

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT OF THE COUNTY OF GENESEE**

ATTORNEY GENERAL BILL SCHUETTE  
ON BEHALF OF THE  
PEOPLE OF THE STATE OF MICHIGAN,

Hon. Richard B. Yuille

Case No. 16-

-NM

Plaintiff,

v.

VEOLIA NORTH AMERICA, INC.,  
a Delaware Corporation,  
VEOLIA NORTH AMERICA, LLC,  
a Delaware Limited Liability Company,  
VEOLIA WATER NORTH AMERICA OPERATING SERVICES, LLC,  
a Delaware Limited Liability Company,  
VEOLIA ENVIRONNEMENT, S.A.,  
a French transnational corporation,  
LOCKWOOD, ANDREWS & NEWNAM, P.C.,  
a Michigan Corporation,  
LOCKWOOD, ANDREWS & NEWNAM, INC.,  
a Texas Corporation, and  
LEO A. DALY COMPANY, a Nebraska Corporation

Defendants.

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**COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL**

**THERE ARE NUMEROUS RELATED CASES THAT HAVE BEEN PREVIOUSLY FILED IN THIS COURT ASSIGNED TO THE HONORABLE RICHARD B. YUILLE.**

**COMPLAINT FOR DAMAGES**

Attorney General Bill Schuette, on behalf of the People of the State of Michigan, brings this Complaint for Damages for harm to the public health and general welfare of the People of the State of Michigan arising from the Flint Water Crisis.

**INTRODUCTION**

1. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, files this civil action against the named Defendants for their roles in the events known as the Flint Water Crisis, including but not limited to the corrosion of lead pipes, the leaching of lead into the water supply, and the lead poisoning of residents.

2. The People of the State of Michigan relied heavily upon the hired professional expertise of the Defendant engineering firms to provide residents with safe water.

3. The Defendant engineering firms, self-proclaimed leaders and experts in water treatment and supply, totally failed the citizens of Flint and the People of the State of Michigan.

4. The Defendants violated their legal duties and caused the Flint Water Crisis to occur, continue, and worsen. Their conduct has produced a significant effect, long lasting and sometimes permanent, upon public rights including health, safety, peace, comfort, and convenience. As a result, the People of the State of Michigan suffered damages for past, ongoing, and future harm to public health and general welfare.

5. Veolia's acts and omissions constitute professional negligence, fraud, and public nuisance.

6. LAN's acts and omissions constitute professional negligence and public nuisance.

7. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, seeks to protect the People's interests in public health and general welfare, and recover damages for harms to those interests.

8. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, has *parens patriae* standing to bring this action to protect, and recover damages to, the quasi-sovereign interests of the People of the State of Michigan.

9. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, seeks relief in this honorable Court in Flint, where the harms to citizens and costs to the People have been and will be the greatest.

10. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, requests a jury of Genesee County residents to render judgment against the Defendants on the claims stated below.

### **PARTIES, JURISDICTION, AND VENUE**

11. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, is the Plaintiff in this action.<sup>1</sup>

12. "The attorney general ... may, when in his own judgment the interests of the state require it, ... appear for the people of this state in any ... court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested." MCL 14.28.

13. The Michigan Constitution, Art. IV, Section 51, provides: "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern."

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<sup>1</sup> A similar complaint, previously filed in this court on behalf of Plaintiff State of Michigan, will be voluntarily dismissed without service. The State of Michigan is not a party to this action and is not represented by the Attorney General's Office of Special Counsel and the Special Assistant Attorneys General on this complaint.

14. The Flint Water Crisis, and the acts and omissions of the Defendants, are a grave harm and threat to the public health and general welfare of the People of the State of Michigan, including but not limited to the substantial portion of the population exposed to the unsafe public water supply in Flint.

15. To protect the quasi-sovereign interests in public health and general welfare of the People of the State of Michigan, and recover damages for past, ongoing, and future harms to these interests, Attorney General Bill Schuette, on behalf of the People of the State of Michigan, has standing to bring this action as *parens patriae*.

16. Attorney General Bill Schuette, on behalf of the People of the State of Michigan, is uniquely suited to bring a civil action on behalf of the quasi-sovereign interests in public health and general welfare of the People of the State of Michigan. The interests at issue in this *parens patriae* action are distinct and apart from the interests of particular private parties (whether represented individually or in a named class) at issue in other civil actions.

17. Defendant Veolia North America, Inc. is a Delaware corporation with its principal place of business at 200 East Randolph Drive, Suite 7900, Chicago, Illinois 60601.

18. Defendant Veolia North America, LLC is a Delaware Limited Liability Company with its principal place of business at 200 East Randolph Drive, Suite 7900, Chicago, Illinois 60601.

19. Defendant Veolia Water North America Operating Services, LLC is a Delaware Limited Liability Company with its principal place of business at 101 West Washington Street, Suite 1400 East, Indianapolis, Indiana 46204.

20. Defendant Veolia Environnement, S.A. is a transnational corporation incorporated in the Republic of France with its principal place of business at 36/38 avenue Kléber, 75116 Paris, France.

21. The four above named Defendants (individually and collectively Veolia) performed professional engineering services and/or engaged in other relevant conduct in Flint in 2015.

22. Veolia holds itself out as a “leading water services provider in [the] North American market, with more projects, operations, resources, expertise and demonstrated success than any other services provider.”

23. Veolia maintains multiple offices in Michigan, regularly conducts business in Michigan, and has committed torts in Michigan, which are among the bases for personal jurisdiction under MCL 600.711, 600.715, 600.721, and 600.725.

24. Defendant Lockwood, Andrews & Newnam, P.C. is a Michigan professional corporation with its principal place of business located at 1311 South Linden Road, Suite B, Flint, Michigan 48532. Lockwood, Andrews & Newnam, P.C. held itself out to the world as a Leo A. Daly Company. In 2008 Lockwood, Andrews & Newnam, P.C. was incorporated by Lockwood, Andrews & Newnam, Inc., in connection with work to be performed in Flint.

25. Defendant Lockwood, Andrews & Newnam, Inc. is a Texas corporation with its principal place of business in Houston, Texas. At all relevant times, Lockwood, Andrews & Newnam, Inc. conducted business in Genesee County, Michigan, with offices at 1311 South Linden Road, Suite B, Flint, Michigan 48532.

26. Defendant Leo A. Daly Company is a Nebraska corporation with its principal place of business at 8600 Indian Hills Drive, Omaha, Nebraska 68114. According to its website,

Leo A. Daly Company's "[s]ervices are extended through Lockwood, Andrews & Newnam, Inc."

27. The three above named Defendants (individually and collectively LAN) performed professional engineering services and/or engaged in other conduct in Flint from 2011 through 2016.

28. LAN holds itself out as "a full-service consulting firm offering planning, engineering and program management services" with "firsthand knowledge of the Flint Water Treatment Plant" and its operations.

29. LAN maintains an office in Flint, Genesee County, Michigan, regularly conducts business in Michigan, and has committed torts in Michigan, which are among the bases for personal jurisdiction under MCL 600.711, 600.715, 600.721, and 600.725.

30. Venue is proper in this Court because the original injury and damage occurred in Genesee County; Defendants reside and/or conduct business in Genesee County; the People of the State of Michigan have suffered harms and incurred costs in Genesee County; and many of the occurrences described herein occurred in Genesee County.

31. The amount in dispute is in excess of \$25,000.00, exclusive of costs and attorney fees, and all of the parties have transacted business in Genesee County, Michigan at all times relevant herein such that jurisdiction is properly with this Court.

#### **STATEMENT OF FACTS**

32. The City of Flint's Water Treatment Plant was constructed in 1917.

33. The City of Flint used its Water Treatment Plant to serve Flint River water as the primary water supply for Flint customers for drinking and industrial uses for approximately 50 years.

34. In the 1960's, because of continued concerns regarding the adequacy of the Flint River for meeting the future water supply needs of the area, the City of Flint evaluated alternatives for a new water supply.

35. In 1965, the City of Flint contracted with the City of Detroit to purchase treated water that originated from Lake Huron.

36. From 1967 to 2014, the Flint Water Treatment Plant distributed treated water via a Detroit system pipeline from Lake Huron.

37. Since 1990, Flint distributed water from the Detroit system that had been treated for optimized corrosion control of the Flint water supply system..

38. In 2011, Flint Mayor Dayne Walling commissioned LAN (in cooperation with Rowe Engineering, Inc.) to conduct a feasibility study with respect to whether the Flint Water Treatment Plant could once again use the Flint River as a primary water supply for Flint, consistent with modern "rules and regulations for the treatment of surface water."

39. LAN (again jointly with Rowe) ultimately produced a July 2011 report for Flint titled "Analysis of the Flint River as a Permanent Water Supply for the City of Flint" (LAN's 2011 Report, Exhibit A).

40. According to LAN's 2011 Report, "This study evaluates the feasibility of utilizing the City of Flint's Water Treatment Plant and Flint River as the primary water supply for the City of Flint. The study evaluates whether the Flint River is an adequate source of water for the City of Flint and identifies upgrades needed to reliably supply water on a continuous basis."

41. LAN's 2011 Report recognizes: "There have been many new rules and regulations for treatment of surface water since 1967 when Flint's [Water Treatment Plant] was last used as a primary water supply."

42. LAN's 2011 Report continues: "Available records provide a good understanding of the characteristics of the raw water and ranges of variances, and will be helpful to design water treatment processes and estimate operating costs."

43. LAN's 2011 Report ultimately concludes: "Preliminary analysis indicates that water from the river can be treated to meet current regulations; however, additional treatment will be required than for Lake Huron water. ... Although water from the river can be treated to meet regulatory requirements, aesthetics of the finished water will be different than that from Lake Huron."

44. LAN also prepared an additional analysis, attached to LAN's 2011 Report as an Appendix, titled "Technical Memorandum Cost of Service Study Flint Water Treatment Plant" (LAN's 2011 Technical Memorandum, Exhibit B).

45. LAN's 2011 Technical Memorandum details over \$49,000,000 in upgrades and improvements that would have to be made to bring the Flint Water Treatment Plant up to current standards.

46. LAN's 2011 Technical Memorandum specifically projected costs for corrosion control chemicals ("phosphate") that would be required.

47. LAN eventually offered and provided (for fees), its professional engineering services to the City of Flint to design and implement improvements to the Flint Water Treatment Plant to treat Flint River water and deliver it to residents.

48. On June 10, 2013 LAN submitted a Proposal to the City of Flint for "Flint Water Treatment Plant Rehabilitation – Phase II" (LAN's 2013 Proposal, Exhibit C).

49. LAN's 2013 Proposal was signed by J. Warren Green, Professional Engineer (Project Director), and Samir F. Matta, Professional Engineer (Senior Project Manager).



50. LAN's 2013 Proposal was to make "improvements ... intended to help the City operate[] the plant on a full time basis using the Flint River."

51. LAN's 2013 Proposal stated: "LAN's staff has the knowledge, expertise and the technical professionals to handle all aspects of the project. Our staff has firsthand knowledge of the Flint Water Treatment Plant...."

52. LAN's 2013 Proposal includes a "Scope of Services" stating the "project involves the evaluation and upgrade of the Flint Water Plant to provide continuous water supply service to the City of Flint (Flint) and its customers." The upgrades and improvements would allow the use of the Flint River for water supply.

53. LAN's 2013 Proposal establishes "Standards of Performance" stating "Engineer [LAN] agrees to exercise independent judgment and to perform its duties under this contract in accordance with sound professional practices."

54. LAN's 2013 Proposal states "the estimated construction cost to prepare the water plant for continuous operation using Flint River water for the interim period is on the order of \$33 to \$34 million."

55. On or about June 26, 2013, the City of Flint engaged the professional services of LAN through a "Resolution Authorizing Approval to Enter into a Professional Engineering Services Contract for the Implementation of Placing the Flint Water Plant into Operation" (2013 LAN Resolution, Exhibit D).

56. Pursuant to the 2013 LAN Resolution, the City would "enter into a Professional Engineering Services contract with Lockwood, Andrews & Newnam, Inc. for the administration of placing the Flint Water Plant into operation using the Flint River as a primary drinking water source at a cost of \$171,000.00."

57. On June 29, 2013 a meeting was held at the Flint Water Treatment Plant between City of Flint officials, Genesee County Drain Commissioners Office representatives, the Michigan Department of Environmental Quality, and design engineers from LAN (City of Flint Responses to Citizens' Water Questions, Exhibit E). The agenda for the meeting was to determine the feasibility of: "(1) [u]sing the Flint River as a Water Source; (2) [t]he ability to perform the necessary upgrades to the Treatment Plant; (3) [t]he ability to perform quality control; (4) [t]he ability for Flint to provide water to Genesee County; (5) [t]he ability to meet an April/May 2014 timeline; [and] (6) [d]evelopment of a cost analysis."

58. As a result of the meeting, the following determinations were made: (1) although the Flint River would be more difficult to treat, it was identified as a viable source of water; (2) it would be "possible to engineer and construct the upgrades needed for the treatment process;" (3) "with support from LAN engineering which works with several water systems around the state, quality control could be addressed;" (4) the Flint Water Treatment Plant "would not have the capacity needed to treat and distribute sufficient water to meet the documented needs of Flint and Genesee County;" (5) "many obstacles needed to be overcome but completion by the April/May 2014 target was reachable;" and (6) "[n]ext steps from the meeting were for LAN to present the City with a proposal that would include engineering, procurement, and construction needs for the project along with cost estimates."

59. From July 2013 through April 2014, LAN was the primary design engineering firm for the Flint Water Treatment Plant but LAN failed to meet its duty of care and competence at a professional standard.

60. In April 2014, LAN signed and sealed the improvement and upgrade plans to the Flint Water Treatment Plant as the professional engineer for the project.

61. The Flint Water Treatment Plant, with upgrades designed and implemented by LAN, began distributing Flint River water on or about April 25, 2014.

62. Prior to April 2014, and since approximately 1990, Flint had been using corrosion control by distributing pre-treated water (water treated for corrosion control) from the Detroit system.

63. When the Flint Water Treatment Plant began distributing Flint River water on or about April 25, 2014, it did so without treating the new water supply for corrosion control.

64. LAN was aware of the need for corrosion control at the Flint Water Treatment Plant, and had previously recommended corrosion control, but failed to include or implement corrosion control in its final designed upgrades to the Flint Water Treatment Plant.

65. LAN's failure to design and implement corrosion control breaches the duty of a professional engineer in this field and falls far short of the standard of care and practices of a professional engineer of ordinary learning, judgment and skill given the circumstances.

66. The danger to the public health and welfare in not using corrosion control, especially given the known condition of the Flint River as a water supply source, was known or should have been known by LAN.

67. The danger to the public health and welfare in not using corrosion control was not adequately addressed or raised by LAN.

68. LAN's failure to design and implement corrosion control and its breach of duty as a professional engineer directly caused the Flint Water Crisis.

69. Problems with the Flint Water Treatment Plant's supply of Flint River water were evident and public soon after April 2014.

70. LAN continued to provide engineering services to Flint after the re-start of the Flint Water Treatment Plant and switch to the Flint River for the City's water supply in April 2014.

71. In August 2014, Flint's water from the Flint River first violated the Safe Drinking Water Act's acute coliform Maximum Contaminant Level due to the presence of fecal coliform bacteria, or E.coli, in the water.

72. The Maximum Contaminant Level is defined as "the maximum permissible level of a contaminant in water that is delivered to any user of a public water supply" under the Michigan Safe Drinking Water Act, Rule 325.10106(c).

73. In August and September 2014, Flint's water from the Flint River violated the Safe Drinking Water Act's monthly coliform Maximum Contaminant Level, and boil water advisories were issued due to the presence of fecal coliform bacteria, or E.coli, in the water.

74. On September 10, 2014, the Michigan Department of Environmental Quality issued a Compliance Communication to Flint (2014 Compliance Communication, Exhibit F).

75. The 2014 Compliance Communication notified Flint that it had exceeded safe levels for trihalomethane, a byproduct of disinfection that poses health risks.

76. The 2014 Compliance Communication further states that exceedance of trihalomethane "is an indicator of operational performance" problems with a public water supply.

77. Due to the exceedance of trihalomethane, the 2014 Compliance Communication requested that Flint complete an operational evaluation and submit a report pursuant to the Safe Drinking Water Act (Rule 325.10719l).

78. Flint hired LAN to conduct the operational evaluation and prepare and submit the report required by the 2014 Compliance Communication.

79. The Defendants had actual notice of the 2014 Compliance Communication regarding trihalomethane exceedance as “an indicator of operational performance” problems with the Flint Water Treatment Plant.

80. A *Flint Journal*/MLive article, “General Motors shutting off Flint River water at engine plant over corrosion worries,” dated October 13, 2014 (2014 General Motors Corrosion Article, Exhibit G) reported that General Motors announced it would no longer use Flint River water at its Flint Engine Operations plant due to high levels of chlorides in Flint’s water, which had begun to corrode its products. The article reported that General Motors arranged to buy Lake Huron water from Flint Township (via the Detroit system pipeline), rather than rely on the Flint Water Treatment Plant and the Flint River for its water supply.

81. The 2014 GM Corrosion Article included a statement by GM spokesman Tom Wickham: “Because of all the metal ... you don’t want the higher chloride water (to result in) corrosion.” GM spokesman Tom Wickham further stated: “We noticed it [the corrosion] some time ago (and) the discussions [with Flint] have been going on for some time.”

82. The City of Flint responded with an official statement regarding General Motors leaving the Flint water system due to problems with corrosion.

83. The Defendants had actual and/or constructive notice of the water quality problems reported in the 2014 General Motors Corrosion Article.

84. In November 2014, LAN issued a Draft Operational Evaluation Report for the City of Flint, titled “Trihalomethane Formation Concern” (LAN’s 2014 Report, Exhibit H).

85. LAN's 2014 Report was prepared in response to the 2014 Compliance Communication regarding the exceedance of trihalomethane and the operational performance problems it indicates.

86. LAN's 2014 Report should have identified the likely causes of increased trihalomethane levels and provided appropriate recommendations to lower the trihalomethane to safe levels, in compliance with state drinking water standards and professional engineering standards.

87. LAN's 2014 Report failed to identify the root cause of the trihalomethane problem or the implications of this issue with regard to corrosive water.

88. LAN's 2014 Report recommendations worsened the Flint Water Crisis.

89. High trihalomethane levels are not only a health risk on their own, but are also an indicator of more serious problems with water treatment and supply.

90. A professional engineer of ordinary learning, judgment and skill in this community would view the high trihalomethane levels, along with all other publicly known and available information at the time (including but not limited to media reports of corrosive water), as reason for concern about the corrosivity of the water, the likely corrosion of pipes (including lead pipes), and resulting lead poisoning of the water supply and related health risks.

91. A *Flint Journal*/MLive article, "Officials say Flint water is getting better, but many residents unsatisfied," dated January 21, 2015 (2015 Residents Unsatisfied Article, Exhibit I) reported that over one hundred residents gathered for a public meeting on January 21, 2015 with state and local officials at Flint City Hall to express concerns with reported Safe Drinking Water Act violations, observed problems with drinking water quality, and concerns regarding health risks.

92. The 2015 Residents Unsatisfied Article included photographs of jugs of visibly discolored water.

93. The Defendants had actual and/or constructive notice of the observed problems with drinking water quality and concerns regarding health risks reported in the 2015 Residents Unsatisfied Article.

94. In January 2015, in response to the repeated violations of Safe Drinking Water Act standards, the problems with corrosivity at the General Motors factory, the visually discolored water coming out of residents' taps, and growing public concerns over water quality and public health, the City of Flint solicited a proposal for a water quality consultant.

95. On January 29, 2015, Veolia Water North America Operating Services, LLC, submitted to the City of Flint its "Response to Invitation to Bid for Water Quality Consultant," Proposal No.: 15-573 (Veolia's 2015 Bid, Exhibit J).

96. Veolia's 2015 Bid was submitted by David Gadis, identified as Senior Vice President, Sales, Municipal and Commercial Development, Veolia North America.

97. Veolia's 2015 Bid proposed "to address the immediate reliability and operational needs" of Flint's water system.

98. The City of Flint had requested professional engineering services (1) to review and evaluate "the City's water treatment process...and procedures to maintain and improve water quality;" (2) to develop a report with recommendations "to maintain compliance with both State of Michigan and federal agencies;" and (3) to assist the City in implementing the recommendations.

99. Veolia's 2015 Bid, however, responded that "addressing the fundamental issues concerning water quality compliance and operational reliability is much more complex than the recommendations study and advisory services approach outlined in [the City of Flint's request]."

100. Veolia's 2015 Bid responded to the City's requested scope of work by proposing (1) calibrating "daily water quality samples with the City's hydraulic model;" (2) refining "the operational strategies for the plant and distribution system;" (3) coordinating "daily efforts across plant, operations and maintenance staff;" and (4) alleviating "continued concerns from the public through the public communications process."

101. Veolia's 2015 Bid states that to perform the proposed work in Flint, "Veolia would mobilize a team of experts, including our two prominent water SMEs [Subject Matter Experts], from our corporate technical services group (an in-house team of technical and management experts that support the company's project and operations throughout North America)."

102. The "two prominent water subject matter experts" provided by Veolia were identified in Veolia's 2015 Bid as: (1) Marvin Gnagy, P.E., "Water Process and Quality Manager," a "certified Water Operator in Ohio and a registered Professional Engineer [in Ohio]" and (2) Theping Chen, P.E., "Process and Operations Optimization Manager," a "water consulting engineer in Michigan" and "a registered Professional Engineer in the State of Michigan."

103. Veolia's 2015 Bid, in "Attachment 1, Resumes for Key Staff" states that Marvin Gnagy, P.E., is the "Water Process Manager with the Engineering and Optimization group of Veolia Environnement North America (Veolia)'s Municipal and Commercial Technical Support Group." It further states that prior to his current role with the Veolia entity described as "Veolia



Environnement North America (Veolia),” Mr. Gnagy was a manager with another Veolia entity, described as “Veolia Water North America Operating Services, LLC (Veolia Water)’s Technical Direction Group.”

104. Veolia’s 2015 Bid, in “Attachment 1, Resumes for Key Staff” states that Theping Chen, P.E., is a “Process and Operations Optimization Manager with the Engineering and Optimization group of Veolia Environnement North America (Veolia)’s Municipal and Commercial Technical Support Group.”

105. On or about February 4, 2015, the City of Flint engaged the professional services of Veolia through a “Resolution to Veolia Water for Water Quality Consultant” (2015 Veolia Resolution, Exhibit K).

106. The 2015 Veolia Resolution includes a standard of performance clause: “The city is relying upon the professional reputation, experience, certification, and ability of Contractor [Veolia].”

107. Just a few days after Veolia was hired by Flint, there were public reports of lead problems.

108. A *Flint Journal*/MLive article, “University of Michigan-Flint reveals water quality test results to campus,” dated February 9, 2015 (2015 University of Michigan Lead Test Article, Exhibit L) reported that University of Michigan-Flint announced to the “campus community” that two drinking water sources in two different buildings were being shut down due to unsafe lead levels.

109. Based on information reported in the 2015 University of Michigan Lead Test Article, the University of Michigan-Flint tested for lead levels after being notified by the City of Flint of the high trihalomethane levels in Flint’s water.

110. The Defendants had actual and/or constructive notice of the unsafe lead levels reported in the 2015 University of Michigan Lead Test Article.

111. On February 10, 2015 (one day after the University of Michigan-Flint announced that two drinking water sources were being shut down due to unsafe lead levels), the City of Flint issued a public announcement titled “Flint Hires International Urban Water Experts of Veolia North America to Assess City’s Water Issues” (2015 Veolia Announcement, Exhibit M).

112. In the 2015 Veolia Announcement, Veolia Vice President David Gadis stated: “We understand the frustration and urgency in Flint. We are honored to support your community with our technical expertise so that together we can ensure water quality for the people of the city of Flint.” Mr. Gadis further stated that Veolia has “extensive experience handling challenging river water sources, reducing leaks and contaminants and in managing discolored water.”

113. On February 12, 2015, Veolia’s Vice President Rob Nicholas made a public statement regarding the work Veolia would perform in Flint: “We’re going to look at the numbers, we’re going to look at the plant, we’re going to decide how the equipment’s functioning, look at the raw water, look at the finished water, decide how it’s getting through the pipe to the house, and from that, decide how to fix each of those problems as we go forward.”

114. On February 18, 2015, Veolia presented its “Interim Water Quality Report” (Veolia’s 2015 Interim Report, Exhibit N) to the Flint City Council Public Works Committee.

115. Veolia’s 2015 Interim Report was made public and was reported in the media.

116. According to Veolia’s 2015 Interim Report, the only issue not in Veolia’s scope of study was “why the change from [Lake Huron water via the Detroit system pipeline] or the history of the utility.”

117. Veolia's 2015 Interim Report began with the headline: "Everybody is Checking the Safety of Water."

118. Veolia's 2015 Interim Report stated to the public that Flint's water was safe: "Safe = compliance with state and federal standards and required testing. Latest tests show water is in compliance with drinking water standards."

119. Veolia's 2015 Interim Report then explains that residents are seeing discolored water because of "old cast iron pipes." Veolia again states that there are no health or safety problems, as discoloration "[d]oesn't mean the water is unsafe."

120. Veolia's 2015 Interim Report provided a map of reported water quality complaints over the past 12 months with the statement "fewer than you think."

121. Veolia's 2015 Interim Report responded to questions about "[m]edical problems" by stating that "[s]ome people may be sensitive to any water."

122. Veolia's 2015 Interim Report encouraged residents to contact the City of Flint to have the water in their home tested.

123. Flint resident Leanne Walters had in fact already contacted the City of Flint to have the water in her home tested. Michael Glasgow, the Flint Water Treatment Plant manager, visited the Ms. Walters' home at 212 Browning Avenue and tested the water.

124. On February 18, 2015 (the same day as Veolia's 2015 Interim Report), Mr. Glasgow tested for lead at 212 Browning Avenue. Mr. Glasgow tested for lead because of discoloration and high levels of iron.

125. On February 20, 2015, the Michigan Department of Environmental Quality Drinking Water Laboratory tested the 212 Browning Avenue sample (LF54945) and detected

lead at 104 parts per billion (ppb). A follow-up sample collected March 3, 2016 found lead at 397 ppb.

126. The Action Level for lead under the Safe Drinking Water Act is 15 ppb.

127. The Action Level is defined as “the concentration of lead or copper in water as specified in R 325.10604f(1)(c) that determines, in some cases, the treatment requirements that a water supply is required to complete” under the Michigan Safe Drinking Water Act, Rule 325.10102(b).

128. In February 2015, based on the exceedance of the Action Level for lead at 212 Browning Avenue, the City of Flint issued a Consumer Notice of Lead & Copper Results in Drinking Water (2015 Consumer Notice of Lead, Exhibit O).

129. The 2015 Consumer Notice of Lead contained the following warning: “Lead can cause serious health problem [sic] if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and it can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects on the brain with lower IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and can be released later in life. During pregnancy, the child receives lead from the mother’s bones, which may affect brain development.”

130. On February 27, 2015, LAN prepared a Final Operational Evaluation Report titled, “Trihalomethane Formation Concern” (LAN’s February 2015 Report, Exhibit P).

131. LAN's February 2015 Report recommended additional ferric chloride to address the ongoing water quality problems, stating that ferric chloride could "easily be implemented without the need for additional equipment."

132. It is widely known in the relevant engineering profession that ferric chloride is highly acidic and would increase the corrosivity of Flint's water, worsening the corrosion of lead pipes, the resulting leaching of lead into the water supply, and the poisoning of Flint residents.

133. The Defendants knew or should have known that adding acidic ferric chloride to Flint's water would continue and worsen the Flint Water Crisis.

134. Unlike the Defendant engineering firms, whose reports were completely ignoring the warning signs of corrosion, several public officials correctly identified the corrosion problem and implications for lead poisoning.

135. The publicly available 2015 Consumer Notice of Lead was a clear warning sign for staff at the U.S. Environmental Protection Agency's Chicago, Illinois office.

136. On February 26, 2015, EPA's Jennifer Crooks, Program Manager for EPA's Drinking Water State Revolving Fund in Michigan, sent an email to other EPA staff regarding lead in Flint's water (February 2015 EPA Email Correspondence, Exhibit Q).

137. In the February 2015 EPA Email Correspondence, Ms. Crooks stated that the lead testing results in a home with "2 children under the age of 3" were cause for "[b]ig worries here." She continued, "the different chemistry water is leaching out contaminants from the insides of the biofilms inside the pipes" and "[l]ead is a good indication that other contaminants are also present in the tap water."

138. In the February 2015 EPA Email Correspondence, Miguel Del Toral, EPA's Ground Water and Drinking Water Branch's Regulations Manager, responded to Ms. Crooks' stated concerns on February 27, 2015.

139. Mr. Del Toral stated in the February 2015 EPA Email Correspondence: "where you find [lead] values [as high as 104 ppb], it is usually due to particulate lead" and that the leaching of particulate lead in the water supply "is a normal part of the corrosion process."

140. Mr. Del Toral further stated in the February 2015 EPA Email Correspondence that high levels of orthophosphates (a method of corrosion control) "seem to reduce the amount of particulate [lead] that is released in the absence of physical disturbances to the lead lines."

141. Mr. Del Toral, again in the February 2015 EPA Email Correspondence, then correctly diagnosed the root cause of Flint's water supply problems – lack of corrosion control: "If I remember correctly, Detroit is feeding [orthophosphate] for [compliance with] the [Safe Drinking Water Act's Lead and Copper Rule], but since Flint is no longer part of that interconnection, I was wondering what their [optimized corrosion control technique] was. They are required to have [optimized corrosion control technique] in place which is why I was asking what they were using."

142. With far more limited information than was available to the Defendant engineering firms (which were in Flint as paid consultants during the exact same time period as the February 2015 EPA Email Correspondence), and working from his office in Chicago with no additional resources, Mr. Del Toral spotted the emerging Flint Water Crisis, diagnosed the root cause, and questioned why the appropriate engineering response was not being implemented.

143. On March 12, 2015, Veolia (as an entity self-described as "Veolia North America") submitted to Flint its Water Quality Report (Veolia's 2015 Report, Exhibit R).

144. Veolia's 2015 Report states that it had conducted a "160-hour assessment of the water treatment plant, distribution system, customer service and communication programs, and capital plans and annual budget."

145. Veolia's 2015 Report again made fraudulent statements regarding the safety of Flint's water supply: "[t]he review of the water quality records during the time of Veolia's study shows the water to be in compliance with State and Federal regulations, and, based on those standards, the water is considered to meet drinking water requirements."

146. Veolia's 2015 Report only considered phosphate corrosion control to address discoloration, with no mention of the far more serious lead problem: "Many people are frustrated and naturally concerned by the discoloration of the water with what primarily appears to be iron from the old unlined cast iron pipes. The water system could add a polyphosphate to the water as a way to minimize the amount of discolored water."

147. Veolia's 2015 Report recommended adding more ferric chloride: "Current ferric chloride dosages are too low and dosages of 100 mg/L or more are recommended. ... The increase in chemical costs could be up to \$1,000,000 per year. This change in dosage (using ferric chloride) can be made immediately without state permit review."

148. Veolia knew or should have known that Flint had no corrosion control protocol and that corrosion was already a significant problem.

149. Veolia knew or should have know of the effects of adding more ferric chloride, an acid, to already corrosive water moving through lead pipes into homes.

150. Veolia's recommendation that Flint double its dosage of ferric chloride, a powerful acid, was unqualified and in no way warned that ferric chloride could increase corrosion.

151. Veolia failed to inform Flint that in order to increase the dosage of ferric chloride (or indeed to use any chloride at all) it must also raise the water's pH (making the water less acidic) and use phosphates to protect the pipes from corrosion.

152. Flint followed the Defendants' professional advice and added ferric chloride to the water supply. As a direct result, the Flint Water Crisis continued and worsened.

153. The catastrophic error of adding ferric chloride to already corrosive water soon came to the public's attention with objective data.

154. Dr. Marc Edwards' Flint Water Study demonstrated that Flint's treated water became more acidic even as the Flint River became less acidic. The Flint River had a pH (a measure of acidity) at or above 8.0 prior to June of 2015, and its pH steadily increased (meaning it became less acidic) after June. The pH in Flint's treated water, however, became steadily more acidic immediately after Veolia's recommendation to double the ferric chloride concentration. The pH dropped from 7.9 in March 2015 to 7.3 by August. This is a dramatic difference because pH is measured on a logarithmic scale, meaning that a pH decrease by one whole number equates to a water supply that is ten times more corrosive.

155. Despite the Flint River water supply becoming less acidic, the treated water became significantly and dangerously more acidic after and due to Defendants' direction to add more ferric chloride.

156. On August 27, 2015, LAN issued another Operational Evaluation Report on the Trihalomethane Formation Concern (LAN's August 2015 Report, Exhibit S).

157. Again, LAN should have recognized the root cause of the high trihalomethane levels. Again, LAN should have seen the trihalomethane levels along with the now overwhelming evidence of water quality issues as an indicator of a corrosion problem. Again,



LAN should have been aware of the resulting leaching of lead into the water supply and harm to public health. Instead, LAN's August 2015 Report continued to recommend additional ferric chloride, which again would actually make the water more corrosive and intensify and worsen the Flint Water Crisis. And again, LAN failed to meet its duty of professional care and standards.

158. LAN's August 2015 Report stated: "Increasing the dose rate of ferric chloride is an operational change that can easily be implemented without the need for any additional equipment. ... Increased dosing of ferric chloride would be most ideal" with regular monitoring to determine "the appropriate ferric chloride feed rate."

159. The acts and omissions of the Defendants caused the Flint Water Crisis to occur, continue, and worsen over a period of approximately 18 months. The Defendants' acts and omissions resulted in corrosive water being delivered through lead pipes into homes and other drinking water sources. Subsequent acts and omissions, including but not limited to Defendant Veolia's fraudulent statements, caused widespread exposure to lead and resulting lead poisoning.

160. Lead poisoning is a terrible harm to public health and welfare. The 2015 Consumer Notice of Lead describes some (but not all) of the "serious" health problems from lead exposure: most notably damage to the brain and kidneys, as well as interference with the production of red blood cells that carry oxygen to all parts of the human body. As stated in the 2015 Consumer Notice of Lead, infants, young children, and pregnant women are most at risk. And the harm to public health and welfare will continue in subsequent generations, as lead is stored in mothers' bones and then released during pregnancy to her unborn children.

161. The costs and damages that result from addressing widespread lead poisoning include but are not limited to health monitoring and treatment costs, mental health services, educational services, and social services.

162. Additional exemplary damages are warranted to compensate the People of the State of Michigan for the humiliation, sense of outrage, and indignity resulting from harm to public health and welfare maliciously, willfully and wantonly inflicted by the Defendants.

163. Further, the acts and omissions of the Defendants in the Flint Water Crisis, including but not limited to making the water supply more corrosive, caused widespread damage to public property and infrastructure

164. On October 16, 2015, Flint stopped using the Flint River for its water supply and resumed use of Lake Huron water through the Detroit system. However, the damage had been done and lead has continued to leach from pipes into the water.

165. On January 5, 2016, Michigan Governor Rick Snyder issued a Declaration of Emergency for Genesee County (2016 Snyder Declaration of Emergency, Exhibit T) stating, “the damaged water infrastructure and leaching of lead into the city’s water caused damage to public and private water infrastructure, and has either caused or threatened to cause elevated blood lead levels, especially in the population of children and pregnant women, and causing a potential immediate threat to public health and safety and disrupting vital community services.”

166. On January 21, 2016, the United State Environmental Protection Agency issued an Emergency Administrative Order (2016 EPA Emergency Administrative Order, Exhibit U) stating that “[t]he presence of lead in the City water supply is principally due to the lack of corrosion control treatment after the City’s switch to the Flint River as a source in April 2014. The river’s water was corrosive and removed protective coatings in the system. This allowed lead to leach into the drinking water, which can continue until the system’s treatment is optimized.”

167. The 2016 EPA Emergency Administrative Order further stated: “water provided by the City to residents poses an imminent and substantial endangerment to the health of those persons ... by their ingestion of lead in waters that persons legitimately assume are safe for human consumption.”

### **COUNT I – PROFESSIONAL NEGLIGENCE**

#### **All Defendants**

168. Plaintiff incorporates by reference all preceding allegations set forth above as if fully stated herein.

169. The Defendants undertook, for consideration, to render professional services for the City of Flint and the benefit and protection of the public at large, including the People of the State of Michigan.

170. The Defendants undertook to perform professional services with a duty and standard of care independent of contractual obligations or statutory requirements.

171. The acts and omissions of the Defendants constitute professional negligence.

172. The Defendants failed to address the problem of corrosion and resulting lead poisoning, which a professional engineer of ordinary learning, judgment or skill in this community would do. The Defendants failed to recognize the root cause of the observed water quality problems and further recommended actions that made the problems worse.

173. The Defendants owed the People of the State of Michigan a duty of care and competence at a professional standard. This duty applies to the design of the Flint Water Treatment Plant, the decision to put the Flint Water Treatment Plant into operation in April 2014, the subsequent responses to the violations of the Safe Drinking Water Act, statements to the public, and all studies and reports regarding Flint’s water supply.

174. The Defendants' acts and omissions breached their duty. As a direct result, the People of the State of Michigan have been injured and continue to be injured. These injuries were caused by the Defendants' breaches and professional negligence.

175. The Defendants knew or should have known that high chloride levels in the Flint River would make the water corrosive without significant treatment, and that the corrosion would result in dangerous levels of lead for residents served by the City's many lead pipes.

176. The Defendants breached their ethical duty to notify the public and other authorities of the dangerous situation and unsafe water in Flint resulting from the lack of corrosion control.

177. The Defendants ignored information that a professional engineer would recognize as cause for concern and further investigation. Further, the Defendants recommended increasing the use of ferric chloride, which made the water even more corrosive, accelerating and worsening the corrosion of lead pipes and resulting in lead poisoning of drinking water.

178. The People of the State of Michigan relied on the professional expertise and the paid work of the Defendants to provide safe drinking water, and this reliance was based, in part, on assertions and statements made by the Defendants.

179. WHEREFORE, Plaintiff respectfully requests that the trier of fact award damages, jointly and severally against all Defendants, including exemplary damages, which will fully, fairly and completely compensate the people of the State of Michigan for harm to their interests in public health and welfare.

**COUNT II – FRAUD**  
**Veolia**

180. Plaintiff incorporates by reference all preceding allegations set forth above as if fully stated herein.

181. Veolia made representations in Veolia’s 2015 Interim Report, Veolia’s public presentation to the Flint City Council Public Works Committee on February 18, 2015, Veolia’s 2015 Interim Report, and other public statements and reports in February and March 2015 regarding the nature and cause of the water quality problems in Flint, the safety of Flint’s water, and the public health risks that were false and material.

182. The false and material representations include but are not limited to statements in Veolia’s 2015 Interim Report that (a) Flint’s water was “safe” and “in compliance with drinking water standards,” (b) the observed discoloration was merely aesthetic and not indicative of a water quality or health problem, and (c) medical problems are because “[s]ome people may be sensitive to any water.”

183. Further, Veolia has a legal and equitable duty to disclose information regarding public health risks based on its representations and the inquiries made to it. Veolia knew or should have known that its failure to disclose was misleading.

184. Veolia knew the representations it made were false, or the representations were made recklessly without any knowledge of the potential truth.

185. Veolia made the representations with the express intention that the general public and the People of the State of Michigan would act and rely on them. Specifically, Veolia sought to alleviate public concerns about the quality of Flint’s water and related health risks through its communication process, as stated in Veolia’s 2015 Bid.

186. The general public and the People of the State of Michigan did actually rely on Veolia's false representations regarding Flint's water. The general public and the People of the State of Michigan continued to drink water with unsafe lead levels after February and March 2015 based on Veolia's false representations. Reliance on Veolia's statements increased the quantity, intensity, and duration of the public's lead exposure and poisoning.

187. In reliance on Veolia's false representations made in February and March 2015, the public continued to use Flint's corrosive water, coming through lead pipes, until the water supply was finally switched back to the Detroit system in October 2015.

188. As a direct result of Veolia's fraudulent statements, the People of the State of Michigan have suffered, and will continue to suffer, severe economic damages.

189. The People of the State of Michigan and its citizens were in a relation of trust and confidence with Veolia when Veolia made its false and material representations.

190. WHEREFORE, Plaintiff respectfully requests that the trier of fact award damages, jointly and severally against all of the Veolia Defendants, including exemplary damages, which will fully, fairly and completely compensate the People of the State of Michigan for harm to their interests in public health and welfare.

**COUNT III – PUBLIC NUISANCE**  
**All Defendants**

191. Plaintiff incorporates by reference all preceding allegations set forth above as if fully stated herein.

192. The Defendants' acts and omissions constitute a public nuisance because they unreasonably interfered with a right common to the general public: the right to safe, reliable public drinking water.

193. The Defendants' conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort and the public convenience.

194. Some of the acts and omissions of Defendants violate state safe drinking water laws.

195. The Defendants knew or should have known that their acts were of a continuing nature and will produce permanent or long-lasting effects upon these public rights.

196. One potential measure to prevent future public harms and abate the nuisance is the replacement of lead service lines and pipes.

197. WHEREFORE, Plaintiff respectfully requests that the trier of fact award damages, jointly and severally against all Defendants, including exemplary damages, which will fully, fairly and completely compensate the People of the State of Michigan for harm to their interests in public health and welfare.

**RELIEF REQUESTED**

**WHEREFORE**, Plaintiff Attorney General Bill Schuette, on behalf of the People of the State of Michigan, demand judgment in excess of \$25,000.00 for damages and such other relief as this Court may deem just and proper.

Bill Schuette  
Attorney General  
State of Michigan

Todd Flood  
Special Assistant Attorney General  
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Dated August 16, 2016



**JURY TRIAL DEMAND**

Plaintiff Attorney General Bill Schuette, on behalf of the People of the State of Michigan,  
hereby demands a trial by jury for all claims so triable.

Bill Schuette  
Attorney General  
State of Michigan

Todd Flood  
Special Assistant Attorney General  
Office of Special Counsel

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Dated August 16, 2016

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