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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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January 11, 2022

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Regan:

As Chairman of the United States Senate's chief oversight committee and on behalf of my fellow Michiganders, I write today with continued concern regarding the ongoing water crisis in Benton Harbor, Michigan. While I am encouraged by the recent steps taken by the Environmental Protection Agency (EPA) to provide support to the Benton Harbor community, as well as by the December 15, 2021 lead testing results from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) showing a reduction in lead levels in residential drinking water, Benton Harbor still remains at the federal action level for lead of 15 parts per billion (ppb).¹ There is simply no safe level of lead in drinking water.

In November 2021, you astutely observed that "the people of Benton Harbor have suffered for too long."² Beginning in 2018, city officials reported that the level of lead in Benton Harbor's drinking water was at the dangerous level of 22 ppb for the 90th percentile of samples.³ This discovery was particularly startling in the wake of the infamous Flint water crisis in 2016. Under Flint's state of emergency, lead levels were reported at 20 ppb.⁴ By October 2021, state officials advised Benton Harbor residents to drink only bottled water after reports revealed that some water samples collected from local faucets showed lead levels at 700 ppb, 47 times the EPA's action level for unsafe drinking water.⁵

¹ Michigan Department of Environment, Great Lakes and Energy, *Most Recent Lead and Copper Rule Testing Shows Reduced Benton Harbor Lead Levels* (December 15, 2021) available at <https://www.michigan.gov/egle/0,9429,7-135--574022--,00.html>.

² Environmental Protection Agency, *EPA Directs City of Benton Harbor, Michigan, to Take Immediate Actions to Improve the Safety and Reliability of its Drinking Water* (November 2, 2021) available at <https://www.epa.gov/newsreleases/epa-directs-city-benton-harbor-michigan-take-immediate-actions-improve-safety-and>.

³ Leonard Fleming, *Benton Harbor Doesn't Want to be the Next Flint. It's Already Worse*, Detroit News, (March 25, 2021) available at <https://www.detroitnews.com/in-depth/news/local/michigan/2021/03/26/benton-harbor-doesnt-want-next-flint-its-already-worse/4632816001/>.

⁴ *Id.*

⁵ Kelly House, *In Benton Harbor, residents' complaints of lead-tainted water carry echoes*, Bridge Michigan, (October 8, 2021) available at <https://www.bridgemi.com/michigan-environment-watch/benton-harbor-residents-complaints-lead-tainted-water-carry-echoes>.

The Honorable Michael S. Regan

January 11, 2022

Page 2

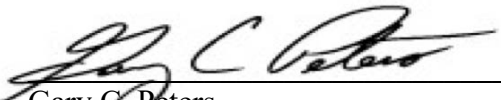
Every Michigander – and every American – deserves clean, safe drinking water. That is why after the Flint water crisis, I authored a legislative provision – included in the Water Infrastructure Improvements for the Nation Act – that requires EPA to warn the public within 24 hours of the detection of high levels of lead in drinking water, in the event that a state fails to do so (Pub. L. 114-322, Section 2106). This provision also requires the EPA Administrator (and owner/operators of public water systems) to notify the public if lead levels exceed established levels for safe water delivered to homes and to develop a strategic plan for outreach, education, and technical assistance to impacted communities.

Given the continuing crisis in Benton Harbor, I believe it is critical that Congress, my constituents, and local stakeholders better understand the implementation of Section 2106 and the timeliness of local, state, and public works officials' response to initial reports raising concern about the level of lead present in the City of Benton Harbor's drinking water. Therefore, I request that you please provide us with answers to the following inquiries by March 1, 2022.

1. Please describe in detail EPA's efforts to warn the public about the presence of high levels of lead in Benton Harbor's drinking water.
 - a. If EPA did not warn the public in Benton Harbor within 24 hours of the detection of high levels of lead in drinking water, please describe the efforts made at the state and local levels and detail how EPA determined these were sufficient to keep residents safe.
2. How has EPA implemented the strategic plan required under Section 2106 of Pub. L. 114-322? How has EPA's efforts in doing so shaped the response to the Benton Harbor water crisis?
3. Please describe in detail how the testing and reporting of water levels in Benton Harbor were carried out.
4. Please describe in detail the status of notification, education, and technical assistance efforts required under Section 2106 of Pub. L. 114-322.

Thank you for your prompt attention to this matter. If you or members of your staff have any questions, please contact Chelsea Davis on the Homeland Security and Governmental Affairs Committee staff at (202) 578-8009 or Mike Stoeber from Senator Peters' staff at (202) 224-6221.

Sincerely,



Gary C. Peters
Chairman