CITY OF FLINT, MICHIGAN

Dr. Karen W. Weaver
Mayor

April 27, 2018

Mr. Chris Korleski, Director
Water Division, Region 5
United States Environmental Protection Agency
Ralph Metcalfe Federal Building
77 West Jackson Boulevard (W-15J)
Chicago, Illinois 60604-3590

Sent via Email

Dear Mr. Korleski:

On April 23, 2018, the Michigan Department of Environment Quality (MDEQ) submitted a summary of MDEQ Actions in response to the USEPA Emergency Administrative Order, posting it on the State's Taking Action on Flint Water website (See Attachment 1). The report provides a weekly summary of progress made by the MDEQ to the items it is required to address. The MDEQ reported in its response to Paragraph 63 of the January 21, 2016 order the following:

> **Paragraph 63: Flint Water Interagency Coordinating Committee (FWICC)**
> - The meeting, originally scheduled for 4/20/2018, was cancelled.
> - Meeting minutes from a subcommittee meeting last month are being compiled by MDEQ staff.

On April 17, 2018 at 1:07 p.m., I received an email from the State notifying me that the April 20, 2018 meeting was cancelled as a result of the City's intention to consider filing a lawsuit against the State of Michigan (See Attachment 2). The email states the following:

> Given the announcement yesterday by Mayor Karen Weaver of the City of Flint's intention to consider filing a lawsuit against the State of Michigan, the State's Legal Counsel has advised against proceeding with the FWICC meeting until the City's intentions have been established. At that time, we will seek to provide clarification around meeting protocols and whether legal

> counsel would need to be present for FWICC to continue its work. As a result, we are **cancelling the FWICC meeting scheduled for Friday April 20, 2018.**

The following day, Mlive featured an online article reiterating the State's unwillingness to meet (See Attachment 3).

Paragraph 63 of the Administrative Order compels the engagement of an Independent Advisory Panel, which is known as the Flint Water Interagency Coordinating Committee (FWICC).

Paragraph 63 states:

> Within seven days of the effective date of this Order, the MDEQ and the State, with the City's input and concurrence, shall engage a panel of independent, nationally-recognized experts on drinking water treatment, sampling, distribution system operation, and members of the affected community to advise and make public recommendations to the City on steps need to mitigate the imminent an substantial endangerment to the health of persons and general operation of the City's PWS to ensure compliance with SDWA and the NPDWRs.

As a result of the State's retaliatory actions, it is preventing the City's compliance with Paragraph 63 of the January 21, 2016 USEPA Emergency Administrative Order. Furthermore, on March 24, 2016, City put the State of Michigan on notice of filing a lawsuit, preserving the City's claims over 2 years ago. It is unconscionable for the State to wield its power against the City of Flint and its residents by preventing these important meetings from taking place, which could detrimentally impact the progress already made by the City.

I am requesting that the EPA intervene as a result of the State's actions and possibly future cancellations of FWICC meetings for the reasons described by the State.

Sincerely,

Karen W. Weaver

Dr. Karen W. Weaver
Mayor

Attachment 1

Summary of
Michigan Department of Environmental Quality Actions
In Response to the
United States Environmental Protection Agency
Emergency Administrative Order
Updated: 4/23/2018

EXECUTIVE SUMMARY:

The United States Environmental Protection Agency (EPA) Emergency Administrative Order contains 15 overall items to be addressed by the Michigan Department of Environmental Quality (MDEQ). This update includes status only on items for which progress was made in the last week. It is anticipated that the next update to this summary will be provided on Monday, April 30, 2018.

DETAILED INFORMATION:

Paragraph 54: Service line removal

- During a conference call on 4/19/2018, the city of Flint (City) shared that a hydrovac contractor had been selected and they were working through bonding issues.
- A bid document had been posted for service line replacement work (Phase V); that bid posting closes 4/26/2018.
- Two contractors started removing service lines on 4/18/2018, under the Phase IV contract.

Paragraph 60: Technical, managerial and financial capacity

- During a conference call on 4/19/2018, the City shared that they are continuing to work on filling the distribution superintendent and the lab supervisor positions. The City has two staff who will take the D1 exam in May.
- The City reported that Nick Pizzi continues to provide training to Flint staff. The City and the MDEQ will be discussing an expanded curriculum based on staff request.
- The EPA committed to responding to the City's 2/28/2018 letter regarding their new source treatment plan by 5/25/2018.

Paragraph 62: Distribution plan

- During a conference call on 4/19/2018, the City shared that they submitted a draft optimization plan on 4/5/2018. They received comments from the MDEQ and the City and submitted a new draft on 4/13/2018, for which they are awaiting approval.

- Arcadis submitted a third set of Standard Operating Procedures (SOP) to the City (related to the optimization plan), received comments from the City and are finalizing those. They anticipate finalizing those in the next two weeks. The chemical feed SOPs are completed.
- The City will be sending a new Revised Total Coliform Rule (RTCR) sampling plan to the MDEQ the week of 4/23/2018, which will bring the sampling sites total to 25.
- The City started Phase 1 of the pipe loop portion of the corrosion control study the week of 4/9/2018.

Paragraph 63: Flint Water Interagency Coordinating Committee (FWICC)

- The meeting, originally scheduled for 4/20/2018, was cancelled.
- Meeting minutes from a subcommittee meeting last month are being compiled by MDEQ staff.

Other:

- The project plan for Water Infrastructure Improvements for the Nation (WIIN) funding was submitted to the MDEQ for comments and the City was incorporating those comments for their final submittal.

Attachment 2

City of Flint Email

Fwd: 4/20 FWICC Meeting Cancelled

1 message

Pamela Pugh <ppugh@cityofflint.com> Wed, Apr 25, 2018 at 6:06 PM

FYI...
---------- Forwarded message ----------
From: **Clayton, Stacie (GOV)** <claytons3@michigan.gov>
Date: Tue, Apr 17, 2018 at 1:07 PM
Subject: 4/20 FWICC Meeting Cancelled
To: "Kelenske, Chris (MSP)" <KelenskeC@michigan.gov>, "Creagh, Keith (DNR)" <creaghk@michigan.gov>, Mona Hanna-Attisha <MHanna1@hurleymc.com>, "Khouri, Nick (TREASURY)" <KhouriN@michigan.gov>, "jim@koskiconsult.com" <jim@koskiconsult.com>, "Lyon, Nick (DHHS)" <LyonN2@michigan.gov>, "lrey52@gmail.com" <lrey52@gmail.com>, "Laura L. Sullivan (lsulliva@kettering.edu)" <lsulliva@kettering.edu>, "Karen Weaver - City of Flint (kweaver@cityofflint.com)" <kweaver@cityofflint.com>, "Whiston, Brian (MDE)" <WhistonB@michigan.gov>, "mcdanielm@cooley.edu" <mcdanielm@cooley.edu>, "Nolden, Bryant" <BNolden@co.genesee.mi.us>, "Young, Mark" <myoung@co.genesee.mi.us>, Pamela Pugh <ppugh@cityofflint.com>, Santino Guerra <sguerra@cityofflint.com>, "Zimmer, Mike (GOV)" <ZimmerM1@michigan.gov>, Marc Edwards <edwardsm@vt.edu>
Cc: "Hollins, Harvey (GOV)" <hollinsh@michigan.gov>, "Baird, Richard (GOV)" <bairdr@michigan.gov>, "Adler, Ari (GOV)" <AdlerA@michigan.gov>, Steve Branch <sbranch@cityofflint.com>

Greetings All,

Given the announcement yesterday by Mayor Karen Weaver of the City of Flint's intention to consider filing a lawsuit against the State of Michigan, the State's Legal Counsel has advised against proceeding with the FWICC meeting until the City's intentions have been established. At that time, we will seek to provide clarification around meeting protocols and whether legal counsel would need to be present for FWICC to continue its work.

As a result, we are **cancelling the FWICC meeting scheduled for Friday April 20, 2018.**

Sincerely,

Harvey

Harvey Hollins, FWICC Co-Chair

--
Pamela Pugh, DrPH, MS
Chief Public Health Advisor
City of Flint

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Flint, MI 48502
(810)237-2041 (Office)
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ppugh@cityofflint.com

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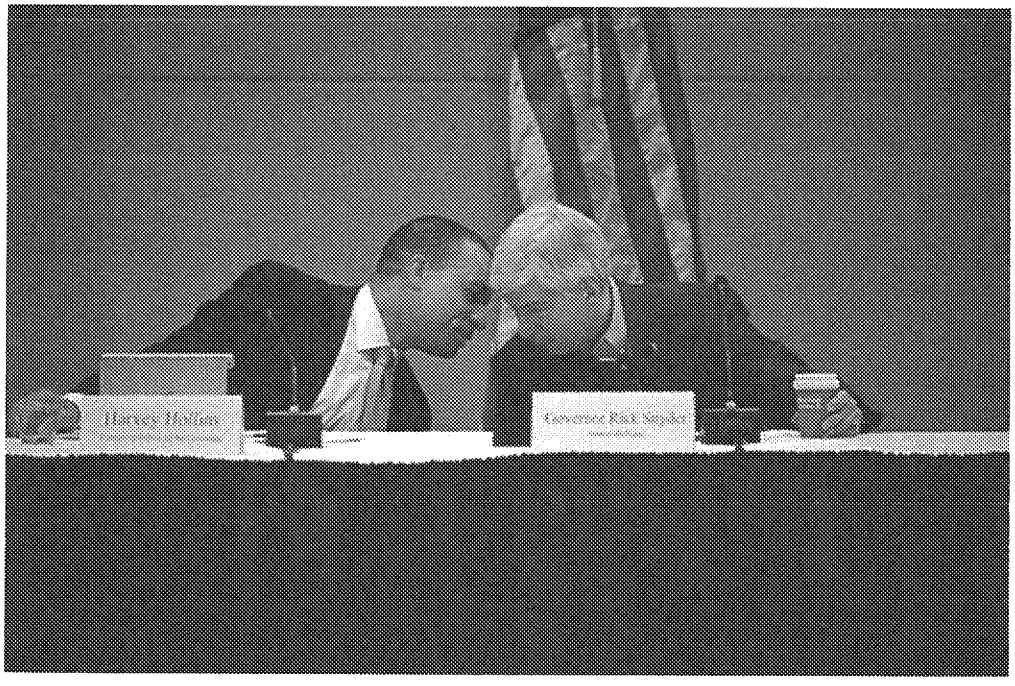
Attachment 3

FLINT NEWS

Flint water questions remain unanswered after governor cancels meeting

Updated Apr 18;
Posted Apr 18



From left, Harvey Hollins, director of the Michigan Office of Urban Initiatives, speaks quietly with Gov. Rick Snyder during a previous Flint Water Interagency Coordinating Committee meeting.(Flint Journal file photo)

21

181 shares

By **Ron Fonger**, rfonger1@mlive.com

(This story has been updated to correct attribution.)

FLINT, MI -- Two members of the Flint Water Interagency Coordinating Committee say the state's decision to cancel their meeting this week means Gov. Rick Snyder won't have to hear members' opinions about his decision to end state payments for bottled water here.

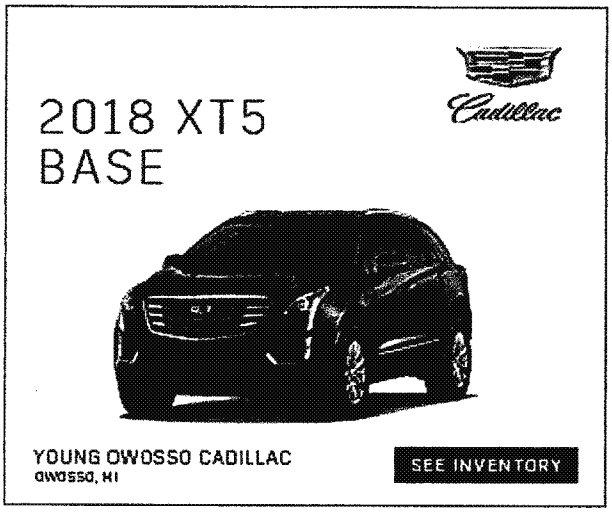
Harvey Hollins, a member of the governor's cabinet and co-chair of FWICC, told members that he committee's meeting scheduled for Friday, April 20, has been canceled on the advice of state attorneys because of the threat of a lawsuit against the state by the city of Flint.

FWICC, which was established by the governor to advise him on water issues here, has no additional meetings scheduled.

"This is disappointing," said Dr. Mona Hanna-Attisha, a FWICC member. "The state's cancellation of the bottled water is only one of the many issues that need to be discussed.

"The long-term needs resulting from the Flint water crisis have yet to be fully addressed," Hanna-Attisha said in an email to MLive-The Flint Journal. "There are also many acute issues concerning shutoffs and water affordability that (require attention)."

After a meeting with Snyder about state funding for bottled water and other issues on Monday, April 16, Weaver said the city intends to file a lawsuit against the state.



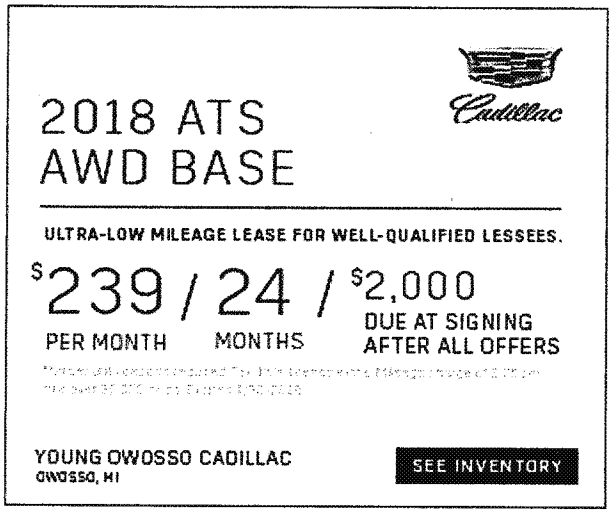
The city had previously filed a notice that it may sue the state because of the city's water crisis, which unfolded while emergency managers appointed by Snyder were in charge of the city.

"Given the announcement yesterday by Mayor Karen Weaver ... the state's legal counsel has advised against proceeding with the FWICC meeting until the city's intentions have been established," Ari Adler, communications director for Snyder said in a Tuesday, April 17, email announcing the cancellation.

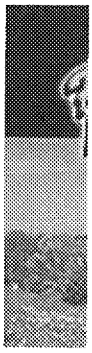
Dr. Lawrence Reynolds, a FWICC member and former president of the Genesee County Medical Society, said the meeting cancellation was carried out by a "legally and ethically challenged administration that has betrayed the human rights, civil rights, and environmental justice (due to) some 100,000 residents of Flint.

"An updated water loss report, resolution of (a) water rate lawsuit, water shutoffs, (Lead and Copper Rule) revisions, and a school water monitoring and testing program are other items that have not been resolved," Reynolds said in an email to The Journal.

Adler said Wednesday, March 18, that the decision to cancel the meeting was unavoidable after Weaver's comments this week.



"Unfortunately, once lawsuits are started, or even threatened, partnerships are hamstrung by legal procedures and proceedings," Adler's email says. "Despite that, the state remains committed to continuing every single program for filters, CORE visits, health, education, nutrition and economic development that the state's taxpayers have provided $350 million for to benefit Flint residents and help move Flint forward."



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