

Congress of the United States
House of Representatives
The Committee on Oversight and Government Reform
“Examining Federal Administration of the Safe Drinking Water Act in Flint,
Michigan – Part II”
Tuesday, March 15, 2016
10:00 AM Room 2154 Rayburn House Office Building
Washington, DC

Darnell Earley, ICMA-CM, MPA

Opening Statement – Mr. Darnell Earley

**Chairman Chaffetz, Ranking Member Cummings, Members of the
Committee:**

Thank you for your invitation to appear at today's hearing, "Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan – Part II." I greatly appreciate this opportunity to share with you any factual information I have regarding the public water crisis in Flint, Michigan.

My name is Darnell Earley. I have been a public servant for nearly 40 years in Michigan, fulfilling roles as a city and township manager, county administrator, state government appointee, acting Mayor of Flint, and public school and college educator. I recently served as one of four Emergency Managers appointed to Flint by Michigan Governor Rick Snyder during the period being discussed. I was appointed in October 2013 and served until January 2015.

Some of this Committee's concern during Part I of this hearing was directed at Michigan's Emergency Manager ("EM") law, Public Act 436 of 2012, and you may have some fundamental questions regarding the role an EM plays in a financially distressed community. The law certainly does not allow for limitless power in the hands of a dictatorial EM – it is a tool, a powerfully surgical tool when responsibly used, not a blunt instrument for arbitrarily bludgeoning localities with order after order. Rather, local involvement is embodied in Michigan's system. Throughout my years of extensive public service, I have come to realize that, without including the community and elected officials, an EM will ultimately fail to instill in them a sense of local pride and ownership, and will not succeed in preparing them for the daunting task of sustaining future financial solvency. I have always found this to be true, and have always encouraged the collaboration and participation of local leaders and residents – I acted no differently in Flint. Indeed, in June 2014, I signed an Order delegating day-to-day operational responsibility

over the Department of Planning and Development and the Department of Public Works, which included the Flint Water Treatment Plant, to Mayor Walling.

As the crisis in Flint has unfolded, we have all witnessed inexcusable government inaction, delay, and inexplicable miscalculation. In the midst of this crisis, I must tell you, I believe that I have been unjustly persecuted, vilified, and smeared – both personally and professionally – by the media, local, state, and federal officials, as well as by a misinformed public. Let me now be clear: I am here to set the record straight, and I hope that *everyone* will carefully consider the following:

The Decision to Switch from DWSD to KWA

- First, Edward Kurtz, the EM in March 2013, signed the Order for this project to go forward--not me.
- Second, the City Council voted to approve the Karegnondi Water Authority (“KWA”) deal that same month. Meanwhile, I did not take office as EM in Flint for another seven months.
- Not only was this move supported by the City Council and Kurtz, but it was approved by the State Treasurer, Andy Dillon, in April 2013, and was supported by Mayor Dayne Walling and many others.
- I played absolutely no role in this initial decisionmaking process.

The Decision to Use the Flint River

- It was not my decision to use the Flint River when the switch was made in April 2014. Nor was this a two-pronged decision. The concept of using the Flint River as an interim water source was inherent in the City Council’s KWA vote and Kurtz’s March 2013 Order.
- With DWSD disconnecting water service for Flint from Lake Huron in April 2014, the City Council obviously contemplated and indeed

confirmed use of the Flint River as their interim water source. To do otherwise would make no sense – the City would be left without *any* source of water for two years.

- And indeed, Kurtz signed an Order in June 2013 specifically placing the Flint Water Plant into operation using the Flint River as a primary drinking water source--with no objection.
- The fact that I was EM at the time of the switch does not mean that it was my decision:
 - The River had been safely used as a backup water source throughout the 50-year DWSD contract period, and had served as the primary water source for the City prior to then;
 - The River had proven healthy through quarterly testing;
 - Mayor Walling, Public Works Director Howard Croft, and environmental experts all praised the use of the Flint River;
 - MDEQ even issued a permit authorizing the City's Water Treatment Plant to treat and distribute the river water.
- From what I was told by the water treatment experts – at the local, state, and federal levels – all signs pointed to the Flint River as a safe, treatable water source. Indeed, corrosion of pipes and lead leaching were never issues raised during my tenure as EM (October 2013-January 2015).

Tenure as Flint Emergency Manager: October 2013 – January 2015

- The suggestion of renewing a long-term deal with DWSD was carefully reviewed during my tenure, however, the stark reality of the situation was that such a deal was financially impossible. Not unaffordable--impossible. The City had already invested millions of dollars into the KWA arrangement and simply did not have the financial resources in its coffers for such a deal, nor did the state allocate sufficient support. Moreover, the underlying DWSD contract had resulted in some of the highest consumer water rates in the nation.
- To be clear, I never personally received any offer of discounted rates for a short term contract from DWSD, nor was I notified of any such offer. Notably, the reconnect to DWSD, in October 2015, ten months after I left Flint, was only made possible by a series of grants,

requests, and state-assisted negotiations that were unavailable to the City during my tenure. Had such funds and proposals been available in 2013 and 2014, a reconnect to DWSD during that period may have given the City another option.

- In keeping with my management philosophy that local leaders should work with me as an EM, I delegated all day-to-day operational responsibilities over the Department of Planning and Development and the Department of Public Works to Mayor Walling – and increased his salary for these added responsibilities. Public works, of course, included the City’s Water Treatment Plant and distribution system.
- Even though that Order placed water management squarely under the Mayor’s direct report, I received weekly updates from the Mayor and others to monitor the City’s water system.
- Together, with Mayor Walling, I issued boil water advisories and monitored pipe replacements in the fall of 2014, per MDEQ’s instructions. Since these were highly complex water treatment and environmental issues, I and others relied heavily upon the data and recommendations from MDEQ and the water treatment plant officials.
- From a leadership perspective, I had no choice but to trust these experts. I began to lose faith in what they were telling me after their “solutions” led not only to a second boil water advisory, but a violation of federal trihalomethanes (“TTHM”) levels in late 2014.
- Accordingly, and at my instruction, the City retained a private water treatment consultant in January 2015, Veolia North America. Veolia’s report, issued two months *after* I completed my assignment in Flint, praised all of the proactive efforts to remedy water quality issues taken under my watch, yet also recommended the City add corrosion control chemicals to the water. This report was issued in March 2015.
- My tenure in Flint ended in January 2015 not because I was fleeing a brewing lead water crisis of which I had no knowledge at that time – I was reassigned to serve Detroit Public Schools because Flint was, by then, well on its way toward regaining

financial solvency. And believe me, while working for DPS may have been God's work, it was anything but a reward, contrary to prior reports.

- Significantly, information on corrosion control and lead leaching did not surface until February and March 2015--well after I completed my assignment in Flint.

Role of MDEQ and EPA

As we all now know, we were grossly misled by the experts at MDEQ and EPA. But we were at the mercy of their scientific and regulatory analysis – indeed it would have been extremely unreasonable for any of us, given what we were being told at the time, to reject their guidance, and attempt to make independent decisions on such a highly sophisticated and scientific subject matter.

The experts' errors all underscore that Flint's crisis is not rooted in a failure of leadership, but rather resulted from improper treatment of the water--an issue which fell squarely to MDEQ and EPA. But-for these failures, we would not be here today.

Conclusion

Mr. Chairman and Members of the Committee, please know that I am sad, angry, and deeply disappointed with the water crisis in Flint. I have a special affinity for the community and the people residing therein. I used to live in Flint, I have relatives there now, I have worshipped alongside friends and its citizens, I have patronized its businesses, and indeed, I too drank the water from its taps.

As a former acting Mayor of Flint, I do sincerely regret what has transpired. But, while I may share some leadership responsibility by virtue of my role as an EM, this was not a leadership issue – this is purely a water treatment issue.

Not one day goes by in which I do not think about, and pray for, those affected by the water crisis in Flint. And, at no time during my tenure as EM did I ever wake up and consciously decide to deny them, or otherwise ignore their fundamental right to safe drinking water as defined under the Safe Drinking Water Act.

The hard work and dedication of many will be needed to solve this problem and to be reasonably sure that it will never happen again. It is therefore my prayer that everyone's attention will now turn toward solving these challenges, including formulating plans to address the aged and crumbling condition of water distribution systems that exist not only throughout Flint and Genesee County, but also in virtually every urban-core city in America.

Until we do this, many other cities are just one "expert's" mistake away from an outcome similar to the Flint water crisis.

Thank You.

Darnell Earley, ICMA-CM, MPA

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name:

DARNELL EARLEY

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

NONE

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

NONE

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

NONE

I certify that the above information is true and correct.

Signature:

Darnell Earley

Date:

3-10-16

Township Manager, Buena Vista Charter Township, Michigan (Pop.13,000) 9/86-12/88
Chief administrative officer appointed by the Buena Vista Charter Township Board of Trustees. Responsible for the daily operation of a ten department, eighty employee staff, full service township government. As personnel manager, hired, trained, and evaluated critical department head and support staff.

Administrative Assistant to the County Administrator/EEO Officer, Muskegon, Michigan (Pop. 154,000) 3/81-9/86
Assistant to the County Administrator, and EEO Officer. Responsible for special projects and assisting the County Administrator with the daily operations of a full service county.

Director, Community/Economic Development, Urban League, Muskegon, Michigan 6/78-2/81
Program director of a non-profit community based organization. Responsible for the supervision of the agency's community and economic development and job placement programs.

Adjunct Faculty, Grand Valley State University, Allendale, Michigan 1/82-12/94
Contractual position with the School of Public Administration to teach graduate and undergraduate courses in public budgeting and financial administration, workplace diversity, and human services organization development. Courses taught in 1982, 1986 and 1994.

EDUCATION

Master of Public Administration, Western Michigan University, Kalamazoo, Michigan
Bachelor of Science, Grand Valley State University, Allendale, Michigan
Associate in Arts, Muskegon Community College, Muskegon, Michigan
ICMA Credentialed Manager

AWARDS

Western Michigan University, College of Arts and Sciences, School of Public Affairs and Administration, Alumni Outstanding Achievement Award, October 2011

Muskegon Community College, Distinguished Alumni Award, May 2015

AFFILIATIONS AND ACTIVITIES

Past Chairman, Midland Bay Saginaw International Airport Commission
Past Chairman, Saginaw Midland Water Supply Corporation (December, 2011)
Past Member Saginaw Downtown Development Authority
Past Member Saginaw Riverfront Commission
Life Member, Alpha Phi Alpha Fraternity, Inc.
ICMA International City/County Management Association, President (2009/2010)
ICMA Executive Board Midwest Vice-President, (1998/2001)
Commissioner, Michigan Department of Natural Resources (05/05-12/08)
National Forum For Black Public Administrators
Past Member National Association of County Administrators
Enjoy golf, hunting, fishing, running