



Board of Directors
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RESOLUTION REGARDING PROPOSED LEAD AND COPPER RULE AMENDMENTS

WHEREAS, The Great Lakes Water Authority (GLWA) is a regional Water supplier; and

WHEREAS, GLWA is the wholesale supplier of water of unquestionable quality to communities located in southeastern Michigan and almost 40% of Michigan's population residing in those communities; and

WHEREAS, GLWA distributes its water to communities and their residents within seven (7) Michigan counties; and

WHEREAS, the Board of Directors of the GLWA (Board) consists of six (6) members: one appointed by the County Executive of Wayne County, one appointed by the County Executive of Oakland County, one appointed by the County Executive of Macomb County, two appointed by the Mayor of the City of Detroit; and one appointed by the Governor of the State of Michigan from an area served by GLWA outside of Wayne, Oakland, or Macomb County; and

WHEREAS, Michigan recently experienced a water quality crisis when corrosion controls were removed from the water system serving the City of Flint (Flint) and its residents causing elevated levels of lead to be present in the system and future changes in a community water supply should require stringent oversight to assure effective corrosion control; and

WHEREAS, after discovery of this crisis GLWA agreed to supply water to Flint as a part of Flint's water system improvement efforts; and

WHEREAS, subsequently, in 2017, Flint approved a 30-year agreement for the supply of water from GLWA to Flint; and

WHEREAS, while unique in our national experience, the Flint water quality crisis has focused attention within Michigan and the United States on the importance of water quality and the impact of lead and copper within our drinking water delivery systems; and

WHEREAS, lead and copper may be found not only within drinking water delivery systems but may also be found within private premises (such as homes, schools, daycare or church facilities) or the private owner's connection between his or her premises and the drinking water delivery system; and

WHEREAS, through grants available under GLWA's WRAP (Water Residential Assistance Program) eligible customers in participating GLWA member- partner communities are eligible to receive conservation grants to assist in replacing lead plumbing fixtures installed within their homes prior to the enactment of current plumbing codes which no longer permit such fixtures; and

WHEREAS, the Environmental Protection Administration of the United States of America (EPA) has promulgated rules regarding the allowable presence of lead within drinking water systems and is in the process of reviewing those rules; and

WHEREAS, GLWA has submitted the attached written comments to the EPA to assist it in this review; and

WHEREAS, in addition to the Federal rules, the State of Michigan's Department of Environmental Quality (MDEQ) has promulgated rules regarding the presence of lead within Michigan's drinking water delivery system; and

WHEREAS, the MDEQ is proposing revisions to its lead and copper rules; and

WHEREAS, GLWA is preparing written comments regarding the proposed MDEQ revision for submission prior to the March 21, 2018, comment submission deadline; and

WHEREAS, within the almost 40% of Michigan's population served by GLWA and its member partner communities there is a wide diversity in types of infrastructure, housing stock, and wealth; and

WHEREAS, historically, the regional GLWA system and prior to the creation of GLWA, the regional system operated by DWSD have met the standards of the federal and Michigan rules regulating lead and copper and is considered "optimized" in its corrosion control for lead and copper under the federal rule; and

WHEREAS, water supply system operators and others charged with protecting the public health must work together in a collaborative and coordinated fashion based upon the best scientific evidence available to minimize public health risks; and

WHEREAS, we must also maximize and coordinate the investment of our scarce resources to sustain and improve the infrastructure upon which we all depend; and

WHEREAS, because of scarcity of these resources utility operators utilize asset management and other prudent utility management practices, including but not limited to the use of corrosion control additives to optimize their system's operations; and

WHEREAS, while there have been many reports of elevated blood levels associated with paint, fixtures, and dust found within homes, outside of the Flint water quality crisis, GLWA has been advised that southeast Michigan Health Departments have not shown water supply systems as the source of elevated blood levels; and

WHEREAS, all entities with public health responsibilities must work together to provide a comprehensive and coordinated lead mitigation strategy for public and private premises; and

WHEREAS, the primary location of lead impacting finished water systems is found within private homes and the service lines connecting those homes to the drinking water utility; and

WHEREAS, these are typically privately-owned assets and are not a part of the public finished water system; and

WHEREAS, both the Michigan and the United States Constitutions do not allow utilities or government agencies to unilaterally seize and remove these privately-owned assets without due process of law and reasonable compensation to the owners of those assets; and

WHEREAS, even if drinking water utilities could unilaterally seize and remove these private assets from their current owners without due process and reasonable compensation, the cost of removing service lines from the drinking water supply system to private premises would be extremely large; and

WHEREAS, assuming no legal prohibitions or costs, it is estimated that there are 500,000 privately owned service lines connecting homes to public water supply systems and assuming an artificially low cost for replacing each individual line of \$5,000, the rules proposed by MDEQ would impose nearly Two Billion, Five Hundred Million Dollars (\$2,500,000,000.00) of new costs on Michigan's water supply utilities; and

WHEREAS, under Michigan law it is not clear that the recovery of these Two Billion, Five Hundred Million Dollars (\$2,500,000,000.00) of new costs in future customer rates would be permitted [See *Bolt v City of Lansing*, 459 Mich 152 (1998)]; and

WHEREAS, even with these extreme costs, lead plumbing fixtures and other sources of lead within Michigan homes would not be addressed; and

WHEREAS, the extreme costs imposed would cost Michigan utilities the opportunity to apply their resources to maintaining and replacing aging infrastructure and other prudent utility asset management practices that might better protect the public health and welfare; and

WHEREAS, even if the extreme costs and legal limitations could be put aside, the service line replacement program contained in the current proposed MDEQ rules could endanger public health because when lead service lines are removed on a large scale it is likely that lead chips (deposits) that are currently contained through corrosion control will break free and pose a threat to other users of the system; and

WHEREAS, GLWA is supportive of the goal of coordinated and collaborative planning and resource utilization that ensures the public health of Michigan residents by protecting their ability to have continued delivery of clean water in the future; and

WHEREAS, GLWA is supportive of a coordinated, collaborative, and comprehensive public health mitigation strategy for lead exposure risk in Michigan's homes and private dwellings; and

WHEREAS, GLWA is supportive of rules requiring stringent oversight for changes in a community water supply to assure effective corrosion control and protect public health; and

WHEREAS, GLWA does not believe the rules currently proposed by MDEQ provide the optimum approach to addressing these issues; and

WHEREAS, GLWA has submitted the attached written comments to EPA regarding its considerations in proposed rules and is finalizing related comments regarding MDEQ's proposed rules which will be finalized on or before the March 21, 2018 deadline for the submission of those comments,

NOW THEREFORE BE IT:

RESOLVED, that the GLWA Board receives, files and expresses its support for the written comments previously submitted by this utility to the EPA; and be it further

RESOLVED, that the Board understands that GLWA staff will finalize and submit similar written comments to the State of Michigan regarding MDEQ's proposed rules and expresses support for that action; and be it further

RESOLVED, that the Board requests that a copy of this resolution be submitted with GLWA's written comments regarding MDEQ's proposed rules; and be it further

RESOLVED, that GLWA Board requests that given the importance of this issue, staff continue to engage in meaningful dialogue regarding the issue and the rules; and be it further

RESOLVED, that GLWA Board requests that given the importance of this issue, that staff post a copy of this resolution, the GLWA EPA comments, and when complete the GLWA MDEQ comments on the utility's website and take other reasonable actions to provide GLWA's member-partners with GLWA's comments regarding this issue; and be it finally

RESOLVED, that GLWA's Chief Executive Officer is authorized to take such other action as may be necessary to accomplish the intent of this vote.