



Jim Nash

November 26, 2018

Dear Oakland County Communities:

As you may know, on October 12, 2018 the Michigan Department of Environmental Quality (“MDEQ”) denied Oakland County Water Resources Commissioner’s (along with the Great Lakes Water Authority and the Detroit Water and Sewerage Department) Request for a Declaratory Ruling regarding the MDEQ’s Lead and Copper Rules. We appreciate the more than 50 concurrences received in the Request for Declaratory Ruling, many of them from Oakland County communities. It clearly shows municipal water suppliers, large and small, are concerned about health, legal and financial impacts of the Rules’ implementation.

As a result of MDEQ’s denial, the issues raised in the Request for Declaratory Ruling by communities representing at least half of the state’s population have not been heard nor properly adjudicated. Because of our shared interest in this issue, I wanted to inform you of our current plans. Even though our actions are not yet final, we are sharing this information now so you are aware of what is transpiring as you contemplate your own next steps.

We are drafting a very detailed complaint for declaratory and injunctive relief to be filed in the Court of Claims by December 11, 2018. It is likely the complaint will also refer to issues related to violation of the Headlee amendment, as well as violating the constitutional prohibition against spending public money for improvements on private property. Our expectation is that filling the complaint will be closely followed by specific actions on these other issues. Having not yet received a response to our FOIA request (filed August 1, 2018), the complaint further provides us with an opportunity to obtain documents through the civil discovery process.

We are disappointed with the continued necessity to expend fiscal resources preparing these legal documents instead of on pursuing rules more protective of public health at a cost much lower than our current estimate of \$2.5 billion; however, the State has refused multiple meeting requests to discuss our concerns to work toward a resolution. Once the complaint for declaratory and injunctive relief is filed, you may want to continue supporting the effort by filing a motion to intervene in that action. This method allows you to conserve fiscal resources and focus on adding your community’s story to the record. Either way, I will continue to keep you apprised of our actions including sharing the formal complaint when it is finalized.

In the meantime, we would like to hear from you regarding your experiences with the revised Lead and Copper Rules. Please visit oakgov.com/LCR for more information. If you have any questions please feel free to contact Kelsey Cooke, WRC Senior Attorney (248-452-2013) or Chuck Hersey, WRC Policy Consultant with OHM-Advisors (734-890-7393).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Nash", is written over a light blue line that extends across the page.

Jim Nash

