopholes except to hide lead. These loopholes that need to be eliminated.

1. Preflush, 2. Small mouthed Bottles, 3. Cap on Stagnation

I spoke against the NDWAC recommendations that are now currently under advisement by the EPA to change the LCR. These recommendations will weaken an already broken system. I am outraged that the EPA continues to allow this type of dishonesty with testing to continue nationally.

The citizens in Flint are relying on each other because we have no choice, and we trust no one but Virginia Tech. There are people in Flint still today not being assisted during this crisis, illegal immigrants, disabled, and shut-ins. Broken policies and procedures are smothering the outcry of an entire community suffering financially, physically, mentally and emotionally. I urge you to help restore the trust lost and protect to all citizens in the United State by never allowing this to happen again. We need this to happen now, not ten years from now. Thank you.

Chairman CHAFFETZ. Thank you. Again, thank you for the testimony.

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

Mr. WALBERG. Thank you, Mr. Chairman.

And thanks to the panel. You are a good panel to have in front of us to start this investigation here at this level.

Mr. Beauvais, in his testimony, Director Creagh noted an email from the EPA to MDEQ in response to the release of Miguel Del Toral's June 24, 2015, memo stating—and this is the EPA email that I quote from—quote: "I want to remind you that Miguel's report had DEQ cc'd, so if the legislature or whoever might say you are all cc'd, you can truthfully respond that it was EPA's request that support not be sent to the cc's." Consequently, you all never received the report from Miguel.

Mr. Beauvais, who sent that email? And why would the EPA tell MDEQ that they never received a request—a report which identified the lack of corrosive controls in place?

Mr. BEAUVAIS. My understanding is that the email to which you are referring was from a staffer in Region 5 named Jennifer Crooks. I have seen the email. I do not know why that email was sent.

Mr. WALBERG. Has there been a check to see why the email was sent from anybody?

Mr. BEAUVAIS. We are looking into that. And the Administrator has asked the inspector general to undertake an evaluation and assessment and independent review of what happened here. And it's—we need to get to the bottom of that and all of the other facts here.

Mr. WALBERG. Was Miguel Del Toral punished for releasing this interim memo?

Mr. BEAUVAIS. I am not aware of any punishment of Mr. Del Toral. Mr. Del Toral is a valued member of EPA's team. He is a nationally recognized expert in this area.

Mr. WALBERG. Not listened to.

Mr. BEAUVAIS. Mr. Del Toral has spoken recently to the media. I believe that he has also briefed the staff of this committee, and I am not aware of any—

Mr. WALBERG. Mr. Edwards, do you believe that Mr. Del Toral was punished by the EPA?

Mr. EDWARDS. Not in writing.

Mr. WALBERG. Microphone.

Mr. EDWARDS. Not in writing, but the way EPA operates in general is that people who are causing trouble by doing their job are simply not allowed to do their job. They are silenced, as Mr. Del Toral was. He was told, as LeeAnne said, by the ethics officer at EPA not to speak to anyone from Flint or about Flint. He told me that himself before he was unable to talk to me anymore.

Mr. WALBERG. Mr. Edwards—or Dr. Edwards, do you believe EPA is aware of local municipalities that are not following the testing requirement under the lead and copper rule?

Mr. EDWARDS. Yes, I think the EPA in general casts a blind eye on these municipalities who are not following—

Mr. WALBERG. Even beyond Flint.

Mr. EDWARDS. Yes, absolutely.

Mr. WALBERG. A blind eye?

Mr. EDWARDS. Well, for example, in Durham, North Carolina, in 2008, children were lead poisoned as a result of a sampling protocol where you remove the aerator the night before sampling, clean the lead out, so when you measure the lead the next day, the lead in water looks lower than it normally is. EPA wrote a memo that essentially banned that protocol. But they know, as we speak today, water utilities still use that protocol, even after it was banned and caused lead poisoning of children in Durham. It is extremely frustrating.

Mr. WALBERG. Their response, would you conclude, is because of a lack of clarity in the Federal regulations or lack of enforcement or both?

Mr. EDWARDS. In a written letter I wrote to EPA Office of Water, I said point blank that the only thing I can conclude is that they don't care about children lead poisoned from drinking water.

Mr. WALBERG. Why do you think the EPA has this problem? I mean, that's a pretty strong statement, and I guess we will look for further testimony, but why does EPA have this problem?

Mr. EDWARDS. You would have to ask them why they refused to do the job they are paid to do.

Mr. WALBERG. Do you believe they are violating the law?

Mr. EDWARDS. I believe that they are not enforcing the law. They are not enforcing their own policies, and they have created this environment in which basically anything goes.

Mr. WALBERG. And this has manifested itself very clearly in Flint.

Mr. EDWARDS. Yes, most obviously, in Flint. Due to the unique circumstances, the miracle of outsiders, in spite of the system, showing that this problem occurred—had it not been for people completely outside the system, those children in Flint would still be drinking that water to this day. That is a fact.

Mr. WALBERG. Having more questions, but seeing my time has expired, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I remind the committee that we had a hearing here in July about Region 5, about Susan Hedman. We had three whistleblowers saying that people were being retaliated against for bringing complaints before that region. And it's so frustrating that that was not dealt with when it was brought up. It should have never happened in the first place, and it obviously continued because she just retired on Monday.

Mr. CUMMINGS. Mr. Chairman.

Chairman CHAFFETZ. Yes.

Mr. CUMMINGS. Very briefly, Mr. Chairman, back on that hearing of your regard in a bipartisan way, we made it clear that we would not tolerate retaliation. Nobody on these panels, either side, would tolerate that. And it's been our policy, and I think, you know, as we look at these depositions that the chairman is planning to do, we may want to look to make sure that we get to the bottom of that. I know the AG is looking at it. I know the FBI is looking at it, but, you know, perhaps we might want to consider that.

Chairman CHAFFETZ. And I would concur and encourage people if they feel retaliated against for telling the truth and exposing the reality of what happened, come talk to us. Both sides of the aisle, there is no way we are going to stand for that. We are going to have your back, and we are going to make sure that the truth gets out there. You should not be retaliated. There are whistleblower protections in place for sharing information with Congress that's vital for us in doing our jobs.

And, please, pass that—pass that word along.

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

Mrs. LAWRENCE. Thank you.

Mr. Creagh, on January 29, Ranking Member Cummings and myself sent to Governor Snyder a detailed document request. As of this morning, the committee has not received any response from the Governor. Since this request covers your agency, can you tell the committee what steps have been taken to collect these documents, and when will we get them?

Mr. CREAGH. I'm aware of the letter. I believe there's a February 11 date, and I'm aware that the Governor's Office is reviewing that document.

Mrs. LAWRENCE. I have a question about this issue of primacy. Can you explain in the State of Michigan, what exactly is the role of the Michigan Department of Environmental Quality? Once advised by EPA, which did happen in this situation, what is the responsibility based on the State of Michigan's law?

Mr. CREAGH. So the State of Michigan has enacted corollary statutes that mirror the Safe Drinking Water Act that allow us to enforce laws in the State of—in Michigan. We have primacy for enforcing the lead and copper rule and the Safe Drinking Water Act. And as I said in my testimony, the U.S. EPA sets the standards, oversees the programming, and conducts yearly audits.

Mrs. LAWRENCE. So with the law and your responsibility, you are now in the position, what failed in enacting the law? And can you explain to me why a response to EPA on the February 26—advising the State of Michigan that there was lead or high levels of corrosion in the Flint water?

Mr. CREAGH. It's the question of the day. And that's what many of the auditors and reviews will have is, who made what decisions when? And that's when I said we need to have a thorough investigation. As I mentioned in my testimony, the city runs the plant. They certify that the samples are consistent with the lead and copper rule. We oversee that, and then we work with EPA on standards and conversations.

Mrs. LAWRENCE. So are you saying the city is responsible for not responding because if I follow the information, it came from EPA directly to the Michigan Department of Environmental Quality advising you about the Flint water?

Mr. CREAGH. If I could, I would say it differently. We all share responsibility in the Flint water crisis, whether it's the city, the State, or the Federal Government. We all let the citizens of Flint down, and that's what the commitment is, is to make sure that we solve that problem. You heard Dr. Edwards talk about the lead and copper rule. The citizens of Flint should not have to worry about

the lead and copper rule. They should have fresh, safe drinking water.

Mrs. LAWRENCE. You are new in the position, and we have heard clearly there are some issues with EPA. What are you doing in the State of Michigan to respond to this? What are the improvements, and what are you doing?

Mr. CREAGH. Thank you for that question. So, first and foremost, as you know, there is EPA's Water Task Force. I have weekly calls with Bob Kaplan who is the interim regional administrator for the U.S. EPA. Our commitment is there is no difference of opinion on regulation, and/or implementation. I meet weekly with Mayor Weaver and the water treatment facility operator to make sure that we are, once again, in lockstep for any implementation.

We have implemented the—and have conversations, I visited with Miguel a couple of times already since I have been there talking about the EPA Water Task Force to make sure that we get it right. It's a very complex issue to get it right.

Mrs. LAWRENCE. I want to be clear when you say it's the question of the day, because when—this is the response: The State DEQ is perplexed by Edwards' results as it seems to be by the city's test result. This group specializes in looking for high-lead problems. And we keep saying it is the question of the day. Has anyone been held accountable?

Mr. CREAGH. Yes, there is accountability throughout the system. As you know, there's been some changes at the DEQ. There has been suspensions at the DEQ, and everyone deserves due process.

Mrs. LAWRENCE. So my question is, if it's the question of the day, you are obviously holding some people accountable. You should know what happened. And it should move from being a question to actually documenting because how can you discipline someone or hold them accountable if you do not have clear information of failure of their job?

Mr. CREAGH. I appreciate that question, and we do have clear standards. We have clear accountabilities. We have a clear path forward. We are working in conjunction with both the city, the State, and the Federal Government to resolve this so it does not happen again.

Mrs. LAWRENCE. I think I'm going to hear that a couple of times today.

I want to say thank you to Ms. Walters, your being here today, your passion going above and beyond the amazing job that you have as a parent, and your civic commitment. I want to thank you. I saw you taking some breaths during your testimony because this is obviously more than just a testimony. This is your life, and these are your children. So I just want to thank you for being here.

Ms. WALTERS. Thank you.

Chairman CHAFFETZ. I thank the gentlewoman.

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

Mr. AMASH. Thank you, Mr. Chairman, and thank you to the panel. It's outrageous that this sort of government-made catastrophe would happen anywhere in the United States. And I agree with my Democratic colleagues that we need an independent, non-partisan investigation. The State of Michigan needs to provide com-

prehensive assistance to the people of Flint. And the State has the resources. I can assure you of that as a former State legislator. The State spends \$33 million on the Pure Michigan ad campaign yet has provided only \$28 million to make sure that the people of Flint have pure water. So the State has the resources. The State needs to make it right.

I have never liked the emergency manager law. It takes power away from the people of the community. It's disappointing that former Emergency Manager Earley had his attorney tell us when he received the subpoena for his attendance here that it borders on nonsensical to accept that subpoena to come here. Now, what's nonsensical, what's disappointing is that one of the people who is probably most culpable for the situation won't take responsibility for it. And I think he needs to appear here, and I would like to have some more people here, and it's unfortunate that we, while this is an esteemed panel, that we only have the four of you.

So my first question is for Mr. Creagh, and Ms. Lawrence touched on this. What role does the Michigan DEQ have in implementing and enforcing safe drinking water standards? I just want to get to the bottom of it. Is it the primary role?

Mr. CREAGH. Yes, we have a primary role to oversee compliance with the Safe Drinking Water Act, and lead and copper rule.

Mr. AMASH. What role does the Michigan DEQ have in the process of bringing a water treatment plant online? It's my understanding that the Flint treatment plant was offline for a long period of time.

Mr. CREAGH. Actually, the Flint treatment plant has a long history. It was a primary source, I believe, before 1967. I think it has been in existence since 1903. I think it has been a backup. I think it is tested on a quarterly basis to ensure it meets Safe Drinking Water standards, and so it has gone from a backup to a primary. Actually, State law does not require additional permits for that to occur in and of itself.

Mr. AMASH. So what role does the DEQ have, the Michigan DEQ, have in that process for bringing it back online?

Mr. CREAGH. They would apply to us to get permits for modifications to the plant.

Mr. AMASH. And when a city decides to change its water source, how involved is the Michigan DEQ?

Mr. CREAGH. I think it's been mentioned, it's highly unusual across this country to go from one water source to another. And so the rigor should have been more when the water source changed.

Mr. AMASH. My next question is for Professor Edwards. We know that not enough phosphates were added to the water to make it less corrosive. What's the cost of treating the water with the appropriate amount of phosphates?

Mr. EDWARDS. When the switch was made, there was actually no phosphate added at all. There was no corrosion control. Federal law was not followed.

Mr. AMASH. No phosphates at all?

Mr. EDWARDS. Nothing. Had they done the minimum allowable under the law, which would have been to continue the phosphate dosing, which would have been in Detroit water, it would have cost \$80 to \$100 a day.

Mr. AMASH. Do you know why, or why do you think no phosphates were added? Isn't that a normal step you take if you are running a facility?

Mr. EDWARDS. It's the law. You have to have a corrosion control plan, and that's why we have the law. This disaster would not have occurred if the phosphate had been added. And that includes the, you know, the Legionella likely outbreak, the red water that you see, the leaks of the plumbing system. In general, corrosion control, for every dollar you spend on it, you save \$10. But in Flint's situation, for every dollar they would have spent on it, they would have easily saved \$1,000. So my only explanation is that it probably did start innocently in the chaos of the turnover, and someone simply forgot to follow the law.

Mr. AMASH. And not including the phosphates is a problem, regardless of the water source, whether it is the Flint River or some other water source?

Mr. EDWARDS. Well, you don't have to use phosphate. There are alternative approaches that one can use, including pH and alkalinity adjustment. But the key point is, you have to have a plan, and you are supposed to be optimizing it to make sure that you are protecting your pipes; you are protecting your people.

Mr. AMASH. And if you started to send these phosphates or other chemicals through the water to fix the problem, how long would it take?

Mr. EDWARDS. Well, it's quite likely that right now even after a few months of phosphate dosing that the coating has been largely restored and that if a federally approved lead and copper rule sampling was done today, there is a pretty good chance that Flint would pass. I can't say. But until they actually do that testing, we have to err on the side of caution and assume that the water is not safe to drink. Flint has never done a lead and copper rule testing according to Federal regulations, like many cities across the United States. And the reason is, they never did the first step that was required under the rule in 1997, which is to identify high-risk homes from which you have to sample. What's become clear in Flint is they have never followed that first step, and therefore, frankly, all of their prior sampling results are invalid.

Mr. AMASH. Thank you for your testimony. My time has expired. Chairman CHAFFETZ. I thank the gentleman.

I now recognize Ms. Norton from Washington, D.C.

Ms. NORTON. Thank you very much, Mr. Chairman.

And I thank you for promptly convening this hearing.

Ms. Walters—seems to be only one hero in this episode, and it turns out to be a citizen. So on behalf of those of us on this panel, and I'm sure the citizens of Flint, I can only thank you. In our case, it was The Washington Post, and I should indicate what the point of my questions are.

This really should be a problem-solving exercise. Blame is pretty clear. The verdict is in. The responsibility of EPA going back to the crisis in the Nation's Capital, and now in Flint, and Heaven knows, in the State, I think has had even to be admitted. I want to alert my colleagues of the national implications of this hearing because if a high profile lead episode in the Nation's Capital didn't alert people in 2000, surely, this is the time for each of us to inquire of

the appropriate authorities if they are engaging in some of the tests that we had just heard described here.

In the District, there were late-term miscarriages and spontaneous abortions after an unusually high rate of lead was found in the water between 2000 and 2003. When a corrosion control substance was added to the water, miscarriages and spontaneous abortions reverted to the normal rate.

Ours was somewhat different. We have heard here about pre-flushing. Mr. Beauvais says, or at least I understand from the testimony, that there is a rule that says you can't pre-flush. But, of course, the EPA doesn't know if people are pre-flushing at all, and they were pre-flushing. And Flint and this is just to indicate what pre-flushing means, you are flushing away the lead. Then you test. Why? That is a deliberate, close to criminal act.

Mr. Beauvais, is there monitoring of pre-flushing, just that one notion? I don't mean that you go into every jurisdiction. I mean the kind of scientific monitoring that lets you know whether pre-flushing is going on by the EPA?

Mr. BEAUVAIS. The EPA task force in Flint has provided clear guidance to the MDEQ.

Ms. NORTON. Do you monitor whether or not, at this moment, pre-flushing is going on in jurisdictions, for example, that my colleagues represent?

Mr. BEAUVAIS. Pre-stagnation flushing is a concern that Dr. Edwards and others have brought to our concern, and it's something that we are looking closely at right now and at our oversight activities across the country.

Ms. NORTON. So the answer is no. So watch out everybody. When you are told that there is no lead in your water, they could be pre-flushing because nobody is looking to see whether pre-flushing is going on.

Mr. Creagh, you do concede fault, and you weren't there at the time, but then you go back to the lead and copper rule, and you talk about EPA and its urgency. The only official that has been cited here for understanding that there was a problem was Mr. Del Toral of the EPA. So I can understand that there's no consensus on the lead and copper rule. But let's look at the commonsense way that corrosion is controlled, I tell you, not only in the District of Columbia, but I'm sure all over the United States. You are not asserting, are you, Mr. Creagh, that you needed to somehow get a consensus—in your testimony, you used the word consensus—on the lead and copper rule before deciding to use corrosion control when you change sources of water?

Mr. BEAUVAIS. I am not.

Ms. NORTON. Could I ask you this? We know that this is a billion-dollar problem if you go to changing everybody's lead pipes. In the District, we had this terrible situation where people actually went to the trouble of changing the lead pipes in their own home, and it made the lead worse because unless the city deals with the lead pipes going from your home, then not only does that not cure the problem, it makes the problem worse. So watch out for changing the lead pipes. All over the United States of America, your pipes are full of lead. Neither the Federal Government nor your State—the Federal Government should have been pressing this,

should have been giving money for this. You should have been adding money of your own to change pipes or to use—that is a problem in our ancient water system. So I want to know how to get a quick fix now. These people are not going to remove themselves from Flint. They can't sell their homes now. Nobody wants to come to Flint, an already troubled area.

Let's look at, Mr. Creagh, let's look at corrosion control. That was the addition of a substance. That's how it's done in the United States. They are not yanking out every pipe. They are using this substance. Are you committed to using this substance? What is the cost of this substance, and how early can this chemical to control the lead to keep it from leaching into the water be inserted into the water supply? May I get a direct answer to that question?

Mr. CREAGH. Yes. That actually was—the additional phosphate was added on December 9, to increase the potential to phosphate those pipes. That's in progress and being done.

Ms. NORTON. Is the water now safe to drink?

Mr. CREAGH. We cannot guarantee at this point in time that the water is safe to drink, so, if you could, Mr. Chairman, could I—

Chairman CHAFFETZ. Sure.

Mr. CREAGH.—elaborate just a little bit?

Chairman CHAFFETZ. The gentlewoman's time is expired, but please answer the question.

Mr. CREAGH. Yes. So we've mapped the parcels in Flint that we know of. There's 56,000 parcels. We put them on a GIS database if you will, to Dr. Edwards' point. There's uncertainty as to where there is lead service lines. Out of 30,000 known, there is purported to be 5,200 of those. So what we are doing is we are overlaying that information and offload the information when I was going door to door and knocking on doors and talking to individuals, those that would be willing to be part of a sample. But then putting three-person teams in those homes, a plumber, someone who can actually address how do you take a sample so you don't pre-flush, so it's stagnant, so it is a wide-mouth bottle so that you pick them up on a routine basis and record it so that we can do that, and we are working with the EPA task force to see what type of time interval makes sense before with you can make that declarative statement.

Chairman CHAFFETZ. I thank the gentleman.

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

Mr. MICA. Thank you, Mr. Chairman.

And it's good to follow the gentlelady from the District because I was here in 1995 when we took over the District, put in a control board. At that time, if you think Flint is bad, the District, they had hundreds of bodies of indigents that were stacked like cord they couldn't bury. The kids were getting from a vendor only chicken and rice that were in the District's care. There were 60,000 people employed by the District. We had a crack-smoking mayor. We had about half a billion dollar—running about a half a billion dollar deficit. You don't have the Federal Government in Flint to take that up. So Flint isn't being picked up.

I remember when you had to boil the water. I remember what the gentlelady said: the water was not safe to drink in this building. They taped the water fountains up. They told people to boil the

water. Now, in government, we have a fundamental responsibility, and that is, this glass of water, that's our responsibility to make sure that water is pure and drinkable. You know, just for members' information, we called the superintendent's office to see if this was safe. They would not release to me, a Member of Congress, the tests here in the District. And I would ask unanimous consent that the committee just ask the superintendent to give us the information from the last 15 or 20 years, because I think we have a right to know if it's safe here in the Nation's Capital.

But I tell you, you are not being picked on alone. But when you look at this—and the District was taken over by a control board. There wasn't even a local though. Representative Kildee said there was not a local decision. Yeah, there was a 7–1 vote, as I understand, to let this happen. There was really nothing wrong with that water from the Flint River, was there, Mr. Edwards, if it was properly treated?

Mr. EDWARDS. If the minimum——

Mr. MICA. And the water tested when it came out of the plant was fine. What happened was that for—the gentleman from Michigan said, for lack of \$80 to \$100 a day, that's what you said, which is about, let me do the math. It is about \$30,000 a year, and it wasn't \$50 million we heard cited being cut or something. For that much money, we poisoned the kids in Flint. Didn't we? That's what we did. And we have—and she was properly termed a citizen and a hero. She is a citizen hero. She stepped up, Ms. Walters, thank God that you stepped up, and you persisted.

Look at the timeframe, though. They had the opportunity to act, to put the phosphate in to control the degradation of the pipes. That wasn't done. She alerted them, and that was back in—when did you do that in? What month?

Ms. WALTERS. That was in March of 2015.

Mr. MICA. In 2015, and it went on and on. And——

Ms. WALTERS. Do you know why the phosphates were not added?

Mr. MICA. Why?

Ms. WALTERS. Because they did not have the equipment at the treatment plant to add the phosphates.

Mr. MICA. Again, it's a simple solution that should have been placed—in place, and the State or the Federal Government, and you got blown off by the locals, right?

Ms. WALTERS. Yes, sir.

Mr. MICA. You got blown off by the State, right?

Ms. WALTERS. Yes, sir.

Mr. MICA. So you went to the Federal Government, and they failed you, right?

Ms. WALTERS. Everybody but Mr. Del Toral, sir.

Mr. MICA. Yes, exactly. And this is just unacceptable. We have a responsibility to these kids. Now, everybody has talked about blaming and accountability, and we should hold these people accountable. Now we have got the kids who have drunk this water and are bathed in this water. Every kid in that community should be tested. And then if there is residual results, don't you think that someone should be responsible? It should be the State government, the Federal Government, and the local government should be re-

sponsible to make certain those kids now and in the future are—well, first, we need to test them. Is that underway, Mr. Creagh?

Mr. CREAGH. Yes, sir, there's testing available.

Mr. MICA. Okay. And then we should set aside a fund, or whatever, because we should make certain that these kids are taken care of. And then Mr. Edwards said this is going on not just in Flint. It's going on in D.C. It's going on in Durham we heard testimony today. And it needs to stop. And we need to make certain the system works. Right, Mr. Edwards?

Mr. EDWARDS. That's correct.

Mr. MICA. Right, Mr. Creagh?

Mr. CREAGH. Yes, sir.

Mr. MICA. And you are new on the block.

Mr. BEAUVAIS. Yes, sir.

Mr. MICA. Thank you, Citizen Hero, we appreciate what you did. Thank you.

Chairman CHAFFETZ. Thank you.

The audience is reminded to hold their applause, please.

We will now recognize the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman.

We ought to be clear about Flint, arguably, one of the worst municipal environmental tragedies in the modern era in the United States, and it was manmade. And it is the consequence, actually, of implementing a political philosophy of Social Darwinism, of smaller government, of rabid anti-regulation, of attack, after attack, after attack on the EPA because our financiers don't like it.

Let's be very clear how Flint happened. It did not happen by accident. And it wasn't a 7-to-1 vote to switch the source of water. That was a vote to switch water authorities. They didn't vote on going to the river. And those who want to argue with "there is nothing wrong with the water, just add some phosphate to it," well, please, send a liter of that water to every one of my colleagues who want to take that position and watch them drink it.

This is the consequence of putting ideology ahead of human beings and their needs and their welfare. The difference in political philosophy matters. Political choices have consequences, and Flint is the most dramatic in our generation. I do J'accuse. I do lay this at the doorstep of those who share that philosophy, and I want to see the Governor at this table. If you're so passionate and sanctimonious about holding people accountable—and God knows we have done that in the 7 years I have been on this committee—then let's have Governor Snyder at this table explaining himself.

Mr. Creagh, in October of last year, the Governor appointed a task force, the Flint Water Advisory Task Force. And this is their report to the Governor. Is that correct?

Mr. CREAGH. They have issued some interim letters to the Governor.

Mr. CONNOLLY. But it's the Governor's appointed task force. Is that correct or not?

Mr. CREAGH. Yes, sir.

Mr. CONNOLLY. And let me see, on December 29, that interim letter you refer says, and I quote: "We believe primary responsibility for what happened in Flint rests with your department, the DEQ."

Although many individuals and entities at State and local levels contributed to creating and prolonging the problem, the Michigan Department of Environmental Quality is the government agency that has responsibility to assure safe drinking water in Michigan. It failed in that responsibility and must be held accountable for that failure.

Are you aware of that finding, that interim finding?

Mr. CREAGH. I read the letter, met with the committee a couple of times.

Mr. CONNOLLY. Do you take issue with it?

Mr. CREAGH. I do not.

Mr. CONNOLLY. So you agree?

Mr. CREAGH. In retrospect, I agree.

Mr. CONNOLLY. Okay. They then said, they actually characterized your agency's response, quote, "an abysmal public response to the crisis," unquote. Do you agree with that characterization?

Mr. CREAGH. In retrospect, I think that the auditor general agrees with that also, that we were minimalistic and legalistic in our behavior.

Mr. CONNOLLY. Mr. Edwards, is the primary responsibility here EPA's or DEQ's? How does it work?

Mr. EDWARDS. Without question, the primary responsibility is those paid to protect Michigan citizens from lead in water. That's their job, and that lies exclusively with the MDEQ.

Mr. CONNOLLY. And Professor Edwards, just so for the record, because we are seeing—we are hearing a little mushiness about that, let's blame the EPA. And EPA has some culpability here, no question. But in terms of water quality, isn't that how it works? The EPA relies on State DEQs, certainly in our State, Virginia, to carry out the responsibility of oversight of water quality primarily. Is that not the case?

Mr. CARTER. That's correct.

Mr. CONNOLLY. And in this case, were there warning flags at all for Michigan DEQ about switching the source of water in—before they did it?

Mr. EDWARDS. Well, if they weren't before they did it, as soon as they made the switch, there was warning sign, after warning sign.

Mr. CONNOLLY. And what did they do with those warning signs?

Mr. EDWARDS. They denied, denied, and denied that there was a problem.

Mr. CONNOLLY. And that put, Ms. Walters, people at risk. Is that not true? I give you the last word on how this happened.

Ms. WALTERS. Yes, it did put us at risk. It wasn't my job to figure out that there was no corrosion control in the water. They should have known that from the start.

Mr. CONNOLLY. You had a reasonable expectation, did you not, that you could rely on the government to protect you and your family?

Ms. WALTERS. Yes, I did.

Mr. CONNOLLY. Thank you very much.

I yield back.

Chairman CHAFFETZ. I now recognize the gentleman from Arizona, Mr. Gosar, for 5 minutes.

Mr. GOSAR. Thank you, Mr. Chairman.

Administrator Beauvais, thank you for appearing today. When did the EPA first learn of the high lead levels in Flint's water?

Mr. BEAUVAIS. I think there were indications in the spring of 2015 with the testing of Ms. Walters' house and some neighboring houses that very high lead levels were being found there.

Mr. GOSAR. Now, I understand the concept, you know—I deal a lot with water—that EPA, the environmental quality, but it's set up as a checks and balances. Wouldn't you agree, Mr. Beauvais?

Mr. BEAUVAIS. EPA has an oversight responsibility.

Mr. GOSAR. You do.

Would you agree, Mr. Edwards?

Mr. EDWARDS. Yes, I do.

Mr. GOSAR. So if something fails, there is another line that should come about. So I'm going to go along this line of EPA. When did EPA Administrator McCarthy first visit Flint about this crisis?

Mr. BEAUVAIS. I believe that yesterday was Administrator McCarthy's first visit to Flint.

Mr. GOSAR. Wasn't until yesterday that she visited for the first time. So the day before this hearing. So Administrator McCarthy knew about this crisis for 8 months but didn't visit Flint until the day before a congressional hearing?

Mr. BEAUVAIS. I don't believe that Administrator McCarthy knew about the crisis for 8 months.

Mr. GOSAR. Really, something dynamic as this, and you didn't relay that up the chain?

Mr. BEAUVAIS. Well, I came into this job in November of 2015, so I don't have personal knowledge of all of the communications that were done.

Mr. GOSAR. What's today?

Mr. BEAUVAIS. Today is February the 3rd.

Mr. GOSAR. It's February 2016. Right? To me, when you prioritize—and by the way, I'm a healthcare provider; I'm a dentist—you triage things like this. This is something that is a dynamic tragedy. It is an ongoing problem. Wouldn't you agree?

Mr. BEAUVAIS. I agree.

Mr. GOSAR. So wouldn't you put the highest priority on that application to figure out how—what went wrong and accept some of the blame and try to go forward? Would you not?

Mr. BEAUVAIS. This absolutely is our highest priority.

Mr. GOSAR. Well, it sure doesn't show it to me. Because if she knew in November, it's February before she shows up at Flint?

Mr. BEAUVAIS. The EPA has been intensively engaged in this situation since well before November.

Mr. GOSAR. Yeah, no, it's the same old thing. You have got to remember that this is the same EPA that knew about what was going to happen in a mine blowout in Colorado and now has a lot of people all the way down from Colorado, Utah, California, and Arizona all at risk because of some of their actions.

So, yes, everybody desires or should take some of the blame. But some of that blame goes to EPA, and it goes to the head honcho. Just like, for example, for me in my office, somebody comes into my office and something goes wrong. I'm accountable for that. I find it despicable that the Gina McCarthy, Administrator, shows up in Flint yesterday instead of going there immediately, particularly

when we see the outrage from the other side and from the people in this audience in regards to children and the lead poisoning that occurs. That's just despicable.

Administrator Beauvais, an EPA employee, Susan Hedman, tried to discuss the seriousness of this memo in emails in July 2015 by saying it was a draft, stating the memo should have never been released and stating that the memo never had final approval from the EPA hierarchy, having since resigned. Correct?

Mr. BEAUVAIS. Yes, Dr. Hedman has resigned.

Mr. GOSAR. Why did she resign?

Mr. BEAUVAIS. My understanding is that she resigned in order to make sure that the region and EPA could be fully focused on our response in Flint.

Mr. GOSAR. Why wasn't she fired?

Mr. BEAUVAIS. I can't answer that question. She stepped aside in order to make sure that we could focus all of our attention on—

Mr. GOSAR. Make sure that the Administrator has that question because we are going to ask that when the Administrator is here. Why wasn't she fired?

The initial memo was sent on June 24th. Ms. Hedman promised a final memo. Was the final memo ever released?

Mr. BEAUVAIS. I believe that the final memo was released in October.

Mr. GOSAR. It's November.

Mr. BEAUVAIS. November.

Mr. GOSAR. November. Was it a comprehensive memo that details the chronic-ness and dynamic aspect of this tragedy?

Mr. BEAUVAIS. This particular memo that Mr. Del Toral did was focused on the testing of lead at Mrs. Walters' house and the neighboring homes.

Mr. GOSAR. But this memo, I understand, is not even nearly the comprehensive aspect that—would you consider it a shell of a release?

Mr. BEAUVAIS. The memo was focused on the specific testing that was done at Mrs. Walters' house and the neighboring homes and was a comprehensive look at that situation. It is not the entirety of EPA's review of the situation.

Mr. GOSAR. Dr. Creagh, I appreciate your testimony today, and you are one person today that has accepted some responsibility. And your Governor freely did the same through this crisis even though there is fault all the way across. That is commendable. Do you believe this incident would have occurred had the Flint City Council not voted to change its water source?

Mr. CREAGH. I think this incident occurred because of the lack of orthophosphate being added.

Mr. GOSAR. No, but if you never made the change, you would have never had this catastrophic event, right?

Mr. CREAGH. That's a true statement.

Mr. GOSAR. What would have happened if the city would have followed the directions of its water utility consultant?

Mr. CREAGH. There were a couple of different consultants, and it would have minimized the problem.

Mr. GOSAR. And what would have happened if the city would have followed the corrosive, the proper corrosive treatment?

Mr. CREAGH. As Dr. Edwards stated, we would not have had this problem.

Mr. GOSAR. So a series of checks and balances, everybody pointing the finger, and nobody wanting to take the blame except yourself and the Governor. I find that very humbly bad that the government is not being part of the solution here.

So, with that, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I now recognize—

Mr. CUMMINGS. Me.

Chairman CHAFFETZ. —the ranking member, Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, I was going to let Mr. Cartwright go, but, Mr. Creagh, I'm getting very concerned about your testimony because I want to remind you that you are sworn to tell the truth, the whole truth, and nothing but the truth. So let's go over what you've just said.

And I have got to get it right in here, because I'm kind of concerned because I don't want the public to not see this for the accurate truth.

Mr. Creagh, Governor Snyder recently named you as the new head of the Michigan Department of Environmental Quality. Last month, your boss, Governor Snyder—and I'm hoping he's watching, by the way—gave his 2016 State of the State address. In his speech, Governor Snyder seemed to take responsibility for the Flint crisis stating that and I quote, "The buck stops here with me," and that quote, "I take full responsibility to fix the problem so that it will never happen again."

However, in the same breath, Governor Snyder also tried to blame the city of Flint. It sounds like you are doing right now, and he said this, and I quote, "This crisis began in the spring of 2013 when the Flint City Council voted 7 to 1 to buy water from the Karegnondi Water Authority."

Mr. Creagh, do you agree with Governor Snyder's statement?

Mr. CREAGH. The question that I responded to, sir, was if they would never have changed their water source, would this issue have happened? And I believe that's a true statement because they were on Detroit water and sewer department water, which was phosphated, and they had a 30-year history. So I apologize if I misrepresented.

Mr. CUMMINGS. I'm not finished. Just hold on. I'm not finished. We reviewed the resolution passed by the city council and the minutes from the meeting. At no point during the meeting did the city council vote to allow the Flint River to be used for drinking water. Isn't that correct, Mr. Creagh?

Mr. CREAGH. I haven't reviewed those personally, but that's my understanding.

Mr. CUMMINGS. Mr. Chairman, I would like to introduce into the record, a letter we just received yesterday from Sheldon A. Neeley, who served on the city council from 2005 to 2014. He was actually there. He was there, Mr. Creagh. All right? In his letter, Mr. Neeley explains that the city council did not—do we have the letter? Where is the letter? Have you got it? Where's the letter? Oh, they have it. In his letter, Mr. Neeley explains that the city council did not make the decision to use the Flint River because quote:

“The Flint City Council had no power to actually enact any laws for the community. Everything went through the emergency manager,” end of quote, who was appointed by the Governor. He also says this, and I quote—did you need something, Mr. Chairman?

Chairman CHAFFETZ. No, I wanted to enter that letter.

Mr. CUMMINGS. Okay. Oh, yeah, would you please?

Chairman CHAFFETZ. We will enter it into the record.

Without objection, so ordered.

Mr. CUMMINGS. You’re making me nervous. This is what he said: It was the emergency manager, Ed Kurtz, who made the decision to use the Flint River as a primary source of drinking water for the City of Flint.

Mr. Creagh, are you aware of Mr. Kurtz’ actions?

Mr. CREAGH. No, sir, I was not in this seat at the time.

Mr. CUMMINGS. And Mr. Creagh, so Mr. Neeley also wrote that quote: “Governor Snyder’s account of events leading to this water crisis are completely wrong,” end of quote.

Why would Governor Snyder try to blame the city council for this decision when it was his own appointee who made it and you have a city council that has no authority? There’s something wrong with that. That’s why I interjected here, because I want the truth, the whole truth, and nothing but the truth.

Now, let me ask you. I’m not finished. Do you have any reason to believe that Mr. Neeley is not telling the truth?

Mr. CREAGH. I have no reason to believe.

Mr. CUMMINGS. Now Mr. Neeley’s letter is supported by statements from Flint’s former mayor, Dayne Walling. On January 22, 2016, he stated and I quote: “After city council and I expressed support for a new water supply from Lake Huron, the emergency manager, Edward Kurtz, went behind closed doors with the Department of Environmental Quality and decided to use the Flint River as an interim source, made the budget changes, and put that in place,” end of quote.

Were you aware Mayor Walling’s statement?

Mr. CREAGH. I am not.

Mr. CUMMINGS. All right. Based on the evidence, it seems that Governor Snyder was trying to blame the city of Flint for actions of his own appointee, and he did this in his State of the State address to the entire population of Flint.

Now, let me ask you something else. Are the people paying right now in Flint for water they cannot wash in and cannot use and cannot drink? Are they paying water bills? And is it a part of the recovery? You said you want to make them whole. Is that part of it? Why are they—why would they be paying for water that they cannot even use, that is poisoning them? That’s not American. As Mr. Chairman said, this is not a Third World country. Are they paying those bills? Are you going to relieve them of that?

Mr. CREAGH. Everyone deserves safe drinking water, and that’s the expectation. And, yesterday, the Governor introduced a supplemental for \$30 million to help with that issue. The number one issue, as we have spoken with the mayor, is to make sure the utility remains solvent. And the billing is actually more of a city issue, but we understand and respect that, and everyone deserves water that is safe.

Mr. CUMMINGS. Mr. Chairman, as I close, these are people who are struggling. They are struggling. They have come over here all the way here from Flint, and I don't know how they got here. I guess on a bus. But the fact that they are here. But, you know what, Mr. Creagh and Mr. Chairman, they are also Americans. They are also Americans, just like you and just like your children. And I don't—and I want to be real, real, real clear. And the chairman will bear me out on this. I have said I don't care whether it's EPA, whether it's local, whether it's State. I want everybody who is responsible for this fiasco to be held accountable. I'm not protecting anybody because that's not our job. We are the last line of defense, and if we don't do it, nobody is going to do it.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

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

Mr. MEADOWS. Thank you, Mr. Chairman.

Thank you, Ms. Walters, for your testimony. Truly, it has made a profound difference in such a way—I'm from North Carolina, a long way away from Flint, Michigan. But in a way, we are connected. I got texts this morning from people who have been affected by Region 4, not Region 5, but with water quality issues for years and the EPA's failure to address them.

Now, the troubling thing for me is that what I hear from our water quality EPA official is that they are going to just let the Office of Inspector General do their work. Now, the problem with that is—and I have high regard for that particular inspector general. In fact, I can tell you, Ms. Walters, that they will continue to look at it in a very detailed way. But it will not be enough. There is more than enough blame to go around. The problem is there is not enough answers to be shared. And so I'm going to come to the EPA and ask you, since FOIA is under my subcommittee—and the FOIA request allows the public to look at documents often used in a regular basis by reporters. And I'm troubled to hear that the FOIA request that Dr. Edwards has made has actually—you haven't complied with the law. What do you say to that?

Mr. BEAUVAIS. My understanding is that we are actively working to respond.

Mr. MEADOWS. Active is not enough. Let me just tell you, we have got families that are suffering, and there's a law that says that you have to respond within 21 days. So what do you say to Dr. Edwards, who has been requesting information, because as I understand, Dr. Edwards, and if you will help me with this, that you have made requests both of the State and of the Feds. Who has been more responsive to you, Dr. Edwards?

Mr. EDWARDS. The State of Michigan has been very responsive.

Mr. MEADOWS. And so how many documents of what you've requested from the EPA have you received to date?

Mr. EDWARDS. I'd have to check, but I still have FOIAs outstanding from 9 years ago in Washington, D.C., that I appealed in 2005 and that an attorney from EPA just contacted me 1 month ago about. So there—

Mr. MEADOWS. Nine years.

Mr. EDWARDS. Nine years.

Mr. MEADOWS. Let me tell you the trouble that I have with this. We have a site in western North Carolina called CTS. You're familiar with that, I'm sure, aren't you?

Mr. BEAUVAIS. I have heard about the site. I do not have direct personal knowledge about it.

Mr. MEADOWS. Okay. I would ask, since you're new to the job, that you get some personal knowledge.

Mr. BEAUVAIS. Yes, sir.

Mr. MEADOWS. Because we have a recurring theme here. We have unbelievable regulations that come down, and then the EPA does not enforce their own regulations. There's a problem with that, don't you think?

Mr. BEAUVAIS. It's important for EPA to enforce its regulations.

Mr. MEADOWS. Can you share with me your rationale, why it would take 9 years to answer a FOIA request for Dr. Edwards?

Mr. BEAUVAIS. I have no idea. I'm not familiar with the specific request at issue.

Mr. MEADOWS. Okay. What commitment do we have from you today to get those FOIA responses answered as it relates to the Flint, Michigan, issue?

Mr. BEAUVAIS. I will take that back and ensure that it gets—

Mr. MEADOWS. Okay, you're going to take it back. When can this committee and when can Dr. Edwards expect a response? Is the law clear?

Mr. BEAUVAIS. I believe that the law is clear on the timeframes for response. I will take that back and ensure that it's a high priority.

Mr. MEADOWS. All right. So, obviously, you prepared for this hearing this morning. When you were talking about the information that needed to be shared with the people of Flint, what was your own internal guidance among your attorneys? A couple, I guess, are sitting behind you. What did you recommend that you share?

Because what happens is everybody gets lawyered up and then they do nothing. And I can tell you, from a bipartisan standpoint, this Republican from western North Carolina is going to work with Democrats from Michigan to make sure that not only you are held accountable but the State is held accountable and all those who have been involved in this are held accountable, because we've got children—it could have been my children in Flint, Michigan, and I'm not going to forget that. It could have been your children.

So what kind of commitment do we have from you to get the documents to this committee so that we can figure out who's to blame?

Mr. BEAUVAIS. My understanding is that there have been discussions between committee staff and the agency and that a commitment has been made to work expeditiously to get unredacted copies of certain FOIA documents that were released as well as documents related to the committee's request.

Mr. MEADOWS. So do you think the 60 days is enough time?

Mr. BEAUVAIS. My understanding is that actually the agency has agreed to provide some documents that we can provide by the end of this week.

Mr. MEADOWS. Very good.

I yield back.

Chairman CHAFFETZ. Thank you to the gentleman.

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

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

I'd like to associate myself with the remarks of the ranking member, Mr. Cummings. And not to put too fine a point on it, what we see here is the responsible, the culpable party being caught red-handed, so red-handed that he had to admit his blame and apologize to the Nation and to Flint, this Governor of Michigan and his emergency manager, hand-picked, to save money—in keeping with his philosophy of government, to save money on infrastructure at the expense of public safety. He got caught red-handed poisoning children in Flint and the residents of Flint. There's no two ways about it. That's the headline here.

But, you know, criminals, when they get caught red-handed, you know what they start to do right away? They start to try to spread the blame. Oh, there's plenty of blame to go around, I heard. There's plenty of blame to go around. So let's just put aside the fact that the Governor of Michigan got caught red-handed poisoning his citizens. Let's forget about that. Let's also try to blame the Flint local officials.

You know, Representative Kildee from Flint got up here, and he testified, and he made a very prescient point that it's an attempt to create an equivalency of blame. That's what I say; they're spreading the blame out. And anytime somebody says something about a seven-to-one vote in Flint, that is exactly what Dan Kildee's talking about, is people trying to put the blame on the local officials in Flint, blame that has no place in the local officials in Flint. This is the Governor of Michigan at fault, his emergency managers.

And I was saddened to hear my colleague from Florida say out loud, talk about the seven-to-one vote. They voted seven to one not to switch the Flint River water; they voted seven to one on something completely different. So that's ridiculous. And it is a reprehensible attempt to achieve what Dan Kildee calls the equivalency of blame and something that criminal defendants always do when they get caught red-handed.

Now, Mr. Creagh, I want to talk about what the State did. It made a decision not to use the Flint River, and then it reversed that decision. Am I correct on that?

Mr. CREAGH. I wasn't party to a decision—

Mr. CARTWRIGHT. You weren't there. Okay.

According to press reports, one of Governor Snyder's emergency managers for Flint, a Mr. Jerry Ambrose—is he here today? Can anybody tell me why Jerry Ambrose is not here today? Can anybody tell me why the Governor of Michigan is not here today? Because he's hiding. That's what's happening.

Ambrose testified in a sworn deposition that in 2012 the Governor's previous emergency manager in Flint, Ed Kurtz, had rejected a previous proposal to use Flint River water as a primary source of drinking water.

Are you aware of that decision, Mr. Creagh?

Mr. CREAGH. I am not.

Mr. CARTWRIGHT. Well, let me read it to you. It said this, and I quote: "It was a collective decision of the emergency management team based on conversations with the DEQ that indicated they would not be supportive of the use of Flint River on a long-term basis as a primary source of water."

Mr. Creagh, when Mr. Ambrose was asked why your department made that recommendation, he replied, and I quote, "You'll have to ask them."

So I'm asking you, as the head of MDEQ, why did your department previously oppose the use of Flint River water as a primary source back in 2012?

Mr. CREAGH. I don't have knowledge as to that conversation or decision.

Mr. CARTWRIGHT. You don't know. Your predecessor was Dan Wyant, and that's why we've called for his deposition, Mr. Chairman, and I press that request.

I'm trying to figure out what happened between 2012 when your department, Mr. Creagh, opposed using the Flint River and 2014 when you reversed course and signed off on permits to allow it. And you can't explain that to us because you weren't there at the time, right?

Mr. CREAGH. That's correct.

Mr. CARTWRIGHT. Okay.

We're having a hearing here in Washington, D.C., with witnesses who do not have personal knowledge of the subject. How crazy is that? How interested are we, really, in getting at the facts when they bring here witnesses who don't know what went on?

Mr. Creagh, in a press release dated April 25, 2014, Michael Prysby of your department stated, "The quality of the water being put out meets all of our drinking water standards and Flint water is safe to drink." He said that. You know that, right?

Mr. CREAGH. Correct.

Mr. CARTWRIGHT. It was a lie, wasn't it?

Mr. CREAGH. Mr. Prysby was—his comment was in relationship to the water leaving the plant, making sure it met safe drinking water standards. And that's what he based that comment on.

Mr. CARTWRIGHT. Mr. Chairman, I'm out of time. I hope you'll designate a minority day of hearings as soon as possible so that we could have witnesses who actually know what the facts were at the time.

And I yield back.

Chairman CHAFFETZ. The gentleman from Georgia, Mr. Hice, is now recognized for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Mr. Beauvais, I want to begin with you. The lead and copper rule may not nearly be as protected as previously considered. The Safe Drinking Water Act requires that the lead and copper rule be updated every 6 years. Are you aware of that?

Mr. BEAUVAIS. There is a provision in the Safe Drinking Water Act requiring a review of the regulations.

Mr. HICE. When was the last time that it was updated?

Mr. BEAUVAIS. 2007 is the last time that the rule was updated.

Mr. HICE. Why is the EPA so far behind?

Mr. BEAUVAIS. We've been working actively. We wanted to get advice from our National Drinking Water Advisory Council with regard to the revisions that will be proposed, and we also received advice from a number of other stakeholders——

Mr. HICE. How many years does it take to get the information in order to abide by what you are required to do?

Mr. BEAUVAIS. This is a high priority for us, and it's essential that we move forward with revisions to the rule.

Mr. HICE. This is a high priority for all of us.

I don't know, Mr. Chairman, that there's been more of a catastrophe in government handling of an issue since Hurricane Katrina. This is absolutely a trainwreck in every way. And the EPA is so far behind, not doing the job.

When will the updated version be ready?

Mr. BEAUVAIS. The current schedule for proposing revisions to the rule had a proposal coming in 2017. It's important that we take actions even in advance of completing any revisions to the rule to review how the current rule is being implemented. Dr. Edwards and others have raised a number of important issues with regard to the implementation of the current rule, and so we're actively going to be working——

Mr. HICE. My question is, when will it be ready?

Mr. BEAUVAIS. My expectation at this point in time is that it would be proposed in 2017.

Mr. HICE. Do we have your commit that it will be early 2017?

Mr. BEAUVAIS. I certainly would hope that the agency——

Mr. HICE. You realize that's yet another year——

Mr. BEAUVAIS. I do.

Mr. HICE. —to get done something that should have been done, what, 4 years ago now?

Do we have your commitment that it will be done in early 2017?

Mr. BEAUVAIS. I can commitment that our work on the lead and copper rule revisions will be one of the highest priorities in my office, as well as work to address implementation of the current rule.

Mr. HICE. When Mr. Del Toral produced his memo finding the high levels of lead in the drinking water in June, where did that memo go?

Mr. BEAUVAIS. My understanding is that Mr. Del Toral gave the memo directly to Ms. Walters, whose home was the subject of the testing. My understanding is that that was then provided to a reporter and that it went out into the public.

Mr. HICE. Well, at some point, Mr. Del Toral was on a leave of absence. Who worked on this issue in his absence?

Mr. BEAUVAIS. I'm not aware that he was placed on leave of absence.

Mr. HICE. Okay.

Mr. Edwards, let me go to you. Do you believe in any way that the EPA's management of this whole thing hindered its employees from having the ability to do their job in Flint?

Mr. EDWARDS. Absolutely.

Mr. HICE. Absolutely. Okay. Do you believe that the EPA's management made the lead crisis in Flint worse?

Mr. EDWARDS. Absolutely.

Mr. HICE. Absolutely. Who at the EPA do you find fault?

Mr. EDWARDS. Susan Hedman.

Mr. HICE. Pardon me?

Mr. EDWARDS. Ms. Susan Hedman, who had the memo buried, covered up, and stood silent as Mr. Del Toral was publicly discredited for his work. When she was questioned by politicians from all parties 3 years later, September of this year, she discounted that there was anything of concern in Flint occurring at all. And that includes Mayor Walling, people from the State government, as well as Democratic congressional staff.

Mr. HICE. Okay.

Mr. Chairman, has the letter from John O'Grady, the EPA union representative, yet been entered into the record?

Chairman CHAFFETZ. Sorry, which letter?

Mr. HICE. From John O'Grady.

Chairman CHAFFETZ. If it hasn't, we will enter it. Without objection, so ordered.

Mr. HICE. Okay. Thank you, Mr. Chairman.

Let me go back, if I can, Mr. Beauvais, to you. Are you aware of any other situations in Region 5 where there may be the potential of contaminated water?

Mr. BEAUVAIS. I am aware of a recent situation with regard to Sebring, Ohio, where there has been a concern with high lead levels in the drinking water system, of which EPA was made aware just within the last week. And my understanding is that action is being taken with regard to that situation. I believe that EPA staff have been on the ground actually as of yesterday in Sebring looking at that situation.

Mr. HICE. What about other regions throughout the country?

Mr. BEAUVAIS. There are drinking water issues across the country that we are monitoring actively and working with our State partners to address.

Mr. HICE. Mr. Chairman, my time has expired. I thank you. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

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

Ms. KELLY. Thank you, Mr. Chair. And I want to thank you and Ranking Member Cummings for having this hearing.

I also want to thank Rep. Kildee and Rep. Lawrence for their leadership on this issue.

I also associate myself with the remarks from Rep. Lawrence and Ranking Member Cummings. We need to get the folks here who can answer the question of why this happened. And I hope when we have another hearing that Mr. Del Toral will be here, as well as the Governor and other people we deem necessary.

I want to thank the residents of Flint for being here.

And, Ms. Walters, thank you so much for all of your efforts and for your testimony.

On November 20, 2015, the EPA's Flint Drinking Water Task Force commented on Flint's residential drinking water lead and copper sampling instructions. The task force made several recommendations, including removing preflushing from the sample collection process. The task force concluded, and I quote, "These

changes should be made to all of the sampling recommendations or instructions from MDEQ to all systems, not just Flint.”

Mr. Creagh, do you agree that these changes should be made statewide?

Mr. CREAGH. I agree, and those changes have been made.

Ms. KELLY. They have been made?

Mr. CREAGH. Yes.

Ms. KELLY. So, okay, they’re across Michigan.

Dr. Edwards, do you feel that these recommendations by the EPA task force should apply across the Nation?

Mr. EDWARDS. Yes, absolutely.

Ms. KELLY. And would you include anything else in the recommendation?

Mr. EDWARDS. No, that—well, obviously, that the utilities should be following the protocol for identifying the high-risk sampling pool. All across the United States, they’re supposed to be sampling from the homes that are highest risk for lead in water, and there’s very real reason to believe that’s not occurring. And the whole effectiveness of the rule is based on that first step as well.

Ms. KELLY. Okay.

Mr. Beauvais, what are the barriers to EPA applying these recommendations across the country?

Mr. BEAUVAIS. My understanding is that we can follow it with making these recommendations across the country, and we’re actively working on that. In terms of regulatory requirements, those issues will have to be taken up in the revisions to the rule.

Ms. KELLY. Okay. I think that this change should be pursued if it means that we will get a more accurate picture of lead contamination in our drinking water across the Nation and stop future lead water crises from happening. We must stop these problems at the most basic level of detection and ensure that we are getting accurate information.

We also must stop playing with people’s lives when practicing government on the cheap as well as systemic environmental discrimination.

I yield the rest of my time to Representative Lawrence.

Mrs. LAWRENCE. Thank you.

I want to just emphasize something, and we can’t say this enough. When we say we’re pointing fingers, there is the Federal Government, EPA, and there’s the State government. Because under the emergency manager act in Michigan, the local government, the city of Flint, has no government authority.

So the decisions that were made and the actions that were taken, we can look at the State level and we can look at the Federal level. I want to be clear about that. All of us who live in Michigan clearly understand the emergency manager act. It comes in and it dissolves home rule. And the emergency manager reports only—only—to the State government, and that’s our Governor.

I also want to say, when we were saying that the EPA had not showed up until this last week when the new Secretary showed up—I want to enter this into the record. January the 21st, there was a United States EPA Office of Enforcement and Compliance Assurance letter submitted to the city saying that, as a result, the

EPA is issuing an SDWA emergency order to make sure that the necessary actions to protect public health happen immediately.

In addition to that, because of a failure of the State, the State no longer has the responsibility of testing the water in Flint. Just this last week, it was taken over—or this week—it was taken over by EPA because of the failure of the State to comply with this order.

And so it may have come late, but to say nothing had happened from EPA to that point—and, again, there was documented a failure on the State's part to actually collect and test the water.

So we have, again, the State and the Federal Government. If we're talking about pointing fingers—and that's not why I'm here. I'm not pointing fingers. I want the truth, and I want this corrected.

Thank you. I yield back.

Chairman CHAFFETZ. As to the document, we'll enter that into the record unless there's an objection. But, without objection, so ordered.

Chairman CHAFFETZ. I now recognize the gentleman from Oklahoma, Mr. Russell, for 5 minutes.

Mr. RUSSELL. Thank you, Mr. Chairman.

Dr. Edwards, Ms. Walters, thank you for your courage in this issue and for exposing for the Nation when things fail.

Mr. Beauvais, what is the fundamental core mission of the EPA?

Mr. BEAUVAIS. Protection of public health and the environment.

Mr. RUSSELL. I see. You stated that the lead and copper rule was updated in 2007; yet, from our facts, we see that the lead and copper rule has not been finalized in any long-term update in 25 years. Why is that?

Mr. BEAUVAIS. There have been efforts to update the rule periodically over time. It was updated most recently in 2007. The long-term revisions to the rule are what we're working on right now.

Mr. RUSSELL. "What we're working on." So, for 25 years, we've been working on them.

In the last decade, the EPA has issued about a thousand rules a year, and yet the lead and copper rule has not been finalized in 25. When do you expect that that will be done?

Mr. BEAUVAIS. As I said before, my expectation is that we'll propose the rule in 2017.

Mr. RUSSELL. Well, according to EPA's agenda that was released last fall, it stated that the agency hopes to finalize the rule in 2018. So, once again, we see a moving target. We've got it, we'll take it back, we'll get back to you, we're working on it. That's not the core mission of protecting the health of people where they live, where they work, and where they recreate.

In fact, we've seen in cases in Flint that General Motors determined that the water was so substandard that they shut it down. They said, we're not going to use that water. It was unfit for a work environment. And yet we've seen procedures that have moved on that made the community even more at risk over time.

Dr. Edwards, do you believe that the EPA is violating the law and its statutory requirements?

Mr. EDWARDS. Yes, I do. I don't think they're following or enforcing the law.

Mr. RUSSELL. What do you believe has created this shift away from the EPA's core mission?

Mr. EDWARDS. Well, they have a very cozy relationship with water utilities. That's a good example of regulatory capture, I think. They're not listening to voices of people who have been harmed by this regulation in Washington, D.C., Durham, and Flint. And that's what happens when you listen to one group and ignore the people who are betrayed by this rule.

Mr. RUSSELL. For 25 years, the lead and copper rule has been a problem. Communities don't really have certainty. They don't have finalization. So now a patchwork of requirements exist nationwide. How do we fix it?

Mr. EDWARDS. Well, for starters, you could enforce the existing law. I think—

Mr. RUSSELL. Imagine that.

Mr. EDWARDS. —the existing law would have stopped Flint. It would have stopped Washington, D.C. if it wasn't for all these extra instructions that are being added to the rule, allowing people to throw out samples for eight different reasons, none of these things would have happened.

So all I want is for them to enforce the existing law. That's all I've been requesting, and my colleagues that have been working on this for the last 10 years in Washington, D.C.

Mr. RUSSELL. Mr. Beauvais, we see that there's been a statutory requirement to do updates and mandates, and yet, you know, by your testimony, we see dates all around that really don't sync with previous statements from the EPA as far as, you know, when this lead and copper rule would be mandated. We've heard testimony that not only is convincing but it's condemning to the priorities of the EPA.

What's your answer to this?

Mr. BEAUVAIS. I want to emphasize that it's EPA's position and it has been EPA's position throughout this situation that the water system in Flint was required to apply corrosion control upon making the switch to Flint River water. That is a conclusion and a view that MDEQ resisted throughout this process. And if that rule had been observed here and corrosion control had been applied, this situation would not have occurred.

Mr. RUSSELL. And yet we have a trail of emails, Mr. Beauvais, where your own agency and Region 5 tried to belittle, obstruct, and pretty much eliminate the voices from the community. And yet now you're going to shift that to the Michigan DEQ? Is that what I'm hearing you say?

Mr. BEAUVAIS. Certainly, when we look back on this situation, knowing what we know now, everyone should have done everything humanly possible to avoid this situation. At EPA, we need to go back and look and understand what happened and make sure that it never happens again. But I do think it's important to remember how we got in this situation.

Mr. RUSSELL. 1991, 2004, 2007. What's it going to be again? How many more Ms. Walters are we going to have to hear? Which city is next?

Get the rule finalized. You owe it to the American people. We have certain expectations. And while we all have our different opin-

ions about the thousands of rules that get passed here in the last decade, I think this one, with lead and copper in drinking water, is pretty important.

With that, Mr. Chairman, I'll yield back my time.

Chairman CHAFFETZ. I thank the gentleman.

We will now recognize the gentleman from California, Mr. Lieu, for 5 minutes.

Mr. LIEU. Thank you, Mr. Chair.

Let's call what happened in Flint what it is: a crime of epic proportions. We have tens of thousands of women, men, and children poisoned by lead when it leached from the lead metal pipes. Those most responsible know who they are. They should resign, and some of them should be prosecuted.

I'd like to focus today my comments and questions on how do you make this right for the residents of Flint. I believe we help make it right by giving them a permanent solution. That means replacing their lead pipes.

[Applause.]

Mr. LIEU. So I want to enter, first of all, into the record, Mr. Chair, an article from Salon dated Monday, January 25, by Antioaneta Roussi about Flint.

Chairman CHAFFETZ. Without objection, so ordered.

And I would remind the audience that no applause or booing or any reaction from the audience would be appropriate for this hearing. Thank you.

Mr. LIEU. Mr. Creagh, let me read a few sentences from this article, "The Safe Drinking Water Act required the EPA to set standards for the concentration of lead in public pipes, with a push for lead-free. This steered the country on a road toward replacing old water pipes with PVC, also known as plastic pipes, as an eco-friendly alternative. However, many poorer municipalities instead turned to anticorrosive agents as a cheaper and faster solution."

Had Flint had plastic pipes, we wouldn't be sitting here today, correct?

Mr. CREAGH. That's correct.

Mr. LIEU. And even with anticorrosion agents, over time the metal pipes still corrode. Isn't that correct?

Mr. CREAGH. Yes, sir.

Could I amend my earlier answer? Even with plastic pipes, you would still have to look at the fixtures within the various facilities. And so I just wanted to put a little sharper point on that.

Mr. LIEU. Thank you.

Mr. CREAGH. Thank you.

Mr. LIEU. And we have over 850 water main breaks a day in America caused by corrosion, even with anticorrosion agents in the water. Isn't that roughly correct, Mr. Creagh?

Mr. CREAGH. I do not know that number.

Mr. LIEU. We have a lot of water main breaks, correct?

Mr. CREAGH. That's a true statement.

Mr. LIEU. All right.

So I want to enter now into the record an article. It says, "Flint Water Crisis: Mayor Says 'Lead Pipes Have Got to Go.'" NBC News. Could I enter that into the record, Mr. Chair?

Chairman CHAFFETZ. Without objection, so ordered.

Mr. LIEU. Would you agree, Mr. Creagh, with Flint Mayor Karen Weaver that there needs to be the rapid removal of lead pipes now and to be replaced with a nonlead alternative instead of the Band-Aid solution of just anticorrosive agents or simply recoating these lead pipes?

Mr. CREAGH. I think it's a complicated issue, as Congresswoman Norton had pointed out that partial replacement may cause additional problems. And so that's the reason we're working with the experts to make sure that whatever happens does not—

Mr. LIEU. What about full replacement with plastic pipes or other nonlead pipes?

Mr. CREAGH. That certainly would be one solution.

Mr. LIEU. Okay.

I'm going to now ask you another question. Are you aware that many newer, wealthier cities in America and Canada have switched to plastic pipes as an alternative to lead pipes?

Mr. CREAGH. I think there's a prohibition that was in the building codes to prohibit the continued use of lead pipes.

Mr. LIEU. Okay.

So let me switch to Mr. Beauvais of the Federal EPA.

I'd like to enter into the record, Mr. Chair, a report from the National Resources Defense Council. It says, "Study Finds Safety of Drinking Water in U.S. Cities At Risk." NRDC reports on drinking water systems in 19 cities and found that pollution, old pipes, and outdated treatment threaten tap water quality.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. LIEU. Mr. Beauvais, we really have a national problem, don't we, of lead pipes all around America that leach lead into the water system even with anticorrosive agents, correct?

Mr. BEAUVAIS. There are millions of lead service lines across the country in thousands of systems, and this is a challenge for us nationwide.

Mr. LIEU. And we have hundreds of water main breaks because those pipes are being corroded, correct?

Mr. BEAUVAIS. Yes, we have significant water main breaks.

Mr. LIEU. And there are nonlead alternatives, such as plastic piping or other pipes, that would not leach lead into the water supply, correct?

Mr. BEAUVAIS. In lieu of lead service lines, yes.

Mr. LIEU. Now, is there an EPA rule on plastic pipes?

Mr. BEAUVAIS. I'm not aware of a specific rule on plastic pipes.

Mr. LIEU. And there's an EPA rule on lead and copper because those are toxic, correct?

Mr. BEAUVAIS. That's correct.

Mr. LIEU. Okay. Is there any reason the EPA doesn't look at having municipalities switch to plastic pipes or other nonlead alternatives?

Mr. BEAUVAIS. There actually are lead service line replacement requirements that can be triggered under the lead and copper rule that exists today when certain action levels are exceeded. This will be a major subject of engagement and analysis in the lead and copper rule revisions. We have advice from the National Drinking Water Advisory Council and from other stakeholders on these issues.

It's important to remember that, even as we look at issues of full lead service line replacements, I believe Dr. Edwards and others have advised that if that's going to be done it has to be done correctly in order not to actually create bigger problems.

Mr. LIEU. Thank you.

I'm going to make a request of the chairman and then yield back. If you have another hearing, I do ask that perhaps we have a witness that can talk about how we solve this on an ongoing basis.

Chairman CHAFFETZ. I thank the gentleman.

I now recognize the gentleman from South Carolina, Mr. Mulvaney, for 5 minutes.

Mr. MULVANEY. I thank the chairman.

And I thought something that Ms. Eleanor Holmes Norton mentioned earlier was very insightful, which is I think the purpose here is really to sort of treat this as a problem-solving exercise versus a blame-laying. There will be plenty of time for that and also other people involved with that. Folks are, some of you, very new to this process.

I want to go back and look at the timeline for a little bit. Help me understand this.

Mr. Beauvais, you said that the EPA learned about this in the spring of 2015. By the way, do you have a month on that, just for filling in the timeline?

Mr. BEAUVAIS. My understanding is that EPA first learned that the city was not applying corrosion control to its system in late April of 2015.

Mr. MULVANEY. April 2015.

Now, when did Flint move the water supply to the Flint River, Mr. Creagh?

Mr. CREAGH. I believe that was moved in April of 2014.

Mr. MULVANEY. Okay.

Mr. CREAGH. But I'll check that with our timeline here for accuracy, sir.

Mr. MULVANEY. Does that generally comport with—

Mr. CREAGH. Yes.

Mr. MULVANEY. And is it generally your understanding that they did not use the phosphate or other similar treatment from the very beginning?

Mr. CREAGH. Yes.

Mr. MULVANEY. Okay.

Dr. Edwards, I want to ask you a question. If I start pulling water out of the Flint River and I put it through these particular pipes, how long will it take before the water has an impact on the quality of the drinking water that people are drinking?

Mr. EDWARDS. It has—

Mr. MULVANEY. Is it immediate? Does it take a couple months for it to break down the lining of the pipes? How long does that take?

Mr. EDWARDS. It takes a period of weeks to about a month. And that's when the first consumer complaint started arising about red water, which is iron rust falling into the water.

Mr. MULVANEY. So, give or take, now we're at May of 2014. We're still 11 months from the EPA knowing about it. But here we are, May of 2014.

Mr. Creagh, I think you said that it was the city's responsibility to certify that the standards had been met. How often are they supposed to do that?

Mr. CREAGH. I think it's on an annual basis. I believe it's on an annual basis.

Mr. MULVANEY. On an annual basis. Okay. So when was the most relevant certification in that 2014–2015 timeline?

Mr. CREAGH. So I'll sharpen my answer. I believe that they send in monthly results, but I think that there's an annual review.

Mr. MULVANEY. All right. So let's focus on the monthly results first. So they're sending results to you folks every month on the quality of the water in Flint, right?

Mr. CREAGH. Well, I'm not saying I have any expertise on the particulars of the reporting aspect. So I really can't speak to that directly.

Mr. MULVANEY. Okay, but Dr. Edwards is nodding his head. So, clearly, somebody—what does the city do on that? You see what I'm trying to get to.

Mr. CREAGH. There's a monthly report on—

Mr. MULVANEY. Okay.

Mr. CREAGH. —distribution system monitoring.

Mr. MULVANEY. Did the monthly report that the city of Flint was delivering beginning in April of 2014 show that the water quality in Flint was a problem?

Mr. CREAGH. It's my understanding it didn't, that it met the Safe Drinking Water Act quality parameters.

Mr. MULVANEY. Okay. Did the city ever send a report, the monthly report, that said the water didn't meet the standards, ever?

Mr. CREAGH. No. It's a different question, and question and answer and question and answer. But let me just help you with that, sir?

Mr. MULVANEY. Sure.

Mr. CREAGH. So the water quality parameters that are required under the Safe Drinking Water Act don't necessarily ask for lead to be tested at that point in time.

Mr. MULVANEY. Okay. Wow.

Is that true, that the EPA doesn't require them to send information on lead?

Mr. BEAUVAIS. I believe that you may be talking about two different things, Mr. Congressman.

Mr. MULVANEY. It's possible. I don't know anything about this.

Mr. BEAUVAIS. The water quality parameter monitoring, as I understand it, at the drinking water—compliance with the lead and copper rule is actually monitored and tested through samples that are taken in the distribution system, because lead leaches into the water from the lead service lines and so forth. And so those samples are not taken at the water treatment plant.

I want to add, however, that in 2014 the Flint system actually had multiple violations of Safe Drinking Water Act standards, including the total coliform rule and the disinfection byproducts rule.

Mr. MULVANEY. It's unfortunate we only have 5 minutes. We can't do a proper deposition in 5 minutes, especially with four wit-

nesses. So I apologize, I'm not going to—I've got a lot more questions on the timeline.

Let me skip ahead to another question, which is Mr. Palmer just showed me something that says that my State does not report to the CDC on lead in water. Do they report to the EPA, Mr. Beauvais? This is South Carolina.

Mr. BEAUVAIS. With regard to lead in water, well, the South Carolina State government would be the primacy agency in South Carolina.

Mr. MULVANEY. But do they tell you?

Mr. BEAUVAIS. Those results are reported up through the EPA's data system.

Mr. MULVANEY. So while South Carolina might not tell CDC, the Centers for Disease Control, they may tell the EPA about the quality of the water, including lead presence in my water in South Carolina.

Mr. BEAUVAIS. I would expect so, yes.

Mr. MULVANEY. And did Michigan do the same thing?

Mr. BEAUVAIS. Ultimately, yes.

Mr. MULVANEY. Okay.

Again, my time is up. And I apologize, that wasn't very fruitful, but I'd like to continue this another time if we can.

Thank you, Mr. Chairman.

Chairman CHAFFETZ. I thank the gentleman.

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

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

I've listened to this entire panel discussion, and I have to tell you, I have—my questions are going to be directed first to Mr. Creagh, and then I have a question for Mr. Beauvais.

It is clear to me that the responsibility doesn't lie with the local officials, because the local officials were as much victims as the unelected local residents. But you, Mr. Creagh, as the director of the Department of Environmental Quality, whatever it's called in Michigan, you, at that level, you are primarily responsible. You and the Governor of the State of New Jersey—the State of Michigan—I've got that problem in New Jersey, just to be clear. But the Governor placing those individuals in that responsibility over the city of Flint, Michigan, and then taking all authority away from the elected officials in the city of Michigan, you have primary responsibility here. And your apology after the fact rings hollow.

So I have a couple of questions. Mr. Creagh, your boss, Governor Snyder, appointed emergency managers for the city of Flint from 2011 through 2015. Based on the law, Governor Snyder, championed in 2011, his emergency managers took over all the powers exercised by Flint's city council and the mayor. If his emergency managers was something the elected representatives of Flint didn't like, there was nothing that they could do about it.

On March 23, 2015, the city council attempted to reverse the decision to use Flint River water. They adopted a resolution by a vote of seven to one, and I quote, to return to the Detroit Water and Sewerage Department for the purchase of water for its citizens.

Mr. Creagh, are you aware of that resolution and that vote?

Mr. CREAGH. I have not seen that resolution.

Mrs. WATSON COLEMAN. The problem is that Flint was still under the control of the emergency manager, Jerry Ambrose in this case.

The next day, on March 24, 2015, Mr. Ambrose overruled the city council's vote. Let me read to you what he said, and I quote: "Flint water today is safe by all EPA and MDEQ standards, and the city is working daily to improve its quality. Water from Detroit is no safer than water from Flint."

Are you aware of that statement?

Mr. CREAGH. I am not.

Mrs. WATSON COLEMAN. Mr. Ambrose called the effort by the city council to stop using Flint River water, and I quote, "incomprehensible."

Mr. Creagh, do you agree that Mr. Ambrose's actions were an absolutely horrible decision for the people of Flint?

Mr. CREAGH. I cannot address Mr. Ambrose's actions. I can say that the plant in Flint had been used historically as a backup water supply utilizing the Flint River, had passed its performance standards, had been tested on a quarterly basis—

Mrs. WATSON COLEMAN. That's very interesting, Mr. Creagh, that I'm sitting here looking at water being held in baby bottles and water bottles that looks like lemonade and iced tea and not clear water.

Mr. Creagh, if Mr. Ambrose let the city council's decision to stand, the actual amount of lead exposure in Flint would have been reduced. Is that not so? Can you say "yes" or "no" to that?

Mr. CREAGH. I'm sorry, would you repeat that one more time?

Mrs. WATSON COLEMAN. If he had let the city council's resolution to return to the Detroit water system as a source of water, would the actual amount of lead exposure in Flint—would it have been reduced?

Mr. CREAGH. I believe that's a true statement.

Mrs. WATSON COLEMAN. Mrs. Walters, this decision by the Governor's emergency manager for Mr. Ambrose came after the State was told about the extremely high levels of lead in your house in February, right?

Ms. WALTERS. Correct, February 25 and March 17.

Mrs. WATSON COLEMAN. And I'm so very sorry for you and the residents and the children of the city of Flint. It seems to me that the decision by the Governor's emergency manager was one of the worst actions in this entire debacle.

Mr. Creagh, how long have you been involved in State government at the director level in other departments?

Mr. CREAGH. I was the director of the Michigan Department of Agriculture from January of 2010 through July of 2011 and director of the Michigan Department of Natural Resources from that time until January 4.

Mrs. WATSON COLEMAN. Do you consider yourself a member of Governor Snyder's team?

Mr. CREAGH. I'm a member of Governor Snyder's cabinet.

Mrs. WATSON COLEMAN. Do you know who owns the Karegnondi Water Authority? And do you know if there is any relationship between any of the principals of that authority to the Governor, to

his campaigns, or to the party that is represented by the Governor in the State of Michigan?

Mr. CREAGH. I have no such knowledge of that.

Mrs. WATSON COLEMAN. Okay.

Finally, Mr. Beauvais, what is the most that you could have done as a department of EPA to correct this problem had you responded in a timely and sufficient manner? What is the extent of your authority? What could you have done?

Mr. BEAUVAIS. Congresswoman, that's an excellent question, and I think that's exactly what we need to take a look at right now.

The EPA needs to look at—the EPA was working with MDEQ to try to get it to do the right thing. But the questions that we need to ask are, at what point in time should the EPA either have forced MDEQ to do the right thing or provided the public directly with information?

Mrs. WATSON COLEMAN. That is my question.

Mr. Chairman, if I just might explore this 1 second?

Chairman CHAFFETZ. One more, yes.

Mrs. WATSON COLEMAN. What do you mean when you said should EPA have forced the situation? What could EPA do within its authority that could have forced the situation?

Mr. BEAUVAIS. I don't want to speculate with regard to the specific facts and specific timelines. I do recognize that EPA has emergency response authority under the Safe Drinking Water Act.

Mrs. WATSON COLEMAN. Thanks. And for the record, I wanted it noted that you didn't answer my question.

Thank you.

Thank you, Mr. Chairman.

Chairman CHAFFETZ. Duly noted.

We will now recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. Beauvais, in December of 2000, EPA put out this report on America's children and the environment. And on page 41, it says there is no demonstrated safe concentration of lead in the blood. No demonstrated concentration, none.

Is that still the EPA's opinion?

Mr. BEAUVAIS. There is no safe level of lead exposure.

Mr. PALMER. All right.

Following up on questions that have been asked by several members about the lead and copper rule, the last time it was updated was 2007. Prior to that, it was 1991. The Safe Drinking Water Act requires that the lead and copper rule be updated at least every 6 years. Can you explain to me why we're delaying this out to 2017, possibly 2018?

Mr. BEAUVAIS. The current process involves soliciting advice and input from our National Drinking Water Advisory Council, which includes representatives—

Mr. PALMER. Mr. Beauvais, you had an EPA official put out a report about what was going on in Flint, Michigan. You didn't need to solicit anything else. You could've acted. You've got a roomful of people here now who have been impacted because of it. So what are you waiting on?

Mr. BEAUVAIS. We are not waiting. And I want to emphasize that the revisions to the rule, while very important, are not the primary issue with regard to the Flint situation.

Mr. PALMER. I understand that, but I'm just—look, following up on Mr. Mulvaney's question about reporting to the CDC, there's a report, 2014, of the counties that have elevated lead levels. Of the top 10, number one and number three are in Alabama. I don't know of anything that the EPA has done on that.

Does the EPA get the data from the CDC and act on it?

Mr. BEAUVAIS. I would expect that the EPA has access to the data from CDC.

Mr. PALMER. I didn't ask you that. I'm sure you've got access to the data. Do you act on it? Because these aren't the only kids in here that are impacted by lead levels. So do you act on it?

Mr. BEAUVAIS. Absolutely. Blood lead levels are affected by multiple sources of lead, including lead in paint and lead in soil. And the EPA has programs, along with our State partners, that address all these issues. Lead in drinking water also is important.

Mr. PALMER. Let me direct something to Mr. Edwards.

Mr. Edwards, it appears to me that the irony of this is the EPA wants to regulate everything. You know, they want to regulate ditch water and puddles in backyards. Yet, in Georgia, they had a toxic spill; they initially denied responsibility for it. You had another EPA whistleblower, Dave Lewis, one of your top scientists, who revealed that the EPA was involved in this, released an enormous amount of toxic material into the groundwater, into the creek, including lead, and EPA tried to cover that up.

What do you know about that, Dr. Edwards?

Mr. EDWARDS. Nothing. I know David Lewis and I respect him, but I don't know the specifics of that case.

Mr. PALMER. Well, the specifics of the case is that the EPA violated their own rule on releasing lead into groundwater. And this blows my mind. You've got people whose lives are going to be—I mean, kids whose lives are going to be affected into adulthood because of this. It's not just a Flint problem. This is across the board.

I can't remember who it was that made this point, but the EPA has failed in its responsibility. It's lost credibility. And this problem, I think, it's beyond—I mean, it's not just the EPA. There's malfeasance at EPA. I think there's problems at the State level, at the local level.

And as it has been pointed out, as Mr. Mulvaney pointed out, I'm not so much interested in the blame. And you have to figure out where the problem is before you fix it. But my interest is in fixing the problem, make sure that we don't ever have to have another group of people come in here with their children, in front of this committee or any other congressional committee, to try to get the government to do what it's supposed to do.

Mr. Chairman, I yield back the balance of my time.

Chairman CHAFFETZ. I thank the gentleman.

We will now recognize the gentlewoman from the Virgin Islands, Ms. Plaskett, for 5 minutes.

Ms. PLASKETT. Thank you, Mr. Chairman, thank you, Mr. Ranking Member, for the opportunity to speak with these witnesses today.

I first want to let the people of Flint, Michigan, know that you have my and my constituents' heartfelt condolences on what's happened and the devastation that's going to occur to you all in the days—in the years moving forward.

A few days ago, the Boston Globe ran an article that advocates that Flint and its tainted water epitomizes the worst kind of environmental racism at the hands of government agencies. That conclusion may be true, but what is happening in Flint is really just symptomatic of what is happening in economically disadvantaged neighborhoods all across America regardless of the race of the inhabitants. It continues to happen because America tolerates environmental hazards and polluting of the poor and people of color every day.

The lead and other contaminants in Flint water is just one kind of environmental hazard. For many other economically challenged communities, toxic chemicals are stored in nearby facilities or used abundantly in manufacturing plants.

Everyone appears to be shocked and surprised by what has happened in Flint, Michigan. Unfortunately, it's really unfortunate, but I'm not shocked at all. I'm not shocked because this is par for the course. This is business as usual in America. It's unfortunate and a travesty that we have crises like these occurring around the country every day, whether it's toxic drinking water, toxic land, subhuman tenements, crumbling schools.

For the most part, the common denominator is communities that are majority minority, low-income, socioeconomically challenged areas. That's the common factors in most of those places where we find that. That's the common denominator in Flint, along with other places. Eleanor Holmes Norton talked about it in D.C. certain Americans don't count for much.

Governors, Federal agencies, State emergency managers want to wag their fingers at towns for telling them that they don't manage their money properly and bring overseers over them who don't want to expend the money in the right manner to support those areas.

Unfortunately, this Congress is the same. We create select committees and drive all kinds of important people to testify over issues that they think are important—that they think are important. Not to disparage or make light of the gravity of the incident, but this Congress created the Benghazi Committee over the death of four Americans. That committee has spent nearly \$6 million to investigate that, but we can't get the Governor of Michigan at this hearing to give responses for actions that are going to affect 9,000 children. That's a shame. And that's business as usual.

But I want to talk about the money that was spent and where that money was spent.

Mr. Creagh, there are many people in the Michigan State government that could have stopped this tragedy from occurring, and despite the fact that they oversaw and contributed to this tragedy, Governor Snyder continues to place them in positions of increasing responsibility.

Let's take the emergency manager as an example. Mr. Creagh, did you know that Mr. Earley was paid \$180,000 for doing his job as the emergency manager?

Mr. CREAGH. I did not.

Ms. PLASKETT. I have an article here in a Detroit newspaper that talks about that.

During Mr. Earley's tenure, tens of thousands of men, women, and children were exposed to extremely unhealthy levels of lead. Yet Governor Snyder then rewarded him, that same Mr. Earley, with the new position of emergency manager of Detroit's public school system.

Mr. Creagh, did you know that Mr. Earley received a salary on that job and what that salary was?

Mr. CREAGH. I'm not aware of Mr. Earley's salary.

Ms. PLASKETT. Did you know that he received a salary of \$221,000, received a promotion and a \$41,000 raise for that position?

Mr. Creagh, do you think that Governor Snyder was exercising good judgment in promoting Mr. Earley after the job he did in Flint's water crisis?

Mr. CREAGH. Mr. Earley's salary is between the Governor and himself.

Ms. PLASKETT. I didn't ask you about his salary. I asked you whether it was good judgment in promoting him to that position.

Mr. CREAGH. I'm not in a position to refer to the Governor's judgment.

Ms. PLASKETT. And I think maybe others here would believe that, based on his abysmal performance in Flint, do you think he deserves to be appointed to another job that involves taking care of the health and safety of thousands of children?

So, Ms. Walters, are you aware that Mr. Earley's salary was paid for by Flint, the town, not the State of Michigan?

Ms. WALTERS. No, I was not.

Ms. PLASKETT. That it's your tax dollars that were paying for him to do the job that he did on those children.

So Governor Snyder, for reasons only he knows, rewarded Mr. Earley for the job he did in Flint with another job that paid him \$221,000.

Mr. Chairman, I want to thank you for your attempt to subpoena Mr. Earley to appear here today. And I'm going to ask you to continue your attempt to enforce that subpoena and that Mr. Earley, along with the Governor, will appear in front of this committee in another hearing in short order.

Thank you for the time.

Chairman CHAFFETZ. Thank you.

I now recognize myself for 5 minutes.

In Congress, we have obviously chief jurisdiction on the Federal Government, the EPA. We have a more limited role, by the very nature of tax dollars and accountability, at the State level. There's still a role, but nevertheless it's still less. Our focus, many times, on the Federal component is one primarily of jurisdiction, dollars, power of the purse. That's why I feel so adamantly about it. It is not to excuse what happened at the city or at the State level. But the remedy on how to deal with this often is at the city, county, or State level, and we will still look at those things.

And, clearly, there is no doubt in anybody's mind that there were dramatic failures at the city level, at the State level. And there is

a complete case to be made about the need to look at what happened between that State emergency manager, the Governor's office, the Michigan Environmental Quality. I understand that. But a lot of our focus will naturally be upon the EPA because of the nature of it being a Federal entity and this being the United States Congress.

With that said, we've had something festering at the EPA for a long period of time. And often where there's smoke, there's a bigger fire. Remember, it was Gina McCarthy, the EPA now-Administrator, who was overseeing a guy named John Beale who was dealing with air quality. It's one of the few times the administration actually prosecuted, and he had to serve time in jail for fraud. She got a promotion. Now she's in charge of the EPA.

Here's my question for Mr. Beauvais. And this is my frustration. You've said that it's a high priority, but what evidence do you support to us or can you give to us that this is a high priority for the EPA?

In July of last year, we highlighted the problems in Region 5. We talked about Susan Hedman. We talked about the sexual misconduct. We had three people who stepped up and said we've got a problem here. Was anything done about that that you're aware of?

Mr. BEAUVAIS. I'm not privy to personnel discussions and matters within EPA 5—

Chairman CHAFFETZ. Nothing. She just retired—no consequence—on Monday.

And so my point is, when we have these discussions and hearings and you've got three whistleblowers, good, decent, hard-working, patriotic people saying we've got a problem here, you have sexual misconduct, you have retaliation, guess what? It bleeds over. And so then you have a good person, like Mr. Del Toral, who steps up.

What's the lesson that is learned?

Mr. BEAUVAIS. I actually think that Mr. Del Toral is representative of the vast majority of EPA employees, who are incredibly dedicated—

Chairman CHAFFETZ. But you're here testifying that it's a high priority. He brings that up—he went to her house in February, correct? And it isn't until January of the following—it took a year from the time he first showed up at Ms. Walters' home till the EPA actually issued a directive, correct?

Mr. BEAUVAIS. EPA was working with MDEQ to try to get them to do the right thing. Ultimately—

Chairman CHAFFETZ. They were suppressing those reports. They were telling they were preliminary.

Mr. Edwards, what did you see as you looked at those documents. Were they trying to do that, or were they trying to suppress the evidence?

Mr. EDWARDS. EPA was aiding, abetting, and emboldening MDEQ's coverup of this problem.

Chairman CHAFFETZ. How do you respond to that?

Mr. BEAUVAIS. I think that the specific facts of those matters ought to be looked at by the IG—

Chairman CHAFFETZ. We're looking at them right here today.

Mr. BEAUVAIS. I understand——

Chairman CHAFFETZ. You're in charge of water quality. He's telling you that they aided and abetted the making sure that that information didn't get out. Why?

Mr. BEAUVAIS. My understanding is that they were working with MDEQ to try to get action taken on the issue, but it——

Chairman CHAFFETZ. That's not what the evidence shows. That's not what those documents show. They kept saying that they were preliminary, you shouldn't rely on that data, don't look at that data.

Is that correct, Mr. Edwards?

Mr. EDWARDS. That's absolutely correct.

Chairman CHAFFETZ. What's your response to that?

Mr. BEAUVAIS. I can't speak for the specific statements that were made in those communications. My understanding is that EPA was working closely with MDEQ to try to get them to do the right thing; that in July they agreed the corrosion control needed to be applied; that in August they sent a letter to the city saying the corrosion control should be applied; and that——

Chairman CHAFFETZ. Okay. Let's——

Mr. BEAUVAIS. —the city announced in September that corrosion control would be applied.

Chairman CHAFFETZ. Let's talk about the right thing to do. What's the number-one thing you do if you're trying to warn the citizens, let the citizens know? What's the number-one thing you should let them know?

Mr. BEAUVAIS. I think that that's exactly the right question to ask.

Chairman CHAFFETZ. I'm asking you that question. And I'm glad you agree it's the exact right question. You're from the EPA; you're in charge of water quality. I want to know what the answer is.

Mr. BEAUVAIS. It's important for EPA to go back and understand all the facts——

Chairman CHAFFETZ. No, it's not. No, it's not. It's important for the EPA to tell the public that they're poisoning their kids if they drink the water.

Mr. BEAUVAIS. I absolutely agree, and——

Chairman CHAFFETZ. Then why didn't they do it? They sat on that for almost a year.

Mr. BEAUVAIS. Administrator McCarthy issued an elevation policy this January emphasizing——

Chairman CHAFFETZ. This January. They had it for nearly a year. The EPA Administrator went to Flint yesterday. The EPA first went to her home in February of last year. Why did it take a year?

Mr. BEAUVAIS. I can't answer that question. All I can say is that they were working with——

Chairman CHAFFETZ. Then why don't we fire the whole lot of them? What good is the EPA if they're not going to do that?

If you're not going to telling the citizens—my daughter, okay, she's getting married. I get emotional about that. She's moving to Michigan. Are you telling me that the EPA, knowing that they're putting lead in—there's lead in the water, that they're not going to tell those kids?

Because that's exactly what happened. They knew that. Mr. Del Toral knew that, didn't he? When did he know that?

Mr. BEAUVAIS. Mr. Del Toral did testing on Ms. Walters' water in early 2015 and knew that the lead levels were incredibly high in her water.

Chairman CHAFFETZ. And when was that?

Mr. BEAUVAIS. I believe that it was in February of 2015.

Chairman CHAFFETZ. Yes. Why wasn't that made public?

Mr. BEAUVAIS. I don't know the answer to that question. I think that they—

Chairman CHAFFETZ. You can't come to a hearing before Congress and be in charge of water quality for the EPA and not know the answer to that question. You can't. You've got to know why that is.

And don't tell me that some inspector general is going to come look at that. That ain't good enough. We keep hearing that. That ain't good enough.

The crying shame here is, when they knew there was a problem, they should have told the public. They should have told DEQ. They should have told the experts. And they should have been out there to warn people like Ms. Walters.

General Motors knew about this and stopped using the water, for goodness' sake. But you know what? The families don't have the resources that General Motors does.

Mr. Edwards, when do you think they knew, and when should they have actually made that public?

Mr. EDWARDS. I think they should have made it public as soon as Ms. Walters figured out that her child was lead poisoned and they were not following the Federal law. But even if you excuse that, when Mr. Del Toral put his professional career on the line to have that memo written and gave it to LeeAnne, when they started covering up at that point, I really personally believe it was criminal.

Chairman CHAFFETZ. And that's why we will continue to investigate this.

One other thing. And I appreciate the generosity of the time. Why has the EPA failed to fulfill the FOIA request? This committee has jurisdiction on FOIA. We have done a reform package that Mr. Cummings was very involved with. When Mr. Edwards, he works for—for his life on studying water. We need good people like Mr. Edwards to be able to access the data and the information of the EPA. Why can't we fulfill these FOIA requests? Because you are supposed to do it in 21 days, as Mr. Meadows pointed out, and it has been 9 years. When is he going to get that information?

Mr. BEAUVAIS. I don't know the specifics with regard to the FOIA requests, but as I said before, I will take this back and ensure that it's a high priority.

Chairman CHAFFETZ. I think that's a fair answer for this question. I appreciate the EPA responding to us in that regard in a timely manner. But we have to know the answer to that question. You can't play hide the documents. Here, I have gone way past my time. We have other members who need to ask questions.

So let me yield back, and we will go to Mr. Clay for 5 minutes.

Mr. CLAY. And thank you, Mr. Chairman.

If Governor Snyder was here, I'd sure like to ask him if the water was toxic in Grosse Pointe instead of Flint, would you have denied it for a year? And would you have stood by and stonewalled while those children were poisoned with neurotoxins?

Mr. Chairman, we need to use that same passion that we just heard from you to get Governor Snyder here and get him on the record so that we all know what was going through his administration and through his mind to allow this to continue. This is a pattern. This is a pattern in Michigan, and as Ms. Plaskett said, it's a pattern all over this country, how communities of color as well as low- and moderate-income communities are victims of environmental injustice.

You know, and I represent St. Louis, so there are ample examples of how this environmental racism plays out, how we had a facility next to a Boys & Girls Club where 1,000 kids were exposed daily to PCBs left by manufacturing plants, to lead, and overexposure to other toxins.

Let me ask Mrs. Walters. I am so sorry that you and your family, like so many of your neighbors, are living through this manmade nightmare. As a father, I can well remember the fear and anger I felt when my own daughter tested positive for lead at a very young age. And that was a long time ago, and she is doing fine today. But I want to ask you first: How are your children?

Ms. WALTERS. My children are dealing with health issues. The one with the lead poisoning has a compromised immune system, and he has only gained 3-and-a-half pounds in the last year.

Mr. CLAY. So you believe they have suffered serious impairment.

Ms. WALTERS. Yes, sir. He is still dealing with the anemia, and he has developed speech issues.

Mr. CLAY. Let me ask you, and I'm going to ask—this is for the entire panel. How do we repair the damage that has been caused by the gross negligence of the State of Michigan in protecting its citizens? How do we repair the damage to your children, to your neighbors, and even possibly to you? How do we do that, Ms. Walters? Let's start here, and I want to go down the table.

Ms. WALTERS. First, we take responsibility for what's happened. Then we change the laws and quit talking about the NDWAC. The NDWAC is not there to represent the people that the EPA is getting their guidance from. They are there to represent utilities and protect utilities. Let's get that on the record right now. There is only one person that's been on the NDWAC fighting against what's being represented there. And that's why I keep saying, if what the NDWAC is suggesting is adopted by the EPA, it will, what happened in Flint will happen throughout the United States. There is a very big possibility.

Second of all, we need to make sure that the children, and all the people in Flint are taken care of healthwise. I know my children are going to need help with that. I know other children in the city are going to need help with that—and not just children under the age of 6. I know a 15-year-old who has severe liver issues now, who has lead poisoning; a 44-year-old man who had an eye stroke because of problems with his blood pressure with his lead poisoning. So doing right for the people is going to be making sure we are taken care of and making sure we get clean water, get the

pipes replaced once we have the science behind it to see exactly what we need to do to get the replacement done.

Mr. CLAY. Thank you for that response.

Mr. EDWARDS, how do we repair the damage, the physical and the mental health effects of what has occurred?

Mr. EDWARDS. Well, the fact of the matter is that the damage from lead is irreversible. That's why we have to work on primary prevention and make sure nothing like this ever happens.

That's why we have these laws, but we can take steps to ameliorate the harm and these are being proposed by Dr. Mona Hanna-Attisha and Hurley and the local medical community.

Mr. CLAY. Yeah.

Mr. EDWARDS. And we support those recommendations wholeheartedly.

In terms of the trauma of the citizens of Flint, that's going to take a lot longer to repair because they have been fundamentally betrayed by the very agencies who have been paid to protect them, and we need to get trustworthy people at these agencies doing their job before we can even talk about restoring trust of the people of Flint.

Mr. CLAY. Thank you.

Mr. Creagh, anything to add how we can help the people of Flint.

Mr. CREAGH. Both of the individuals to my left said it well. We have to accept responsibility. We have to change so it never happens again. We have to work with the community, because this is a crisis. It's a tragedy in Flint. And as you said, very eloquently, if it was your child or my grandchild, it's not acceptable.

Mr. CLAY. It's not acceptable.

Mr. Beauvais.

Mr. BEAUVAIS. I agree that it's critical, but we, first of all, do everything that we can to help the citizens of Flint get the drinking water system back online and also to help ensure that resources get to the community to meet the recommendations of Dr. Mona Hanna-Attisha and others with regard to the kids and the folks in that community.

Going forward, we also need to work on the issues that we have discussed with regard to strengthening the rules and strengthening implementation of the rules. And we will be listening to all stakeholders as we work on that process.

Mr. CLAY. And I know my time is up, Madam Chair, but this should never happen again in this country. All of—this was all about the sake of austerity and saving a few dollars. And this is tragic.

I yield back.

Mrs. LUMMIS. [Presiding.] I thank the gentleman and recognize the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Thank you.

Mr. Beauvais, this is for you. Mr. Del Toral was—we have had previous hearings showing we have big problems with this agency. Apparently, a lot of time servers who, not only with the public but with, you know, their fellow employees, have displayed a tremendous lack of caring and compassion for people. Mr. Del Toral was ringing the alarm here over a year ago. He was sending out emails. Could you let us know how many other employees in the EPA you

think Mr. Del Toral had alerted that the children of Flint were being poisoned?

Mr. BEAUVAIS. I don't have precise information on the number of employees that were privy to the information.

Mr. GROTHMAN. He was sending out emails, wasn't he, to people?

Mr. BEAUVAIS. My understanding is, yes. I don't want to give inaccurate information with regard to how broad that circle was.

Mr. GROTHMAN. Dozens, 30, 50?

Mr. BEAUVAIS. I don't know the answer to that.

Mr. GROTHMAN. Okay. Well, why don't we see if we can get that answer eventually? I'd like to know how many employees in the EPA knew that the children of Flint were being poisoned and didn't care.

The next question for Ms. Walters. Like the other Congressmen, I would like to thank you for all you have done. Can I ask your educational background? Do you have any special training that allowed you to seem to expose this thing that none of the battalions at EPA could get around exposing?

Ms. WALTERS. I have my degree as a medical assistant. And I just decided to start researching and educating myself about water, and I had to figure out what was going on after I was publicly humiliated by the State—by Mike Prysby at the MDEQ and Jerry Ambrose in a public meeting with the citizens.

Mr. GROTHMAN. Shows one more time, having a lot of heart is more important than having a lot of worthless college degrees. So thank you very much for what you have done.

Next question for, I guess I'll ask—well, maybe Mr. Edwards will know the answer to this. I want to find out exactly, physically, how many people in each of the three relevant agencies—and we have got the city of Flint; we have the State of Michigan; the EPA—physically when these results—or presumably they test the water in Flint regularly. Right?

Mr. EDWARDS. Right.

Mr. GROTHMAN. And how often do they test it? Once a week, once a month?

Mr. EDWARDS. Once every 6 months.

Mr. GROTHMAN. Okay, and when was the first time that bad tests were available?

Mr. EDWARDS. Well, very clearly in early 2015, in my opinion, they actually failed the lead and copper rule, but they took steps to cover up the high lead. One of the ironies of this is that as National Guard's people walked the streets of Flint and distributed bottled water, there has never been an admission that Flint failed the lead and copper rule. So if you look at what MDEQ did and the fact they didn't sample the high-risk homes and they invalidated samples, it just shows what a joke this regulation is.

Mr. GROTHMAN. Okay, and at that time, who would have known the problem? Would the city manager have known? Would Michigan Environmental Quality—I assume they knew. The EPA knew. Did they all know by that time?

Mr. EDWARDS. There were certainly many employees at EPA and MDEQ who knew they were not following the Federal corrosion control law. That should be enough, one would think. You wouldn't

think you would have to wait around for lead and water to spike and lead in children's blood to spike before anything is done.

Mr. GROTHMAN. Okay. So they should have been ringing the alarm over a year ago. They all knew, and they all just—it's not in my city, so what do I care, kind of.

Mr. EDWARDS. You have to ask them. I don't know.

Mr. GROTHMAN. Okay. That's it.

I will yield the rest of my time.

Mrs. LUMMIS. The gentleman yields back.

The chair recognizes the woman from New Mexico, Ms. Lujan Grisham.

Ms. LUJAN GRISHAM. Thank you, Madam Chair.

And clear to me, in addition to the really disturbing nature of the issues that we are trying to identify what we could do to prevent them clearly in the future, I think there's plenty of blame to go around everywhere because the whole aspect here is to have as many eyes on these sorts of situations as possible. But I'm going to actually go back and focus on the States. I was the former secretary of health in New Mexico, and we actually had an arsenic problem in water in a northern county. And the second we know there are elevated levels, whether that's the environment department's core job or whether that is the local, the municipality government's job, we provide that information and that data and set up a public health protocol and then make sure all of our other partners are clearly doing their jobs, because at the end of the day, everybody in government's core job is the public health and safety of the citizens that you represent and are, frankly, sworn to protect.

So I want to talk a little bit about the pediatrician who was seeing elevated levels of lead. Dr. Mona Hanna-Attisha, who I think other folks have identified as the Flint pediatrician who really demonstrated, by virtue of the patient data that she had, that we are seeing pediatric youth being poisoned throughout the city. And trying to get data to identify the source, make sure that you can then correlate that data, so you have got a plan of action that then protects everybody else, that's exactly what you need to do. And my understanding is, is that this pediatrician went to the Department of Health and wanted their data about what was going on.

And, in fact, I have here, Madam Chair, emails from the Department of Health that I want to provide and ask for consent to have them as part of the record. The email communications from the Governor's Office to the Department of Health docs and public health employees is not to share any data until they have a press conference, which looks to me by virtue of the information I have in front of me, that they are making political decisions before they make appropriate decisions for the public health of the community.

How many more kids were drinking water during the time they prepped for a press conference? How many more pediatricians were without enough sufficient information? I want to just also tell you that the Governor's communication plan, this is what it states specifically: The data not be shared until the press conference starts at 1:30.

Now, the coworkers responded that they will wait and that everyone was waiting for permission to provide, to give the data.

So, Mr. Creagh, can you explain to me why the Governor's Office is instructing their independent medical personnel and public health personnel to refrain from giving data to a licensed pediatrician who was working to provide care to patients in her community related to a press conference, please?

Mr. CREAGH. I can't speak for the director of the Department of Health and Human Services. I can say that Dr. Mona Hanna-Attisha did some great work and zeroed in on some areas, and that that drove the decisionmaking and identified the problem. And we appreciate that.

Ms. LUJAN GRISHAM. Well, isn't it true that in all of the States' departments of health you have got a team of epidemiologists whose job it is when anyone identifies any issues of this nature, that it is more like a SWAT team. They are in those communities. They are identifying a source. They are working together. We help fund those initiatives in all of the States. And yet we have a political communication that you are new; you can't really state. But isn't it true that that's typically the job of those departments of health to actually not just provide the data but then engage directly to address the problem? Why weren't they engaged? Why didn't the Governor's Office immediately demand that the epidemiology team in your public health or chief medical officer be on site? That would be against, as I understand it, that protocol for all States.

Mr. CREAGH. So Michigan has very similar protocols to the State that you were at, where there's epidemiologists and healthcare professionals that respond to those type of public health emergencies.

Ms. LUJAN GRISHAM. So how do you rebut that this was purposeful then in nature, given that those protocols that you are familiar with as someone new and I'm familiar with, without being a public health doc or an epidemiologist—that that's exactly why we have those resources in place so that, A, we hope to prevent these situations, but by God, when we know about them, we immediately engage to prevent any other harm or damage.

Mrs. LUMMIS. The gentlewoman's time has expired.

The emails will be admitted. Without objection, so ordered.

Ms. LUJAN GRISHAM. I yield back.

Mrs. LUMMIS. The chair will now recognize herself for 5 minutes.

My questions are for Ms. Walters and Mr. Edwards.

Mr. Edwards, your questions will come last and will be very open-ended.

Ms. Walters, I want to talk to you about Mr. Del Toral. And when did you meet him first?

Ms. WALTERS. The first time I met him in person was in April of 2015.

Mrs. LUMMIS. And could you tell me what happened at that meeting?

Ms. WALTERS. He had come into my home because he was being told that my plumbing was the problem, my internal plumbing. So he came to verify that all of my plumbing was plastic; and to check out the home, check out the area, take pictures; and spoke with us about what was going on.

Mrs. LUMMIS. What happened to him and the information he derived from that discussion thereafter?

Ms. WALTERS. It went on for him to come back out on another day to do sampling in May of 2015 at other people's homes, my neighbor's homes as well. And from there, became the report that came out in June.

Mrs. LUMMIS. And after the report, was his view of the situation credited, and was action taken?

Ms. WALTERS. Everything that was in that report was everything that I had told him that had been going on plus his findings with his own testing with him being an expert in his field. So when he called me and asked me if he could use my information for this report, I said, yes, and I asked for a copy. When I saw it in black and white, there's a difference living it and seeing it in black and white. That is why it was given to the ACLU and made public. Those people did have a right to know. From that point, he was then no longer allowed to have association with me or anybody else in Flint.

Mrs. LUMMIS. Not allowed by who?

Ms. WALTERS. By the EPA.

Mrs. LUMMIS. What happened to him after he was not allowed to have association with you, or do you know?

Ms. WALTERS. I don't know. You have to ask Mr. Del Toral. I just know that—what I have been told.

Mrs. LUMMIS. Mr. Edwards, when, how, and—when and how did you gain access to that information?

Mr. EDWARDS. I first knew about this when Mr. Del Toral told me that there was a problem in Flint. That turned out to be the understatement of the year. But he alerted me to Ms. Walters and her family's health issues, and asked me to sample with LeeAnne, and so I did. And I provided my data to his report as well because I thought it would be best if EPA handled this. He was obviously the foremost expert on the lead and copper rule in the United States, and one would assume when he writes a memo saying that Flint is breaking Federal law, that there's a public health threat, that there's hazardous waste levels of lead coming out of Ms. Walters' home and there's a lead-poisoned child, that something would be done about it. So I gave him my data, and when I saw the report, I assumed that the appropriate authorities would act to protect Flint's population.

Mrs. LUMMIS. When they didn't act, what did you do?

Mr. EDWARDS. I didn't know what happened for quite some time until MDEQ bragged to Ms. Walters and laughed at her, and she reported back to me that quote-unquote, "Mr. Del Toral had been handled." And it was very clear that an agreement had been reached of some sort between EPA and MDEQ that would let MDEQ have their way with Flint's children.

Mrs. LUMMIS. Have their way in what way?

Mr. EDWARDS. That they were not going to install corrosion control. They had no intention to do it. There's many emails that show that they were waiting until this new pipeline came on next year, and they thought it was a waste of time to do anything to treat the water. When we got involved in August, as a matter of fact, an MDEQ email said: Shouldn't someone tell those folks from Virginia Tech, we are switching to the pipeline next year so they don't bother wasting their time on this issue?

Mrs. LUMMIS. I found—I find this so astounding, but unfortunately, not unique. And this has been referred to as a racial issue. I can tell you in my own State, there was an administrative order on consent for 17 years in the refinery that I live right next to to put in a slurry wall to protect the water that our cattle were drinking. And for 17 years, that refinery didn't turn a shovel, and neither the State nor the EPA made them.

This is not unique. This is a situation that occurs time and again. And I would implore agencies: Listen to people. Don't just listen to companies.

My time has expired.

And the gentlelady from Texas, Ms. Sheila Jackson Lee, is recognized for 5 minutes.

Ms. JACKSON LEE. Let me thank the chair and the ranking member for again upholding their authority and upholding, if you will, the authority of the United States Congress, Mr. Chaffetz and Mr. Cummings, for their bipartisan approach to this.

One cannot help—I sit on the House Judiciary Committee—but be nothing but angry as a mother and as an American. And I want to say to this mother that is here: We have already called you a hero of which you would wish not to be, because you have a child that has been impacted. As I sit here today, the memories of a Jim Jones who gave a poisoned concoction to children causes me to say that there is a Jim Jones in Michigan who gave a poisoned concoction to children and their families. If any of us should demand accountability, we should.

I want to ask Mr. Edwards before I pursue a questioning of Mr. Creagh: Mr. Edwards, you have given a recounting of just not putting phosphate in water. And I know that you are not a judge or a jury, and I know you are a man that believes in the Constitution, but if you had to reflect, would you say that there were criminal activities or results of this inaction?

Mr. EDWARDS. If it's not criminal, I don't know what is.

Ms. JACKSON LEE. I join you in that questioning, and I have asked the Department of Justice to investigate individuals that may be engaged criminally to hold them criminally responsible for the actions in Flint, Michigan.

Let me raise a question—were you trying to finish your sentence, Mr. Edwards? Because I have your whole series here.

Mr. Creagh, in your statement, you claim and I quote: "Regardless of the testing schedule allowed by the EPA rule, in hindsight, when the lead levels began to rise, corrosion treatments should have been required from the MDEQ," end your quote. However, rather than taking full responsibility for this decision, you then criticized the EPA for failing to provide a legal interpretation of the lead and copper rule until November 2015. You said: "My observation is that the EPA did not display the sense of urgency that the situation demanded. This is underscored by conversations started in February 2015 regarding implementation of the Federal lead and copper rule. Between February and the end of September 2015, there were multiple email exchanges and conference calls between the MDEQ and EPA. Yet when the parties were unable to come to a consensus on its implementation in July 2015, the EPA failed to provide the legal opinion by the MDEQ until November 25."

As I present this question, let me again thank the chairman and ranking member. Let me thank the former Mayor Lawrence for her leadership, and let me say to the newly elected mayor, Mayor Weaver, let me applaud you for you were not—this was not on your watch and not on your clock, but I'm committed as we all are to you that the fix will come on your watch.

Mr. Creagh, are you telling this committee that the reason that the MDEQ failed to require corrosion control treatments in Flint water was because EPA did not give you a legal interpretation stating you had to do that? Where was your own moral and fiduciary responsibility?

Mr. CREAGH. I'm not stating that.

Ms. JACKSON LEE. What are you stating, sir?

Mr. CREAGH. I'm not stating that the only reason why there is not corrosion control was because of the lack of a legal opinion from EPA.

Ms. JACKSON LEE. All right, sir.

Mr. CREAGH. My testimony said that we should have at the latest, once the first round of 6 months testing came, we should have taken some action.

Ms. JACKSON LEE. So you are not taking the position that you could not act as an independent State as the 10th Amendment says: What is not left to the Federal Government can be left to the State. And the safety and security of your Michiganders, I would assume that you would be concerned about. Is that correct?

Mr. CREAGH. We are concerned about the Michiganders.

Ms. JACKSON LEE. And, in essence, there was a malfeasance, or let me just say that there was an inaction in not doing what was supposed to be done. Is that correct, sir?

Mr. CREAGH. In hindsight, I think we all share in the responsibility for the crisis in Flint water.

Ms. JACKSON LEE. Well, let me say that those who were closest to it—but let me just say that it strains belief—is your testimony, again, that the aging lead service lines and all that needed to be done was at the feet of the Federal Government? So I just want to hear you again. It was not in totality at the feet of someone other than the authorities in Michigan, in this instance the State?

Mr. CREAGH. I believe we all share responsibility in this crisis.

Ms. JACKSON LEE. Well, let me say this. You are now in the midst of the Federal Government. We are all saying we want to help. Let me ask this question, and let me thank MSNBC Rachel Maddow, who took her show to Flint, Michigan, and gave us all even an added inspiration of change. And let me thank pastors in my community, who are eager to be there and help, and the Red Cross. But the point is, is that we know there is a figure of \$50 to \$60 million dollars. We know that there needs to be a change in the pipes that lead to homes and the pipes in homes.

Can you say because of the moral authority vested in you as the State government and the need to give a response, that you would engage and use or argue—or the Governor, who is not here—there should be an empty chair there—but he should spend the \$50 to \$60 million to completely overhaul the pipe system in the city of Flint? Would you agree to that?

Mr. CREAGH. The commitment from State government is that we are in it for the long haul for the citizens of Flint, and we will work with our partners both at the city, State, and Federal Government to make sure we get it right because no one deserves this.

Ms. JACKSON LEE. You are an expert, sir. You are an expert. Can you just say that you would be willing to——

Chairman CHAFFETZ. [Presiding.] The gentlewoman's time has more than expired. Thank you.

Ms. JACKSON LEE. I thank you. Could he answer the question, Mr. Chairman?

Chairman CHAFFETZ. Thank you. No, we are going to move on——

Ms. JACKSON LEE. All right, thank you very much.

Chairman CHAFFETZ. No, we are going to move on to Morgan Griffith, Representative from Virginia.

Ms. JACKSON LEE. Thank you for your courtesy.

Chairman CHAFFETZ. Thank you—is now recognized for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman, and thank you for allowing me to participate in this hearing. Ms. Walters thank so much for being the first person to make this public and for reaching out for help.

Dr. Edwards, everybody in southwest Virginia and at Virginia Tech and all over the region are so very proud to call you one of ours. Thank you for the work that you have done. I was talking with President Sands of Virginia Tech just a few minutes before the hearing started out in the hallway. I did not know Ms. Walters at the time. And I was going over your resume just saying, you know, this guy, his resume is a wow. And she walked up and she said: And he is a wow of a person too. What a great endorsement from a mom who reached out to protect her kids to a white knight who is willing to be there to be able to come in and charge. And I can't tell you how proud I am to represent southwest Virginia, particularly, to have people in my district of your caliber.

We may not always agree. I don't have any idea, but I recognize somebody who will not be handled, and in the mountains of southwest Virginia, those people always get respect. And I appreciate that.

That being said, I do have a few questions that I would like to ask. One being up to this point in time, if somebody made a complain to me, while I had other battles with the EPA that dealt with air or water, I would say: The EPA hasn't said there's a problem.

Am I to take from the testimony here today in your opinion that maybe I need to go beyond relying on the EPA when it comes to whether or not the water supply in my district has been affected?

Mr. EDWARDS. I wish I could say otherwise, but events have proven—proven you correct.

Mr. GRIFFITH. I hope that should you know of any issues that I need to be looking at in the district, that you will let me know about that.

Likewise, I kind of got the impression that citizens, other moms across the country, probably ought to be calling their local water supply companies and their local municipalities, et cetera, and just

asking, are you doing the proper testing? Am I correct in that, Dr. Edwards?

Mr. EDWARDS. I'm ashamed to say that, yes, you are correct.

Mr. GRIFFITH. Well, and I appreciate that. I saw your written testimony in advance and thought you had some good comments about the fact, and this is something we need to do. And that is that the rise of institutional scientific misconduct is a relatively new phenomenon. Clearly, we do not have adequate checks and balances on the power of these agencies—and you are referring to the EPA and the CDC when you said that—nor do we hold them accountable for their unethical actions. And I assume you stand by that. Nothing in this hearing today has changed your opinion in that regard?

Mr. EDWARDS. No, nothing has changed.

Mr. GRIFFITH. And I will tell you that I was having a conversation. I'm a recovering attorney—I like to joke with my friends. I was having a conversation with an attorney friend of mine a few days ago—I guess it was last week—who also has been involved with the brain injury services of southwest Virginia and has previously chaired the Virginia Office for Protection and Advocacy, which is an independent State agency that tries to take care of folks with disabilities, to protect the rights of those with disabilities. He and I were talking about this. He indicated to me that he, like you today, have expressed that he felt there must be something criminal, that it wasn't just a matter of saying you're sorry and fixing it, that there were probably people who needed to go to jail, and so I couldn't help but think, as listening to the testimony and the questions earlier, and Mr. Amash said that he thought it was a bad thing or indicated it was bad when the attorney for Mr. Earley said it was nonsensical for him to come and testify. I suspect that maybe what the attorney meant to say is: You have the right to remain silent. Anything you say can and will be used against you in a court of law.

Would you disagree with my assessment of that response by his attorney?

Mr. EDWARDS. I'm not a lawyer, so I'll stay away from that one.

Mr. GRIFFITH. I appreciate that. I know it has been a long day for all of you. I do appreciate the testimony.

Again, Ms. Walters, appreciate you stepping up.

Dr. Edwards, thank you for taking your own time, your own energy, the resources from your discretionary funds that you have spent on this cause. You were not handled by anybody, including the Federal Government. And, again, I do respect that and appreciate it.

And, with that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will recognize Mr. Cummings, the ranking member, and then myself, and then we will conclude this hearing.

Mr. CUMMINGS. I want to thank all of you for being here today.

And, Mr. Chairman, I thank you again for holding this hearing. It's a very important hearing. And I have listened to almost every syllable that has been said here today.

Mr. Edwards, I know that, just based upon what my staff has revealed to me, that you—and what I have heard here today, that the

EPA has obviously not been fair to you. But is that a fair statement?

Come on, I can't hear you.

Mr. EDWARDS. I believe that's a correct statement, yes.

Mr. CUMMINGS. And I'm sure you have a lot of deep hurt, disappointment because, obviously, you're trying to do the right thing, and you are driven by a passion to make people's lives better. Is that an accurate statement?

Mr. EDWARDS. Yeah, whatever hurt I have experienced is nothing compared to the hurt of the parents of the children in this room.

Mr. CUMMINGS. And that's why I want to get to this question. And I have listened to everybody very carefully. But, you know, I keep hearing—I hear you, and I guess as a trial lawyer, I'm kind of used to kind of really, really listening carefully. It seems like you spent a lot of time on the EPA. And I want you to be clear. And I will say it 50 million times, and I mean it. I want the EPA to be held responsible for addressing the things that they are supposed to address. But it seems—and help me with this, okay, because I'm just listening to you. You don't seem to put too much blame on the State. I mean, why is that? Or am I missing something?

See, and the reason why I gave that whole long statement that I just gave is because I know sometimes we can be so upset because we have been abused and treated badly, but I want to make sure that we are also looking at the whole picture. You follow what I'm saying?

Mr. EDWARDS. Yes. My perspective on this is the fact that these are the agencies paid to protect us. The Michigan Department of Environmental Quality and Susan Hedman at EPA as the top environmental cop in the region. I have said repeatedly that the primary blame for this rests with a few people at the Michigan Department of Environmental Quality, without question.

But in terms of other people in the State, those core professionals misled them throughout this whole thing. Mr. Walling, in Flint, for example, reached out after reading Miguel's memo, as a considerate mayor would, to Susan Hedman and said: Is this something I should take seriously?

And she told him, the cop, the top environmental policeman in the region told him: I am sorry this memo ever took place, and I will get back to you after I edit and vet it.

So I—100 percent of the responsibility lies with these employees at MDEQ; there's no question. But EPA had the chance because of Miguel Del Toral to be the hero here, and Ms. Hedman snatched defeat for EPA from the jaws of victory by discrediting his memo and standing by silently as she knew that Federal law was not protecting Flint's children.

Mr. CUMMINGS. And as I close, let me tell you the value of what has happened here today. What you all have done is given us a platform to look further. I mean, you have given us the basic information. You follow what I'm saying? Now we have to go—you have given names and you have talked about different situations, and now we have to go higher.

And to you, Mr. Creagh, I want to thank you. I know you have got a tough job. And I know you haven't—how long have you been in that job?

Mr. CREAGH. Since January 4, and it was by choice.

Mr. CUMMINGS. Wow. But, again, I hope that—I know you are in the cabinet, so that means you have the Governor's ear. I hope that the Governor will understand that these are people who are suffering and that the \$30 million that he has asked for, I guess yesterday, and then there is, I guess, the \$28 million that was already signed—is that right, or is that all part of the same thing?

Mr. CREAGH. No, sir. We have actually, there is almost \$38 million that has been allocated already to this, and then this would be on top of that. And then I would certainly not preempt the Governor's budget, but understand that there's more to be done.

Mr. CUMMINGS. Yeah, I understand. I'm not trying to get you to do that. But I would ask you to send a message to him in case he is not looking—I'm sure he is—but the thing that I asked you about the water bills, you know, that is insult to injury. You know, if I'm being poisoned—

Mr. CREAGH. Right.

Mr. CUMMINGS. —and I can't wash with the water. I can't drink the water, and then you are going to make me pay for the water? I mean, that doesn't make any sense. So I just want to throw that in. But again—

Mr. CREAGH. I will take that back.

Mr. CUMMINGS. —thank you all.

And, Mr. Chairman, I am looking forward to our continued efforts. It is not about a gotcha. I swear to God, it's not. It's about what happened. You got to know what happened so that you can correct it, and hopefully so it doesn't happen again.

Ms. Walters, thank you very much. Your children are in our prayers. You said something that—you said something about you did a reading and it was higher than, I guess, particles per billion—it was higher than hazardous waste. Is that what you said?

Ms. WALTERS. Yes, the levels of lead in my water were higher than hazardous waste levels.

Mr. CUMMINGS. That's purely unacceptable.

Thank you, Mr. Chairman.

Chairman CHAFFETZ. I thank the gentlemen.

Just to follow up on what Mr. Cummings was talking about, Mr. Edwards, these people at the Michigan Department of Environmental Quality, do you feel that they were misleading people? Were they providing false information? What were they doing, and who were they doing it to?

Mr. EDWARDS. I think it probably started innocently. I think someone forgot to follow the law. But they ignored warning sign after warning sign. The GM fiasco, Ms. Walters' child, the hazardous waste levels of lead, and gradually, step by step, they just felt like they, you know, they were covering this up. There's no question about it. You read the emails, they were—they lied in writing to the EPA. And it was only after LeeAnne figured out that they were not using corrosion control that they started this new story that we don't know if we have to have corrosion control. So I think the written record is quite clear on this.

Chairman CHAFFETZ. Well, they were telling that to the EPA. What about to the Governor's Office and other State officials?

Mr. EDWARDS. It's very clear to me that they misled the epidemiologists who were looking at that. The very first thing they did was to reach out to the MDEQ employees and say: Is there something wrong with the water? And the talking points, the notes from that memo used by the epidemiologists, basically repeated one lie after another after another about the actual situation in Flint. And when you're a scientist and you have been misled so fundamentally by someone in a position of trust, that skews your interpretation.

So I have criticized what the health department did and the fact that they never told the Governor about this spike in elevated lead that was occurring. And I have talked about their unethical behavior in the month of September when they refused to share data with me and Dr. Mona about the lead-poisoned children. But you have to—when you look at the ethics of this, you have to look at what they were told and put yourself in their position. And I fault them, but the blame lies with these three or four employee who were actively misleading everyone.

And I go back to Mr. Walling, who took a lot of criticism and some of it very justifiable. But if you're a mayor of a town in Flint and you reach out to Susan Hedman, the top cop in the region and she tells you nothing is wrong and a few days later you go on television drinking the water to tell everyone it's safe, who is to blame for that? Certainly Mayor Walling has taken his share of the blame for being overly trusting of the top EPA cop in the region, apologizing for this memo, and not telling you that there is anything wrong going on in Flint. But the bulk of the blame for that particular episode has to lie with Susan Hedman.

Chairman CHAFFETZ. And to my colleagues, you know, thinking about it, there's more than 2 million Federal employees. The overwhelming majority, they are good quality, hardworking patriotic people. I say that time and time again.

Mr. EDWARDS. Absolutely.

Chairman CHAFFETZ. But what we haven't done as a Congress with oversight of the administration—and, again, you can find examples on Democratic and Republican administrations. Okay, but we when we have these types of bad apples in place, they tend to rise to the surface. So much so that we had a hearing about this in July saying this is a problem. And nothing, but nothing was done about it. And it festered in other areas that rose to our level that it became so serious that we had a hearing. But it was, obviously, when you have that kind of approach, you see this happen time and time again.

And so this has been a very, very valuable hearing. Ms. Walters, God bless you. I'm so sorry that you've had to go through this. I can't even begin to tell you how much we hope and pray for your family and for the thousands of other families that you represent. So you have had some sort of strength that you got somewhere. I believe in—it's not just a coincidence that you get that kind of strength that's representative and making the people of Michigan proud. So keep it up.

Mr. Edwards, thank you for your good work. You have been tenacious on this. Thankful for Virginia Tech for funding you and allow-

ing you to do this good work and being the kind of expert across the country and very helpful to this committee. We are very appreciative of that.

Mr. Creagh, you didn't need this in your life. You have had a very strong career. You've served the State of Michigan honorably. I have heard praise on both sides of the aisle for what you're doing. You are in a very difficult spot. You are in a very difficult spot. And for your stepping up and doing this, somebody has got to do it. And somehow that mantle has fallen to you. We thank you for your participation and work that you do here.

Mr. Beauvais, you seem like a very fine gentleman who cares deeply about not only the government, but you care about the country. You care about these people as well. My frustration is with the organization, the lack of accountability, the lack of followthrough. Somehow we have got to plow past the talking points and everything they try to train you to say when you come before Congress and just get to the truth and the naked reality of it. That's what I think most of the employees at the EPA want. It's what the Congress wants. We represent the people. You know, we represent the people of the United States. And so we—I'm glad you are in this position. I think you are part of the solution, not part of the problem. That's my experience. That's my starting point. I think all four of you are part of the solution, not part of the problem. But we have a problem, and we have got to clean it up.

And I also want to—I appreciate and thank Mr. Kildee for his passion on this. He has been working on this for some time. And I'm glad that he was able to testify today.

This committee stands adjourned.

[Whereupon, at 12:52 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



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.

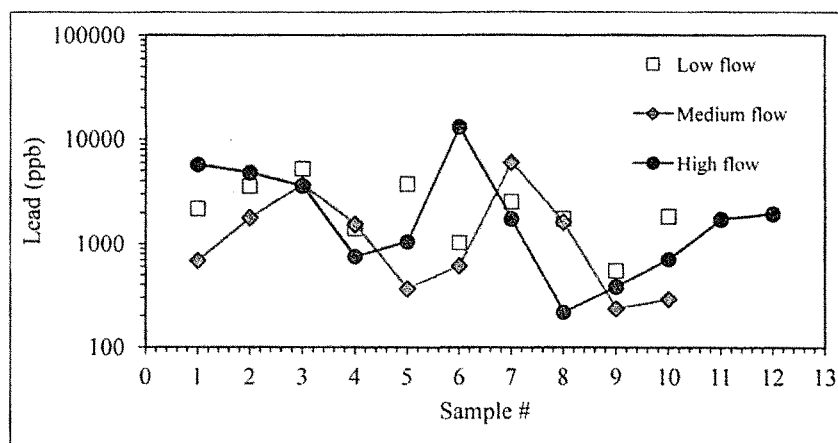
Following the confirmation of the initial high lead results, U.S. EPA Region 5 conducted two visits to the Walters' home on April 27, 2015 and May 6, 2015. Based on an inspection of the plumbing and subsequent sampling conducted at the Walters' residence, it was determined that except for a few minor 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)

- 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.
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 - 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.
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28. June 2015
- a. The City of Flint Violates the National Primary Drinking Water Regulations MCL for Total Trihalomethanes (Average TTHM MCL violation)

Subject: April 27 Flint Sampling Update from Miguel

Mea culpa.... I totally missed this email. Just saw it today. You already know the general information, but here is directly from Miguel.
Jennifer

From: Deltoral, Miguel
Sent: Monday, April 27, 2015 6:53 AM
To: Poy, Thomas
Cc: Porter, Andrea; Bair, Rita; Crooks, Jennifer
Subject: Flint Sampling Update

Good morning, Tom

Just an update on the Flint sampling so folks know what's going on. As we had initially discussed, the only way to really see what the lead levels are throughout and where the lead is actually coming from at Ms. Walters' place is to do sequential sampling prior to the removal of the LSL. I spoke to Ms. Walters and she said that the water was shut off inside her home, so it can actually be turned back on, so Jennifer and I picked up sample bottles from the R5 office and we will be dropping them off at Ms. Walters place today on the way home from the MDEQ R5 meeting. Pat Cook has confirmed that following the disconnection from Detroit, Flint has not been operating any corrosion control treatment, which is very concerning given the likelihood of LSLs in the city. We do not know how many LSLs there are in Flint and according to Ms. Walters, neither does the city. She said that they do not know where any LSLs are, based on their records, so other than what appears to be a very long one at Ms. Walters' place, we don't have confirmation of any others at this point. Since they were used extensively here in R5, it is likely there are more. No idea how many, though.

Marc Edwards (from Virginia Tech) was kind enough to offer to analyze this round of samples so she will shipping the samples to Marc for analysis. I asked that he measure phosphate as well, so that we have some data on that. As we discussed, R5 will send an additional set of bottles to Ms. Walters for the follow-up monitoring once the LSL is removed. I spoke to Mike Prysby on Friday and he said that the city was going to remove the LSL fully this Wednesday. I also brought a camera with me and will take some pictures while we are at Ms. Walters place as well.

Apparently, according to Ms. Walters, the water director appears to be telling residents that the high lead from Ms. Walters residence is from the internal plumbing and that a reporter she was talking to, as well as others, has confirmed that this is what residents are being told. Ms. Walters indicated that the line coming into the home appears to be galvanized pipe. If this is true, it is possible that her portion of the service line, from the home to the property line, is not lead and that the city-owned portion of the service line is the only source of lead here. The sample results should help to clarify where the lead is coming from.

Call me on the cell if you need to: [REDACTED]

Miguel A. Del Toral
Regulations Manager
U.S. EPA R5 GWDWB

From: Hedman, Susan <hedman.susan@epa.gov>
 Date: Wed, Jul 1, 2015 at 10:44 AM
 Subject: Re: Comments on Flint Water
 To: Dayne Walling <dwalling@cityofflint.com>
 We are looking into this and I will get back to you later today when I know more about what happened.
 Sent from my iPhone

Hedman, Susan <hedman.susan@epa.gov>
 Date: Wed, Jul 1, 2015 at 6:46 PM
 Subject: Re: Comments on Flint Water
 To: Dayne Walling <dwalling@cityofflint.com>
 Mayor Walling I apologize for the delay in getting back to you but it has taken a while for me to find out what happened. So far, I have learned that Region 5 staff received a complaint from a Flint resident about lead levels in drinking water and that we followed up by doing some tests to determine whether lead levels were indeed high for this particular household and, if so, to try to identify the source(s) of the problem. The EPA staffer mentioned in your email prepared a draft report and apparently shared it with the citizen as a courtesy because her name and children's blood lead levels were mentioned in the report before sending the draft report up the EPA management chain for review. He subsequently received a call from the ACLU representative Curt Guyette who said he obtained a copy of the draft report from the resident and then proceeded to ask questions, which the EPA staffer attempted to answer.

The preliminary draft report should not have been released outside the agency. When the report has been revised and fully vetted by EPA management, the findings and recommendations will be shared with the City and MDEQ and MDEQ will be responsible for following up with the City.

In the meantime, if you think it would helpful, I can recommend two EPA experts on lead and drinking water distribution systems to work with the Flint Advisory Committee to complement Dr. Wright's TTHM expertise. If you are interested, I can provide their bios tomorrow. Again I apologize for taking all day to get back to you and for the manner in which this matter was handled.

Please let me know if you have any additional questions.

Best regards,
 Susan

Dayne Walling <dwalling@cityofflint.com>
 Date: Thu, Jul 2, 2015 at 2:26 PM
 Subject: Re: Comments on Flint Water
 To: "Hedman, Susan" <hedman.susan@epa.gov>
 This is very helpful Susan, thank you. Let me discuss where we are at on our end and get back with you. I do know that we are on the same page as far as the City being prepared to respond to any followups that come through the MDEQ as that was the understanding of our team too. Thanks again, Dayne

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (203) 225-9074
MINORITY (202) 225-9091
<http://oversight.house.gov>

February 3, 2016

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to exercise our right under House rules to demand a minority day of hearings relating to the Committee's hearing today on the drinking water crisis in Flint, Michigan. Specially, we request that Michigan Governor Rick Snyder be invited to testify, along with key emergency managers that he appointed to govern Flint since 2011. We also renew our request that the Committee obtain relevant documents from the state in order to conduct a comprehensive investigation of this crisis.

Although we have made multiple requests for you to invite the Governor, to date you have neither invited him to testify nor provided a timeframe by which you might do so. Instead, it appears that you intend to try to limit our Committee's investigation to the actions of the federal government.

For example, the title of the present hearing references only the "federal administration" of the Safe Drinking Water Act, despite the fact that, under the Act and its implementing regulations, Michigan "has primary enforcement responsibility for public water systems in the State."¹ Similarly, the Republican staff memo for today's hearing references actions by the City of Flint and the Environmental Protection Agency (EPA), but it disregards actions by the Governor and other state officials.²

As Ranking Members Cummings and Lawrence have stated repeatedly, we believe we have a moral obligation to the people of Flint to examine this matter comprehensively, hearing from state officials as well as federal officials, and obtaining documents from all sources rather than only from the EPA.

¹ See 40 CFR § 142.10.

² Memorandum from Republican Staff to Members of the House Committee on Oversight and Government Reform, *Hearing on "Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan"* (Jan. 29, 2016).

The Honorable Jason Chaffetz, Chairman
Page 2

There is no question that the Governor's actions are directly relevant to the Committee's investigation. He championed the state law in 2011 giving him authority to appoint the emergency managers in Flint, his appointees oversaw the process to seek cost-savings by transitioning Flint off the Detroit water system and onto treated water from the Flint River, and his appointees overruled a vote by the Flint City Council in 2015 to return to Detroit water.

In fact, the Governor's own Flint Water Advisory Task Force concluded as follows in December:

We believe primary responsibility for what happened in Flint rests with the Michigan Department of Environmental Quality (MDEQ). Although many individuals and entities at state and local levels contributed to creating and prolonging the problem, MDEQ is the government agency that has responsibility to ensure safe drinking water in Michigan. It failed in that responsibility and must be held accountable for that failure.³

In his State of the State address on January 19, 2016, the Governor seemed to take responsibility for the Flint crisis, stating that "the buck stops here with me" and that "I take full responsibility." He announced the resignation of multiple state officials, including MDEQ Director Dan Wyant and Communications Director Brad Wurfel. In addition, MDEQ employees Liane Shekter Smith, the Chief of the Office of Drinking Water and Municipal Assistance, and Steven Busch, the district supervisor of the division, were suspended.

Despite these facts, on January 29, 2016, you sent a detailed document request only to the Environmental Protection Agency, and you refused Democratic requests to send a parallel request to the Governor.⁴

In defense of your approach, your spokesperson has stated: "Our responsibility as a committee is at the federal level."⁵ We agree that the Committee must examine the actions of officials at the EPA, but in order to conduct a comprehensive investigation of this crisis, we must also examine the actions of the Governor and other state officials. If we do not, the Committee's credibility will be impaired and subjected to accusations of partisanship that will undermine our work.

³ Letter from Flint Water Advisory Task Force to Michigan Governor Rick Snyder (Dec. 29, 2015) (online at http://mediad.publicbroadcasting.net/p/michigan/files/201512/fwatf-snyder_letter_12-29-15.pdf?_ga=1.214030482.485710763.1454166202) (emphasis in original).

⁴ Letter from Chairman Jason Chaffetz, House Committee on Oversight and Government Reform, to Administrator Gina McCarthy, Environmental Protection Agency (Jan. 29, 2016). *Cf.* Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Brenda Lawrence, Subcommittee on Interior, to Michigan Governor Rick Snyder (Jan. 29, 2016) (online at <http://democrats.oversight.house.gov/news/press-releases/cummings-and-lawrence-request-documents-and-answers-from-michigan-governor-on>).

⁵ *Flint Crisis: House Dems Request Documents from Gov. Snyder for Hearing*, E&E News (Jan. 29, 2016).

The Honorable Jason Chaffetz, Chairman
Page 3

For the reasons set forth above, we hereby demand, pursuant to House rule XI clause 2(j)(1), a minority day of hearings with the following individuals:

The Honorable Rick Snyder
Governor of Michigan

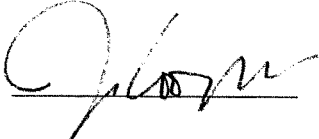
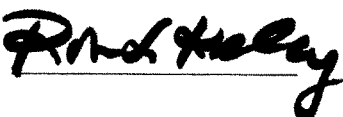
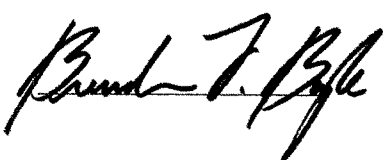
Edward Kurtz
Former Emergency Manager, City of Flint (2012—2013)

Darnell Earley
Former Emergency Manager, City of Flint (2013—2015)

Jerry Ambrose
Former Emergency Manager, City of Flint (2015)

We also request that you immediately send, on behalf of the Committee, the request to Governor Snyder that was previously submitted by Ranking Members Cummings and Lawrence for documents relating to this crisis. Thank you for your consideration of this matter.

Sincerely,

The Honorable Jason Chaffetz, Chairman
Page 4

Peter Welch

Paul K. Condy

Steph M.

Tammy Duckworth

Al R. Wright

Ted W. Lieu

Michelle Lujan Grisham

Condy B. Maly

FOR IMMEDIATE RELEASE

Wednesday, February 3, 2016

Contact: Mitchell Rivard (Rep. Dan Kildee) 202-595-4885, mitchell.rivard@mail.house.gov

The Flint Water Crisis: Myth vs. Fact

MYTH: "The city of Flint decided to use the Flint River as its water source."

FACT: The State of Michigan, and the Governor's state-appointed emergency financial manager, changed the city's water source – not the city council.

The city council, in March 2013, voted 7-1 to move to a new water authority, the Karegnondi Water Authority, but never voted to draw their water from the Flint River water. Additionally, Flint has been under emergency management since 2011, during which time elected officials – including the city council – were stripped of their responsibilities and duties. The emergency manager had the ultimate – and only – authority to make decisions, including switching to the Flint River.

The Flint Journal, March 25, 2013, "Flint Council Supports Buying Water from Lake Huron through KWA", http://www.mlive.com/news/flint/index.ssf/2013/03/flint_city_council_again_delay.html

Michigan Truth Squad, January 26, 2016, "Who Approved Switch to Flint River? State's Answers Draw Fouts" http://www.mlive.com/politics/index.ssf/2016/01/michigan_truth_squad_who_appro.html

MYTH: State environmental officials at the Michigan Department of Environmental Quality had implemented an optimized corrosion control plant to treat Flint River water.

FACT: State officials lied to the Environmental Protection Agency about having corrosion control in place.

In a February 27, 2015 email from the Michigan Department of Environmental Quality to the EPA, the state said it had an "optimized corrosion control program" when in fact it did not. Even worse, state officials didn't begin corrosion control treatment until December 2015 – three months after the Governor held a press conference about the Flint water crisis admitting mistakes, and long after the damage had been done to the city's pipes.

February 19, 2015, MDEQ/EPA emails on Flint corrosion control
https://docs.google.com/viewerng/viewer?url=http://flintwaterstudy.org/wp-content/uploads/2015/09/MDEQ-and-City-of-Flint-E-mails-and-Timeline-FOIA.pdf&hl=en_US

FOR IMMEDIATE RELEASE

Wednesday, February 3, 2016

Contact: Mitchell Rivard (Rep. Dan Kildee) 202-595-4885, mitchell.rivard@mail.house.gov

The Flint Water Crisis: Myth vs. Fact

MYTH: "This was a local decision and that's what started the Flint water crisis."

FACT: The decision to move to the Flint River began June 26, 2013, when the state-appointed emergency financial manager made the decision.

The state-appointed emergency financial manager at the time, Edward Kurtz, signed an executive order to study using the Flint River as the city's drinking water source. On March 7, 2014, another state-appointed emergency financial manager, Darnell Earley, sent a letter to the Detroit Water and Sewer Authority informing Detroit that the city would no longer purchase water from them and would instead move to the Flint River. A Michigan Auditor General report also recognized that the Flint City Council never voted to use the Flint River as a drinking water source.

The Flint City Council, again powerless under a state-appointed emergency financial manager, even voted to switch back to Detroit water. In response, the state-appointed emergency financial manager vetoed the measure, calling it "incomprehensible."

June 26, 2013, Emergency Manager Declaration on Flint River water
http://mediad.publicbroadcasting.net/p/michigan/files/201512/water_plan_resolution.pdf?_ga=1.129405580.1036207224.1446746452

The Flint Journal, March 24, 2015, "Emergency manager calls City Council's Flint River vote 'incomprehensible'",
http://www.mlive.com/news/flint/index.ssf/2015/03/flint_emergency_manager_calls.html#incart_river

MYTH: "Governor Snyder didn't know about Flint water quality issues until October 2015."

FACT: National and state reporting contradicts the Governor's timeline.

Months before the state acknowledged a problem, on January 9, 2015, the Governor's administration began trucking in bottled water to its own state employees working in Flint. At the same time, state officials were telling the people of Flint that the water was safe to drink. On September 1, 2015, Governor Snyder's Urban Affairs advisor also privately facilitated the delivering of 1,500 water filters to Flint through a network of pastors.

Detroit Free Press, January 28, 2016, "Amid Denials, State Workers in Flint Got Clean Water",
<http://www.freep.com/story/news/local/michigan/flint-water-crisis/2016/01/28/amid-denials-state-workers-flint-got-clean-water/79470650/?hootPostID=ed9df9e688e56ce91a6d6084f9036371>

The Flint Journal, September 29, 2015, "Governor Helped Hush-Hush Deliver of Water Filters to Flint Pastors",
http://www.mlive.com/news/flint/index.ssf/2015/09/state_assured_flint_water_was.html