



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

October 26, 2021

VIA E-MAIL

The Honorable Ed McBroom, Chairman
Senate Committee on Oversight
7200 Binsfeld Office Building
P.O. Box 30036
Lansing, Michigan 48909-7536

Dear Senator McBroom:

I want to provide you a brief update on our progress in fulfilling the document requests made by the Senate Committee on Oversight on October 18, 2021 regarding the Department of Environment, Great Lakes, and Energy's (EGLE) response to the City of Benton Harbor community water supply's Action Level Exceedances (ALEs) for lead.

To best serve the Committee's oversight responsibilities—as well as the public interest in transparency and the expressed desire of Benton Harbor residents for more information on this matter directly impacting to their daily lives—we have developed the following plan for responding to your request based on our initial research into the project's scope and estimated time demands.

1. By Wednesday, November 3, 2021, EGLE will provide the Committee approximately 11,000+ pages of documents we have made public in response to the 28 Freedom of Information Act (FOIA) requests we have processed on this matter over the last 18 months. These public documents have already passed through the FOIA review process, which includes protecting vital interests such as avoiding unnecessary disclosure of personally identifying information of members of the public.
2. EGLE will subsequently provide additional records responsive to the Committee's request in periodic installments as they continue to progress through the process. We will present those installments so readers can distinguish updates from records provided previously. We will continue these updates until the request is fully fulfilled.

3. EGLE proposes revisions to the Committee's requested searches to allow for a more practical and timely—but still responsive—fulfillment of your request. Since receiving the Committee's letter, we ran six searches¹ through our email servers to determine the size and scope of the collection needed. Our initial searches resulted in nearly 120,000 search term hits (see Exhibit A), which is estimated to yield between 180,000 and 200,000 documents to review for production. Such a review would be extraordinarily time intensive and likely result in the processing of large numbers of documents outside of the intended scope. In response, we propose the following revisions to the searches (see Exhibit A), which will yield a more manageable 21,000 search term hits—and a projected 30,000 to 35,000 total documents—while still honoring the spirit and intent of your request:
 - ✓ Limiting requests 3 and 4 to only those email accounts searched as part of request number 1, and not the entire Department;
 - ✓ Modifying search number 2 to reduce the number of false positive search term hits on the word "results"; and,
 - ✓ Broadening search number 6 to prevent the term "michigan.gov" from artificially narrowing the results.
4. The Department is in process of enlisting an eDiscovery vendor to ensure that document review and production proceeds as quickly and efficiently as possible. We also intend to deploy industry standard techniques like data deduplication, email threading, and data culling through the use of analytics to reduce duplicative, non-substantive, and non-relevant materials. Any documents withheld will be noted in a log detailing the privilege claimed.

While we recognize this plan will not produce all of the requested documents within the 10-day period you established, we consider this approach of making documents available as we produce them, refining the searches, and using best available technologies to be a feasible, yet still highly effective and responsive, path to providing these vital public records to the Committee and public as quickly as possible.

¹ Request number 5 will be handled separately by searching and collecting documents from network drives.

Senator Ed McBroom

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My team and I are available to you and the Committee anytime to answer your questions.

Sincerely,



Liesl Eichler Clark

Director

517-284-6712

cc: Senator Mike Shirkey, Senate Majority Leader
Mr. Aaron B. Keatley, Chief Deputy Director, EGLE
Ms. Amy Epkey, Senior Deputy Director, EGLE
Mr. James Clift, Deputy Director, EGLE
Ms. Kris Donaldson, Clean Water Public Advocate, EGLE
Mr. Travis Boeskool, Legislative Liaison, EGLE
Mr. Eric Oswald, EGLE

Search 1					Search 1	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
Liesl Clark James Clift Aaron Keatley Eric Oswald Kristina Donaldson Kris Phillip Brandon Onan Regina Strong	1/1/2019 - 10/15/2021	"corrosion control" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov") "water treatment" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov") polyphosphate AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov")	5,711	5,711	No Change	No Change

Search 2					Search 2	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
Liesl Clark James Clift Aaron Keatley Eric Oswald Kristina Donaldson Regina Strong	1/1/2019 - 10/15/2021	lead AND test* AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov") copper AND test* AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov") results AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" or "sasyn@michigan.gov")	8,424	5,757	lead AND test* AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov") copper AND test* AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov") results AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov")	No Change

Search 3					Search 3	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
All EGLE	1/1/2019 - 10/15/2021	"corrosion control" AND "(GOV)" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us") "water treatment" AND "(GOV)" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us") polyphosphate AND "(GOV)" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us")	35,931	Entirely duplicative of #1	"corrosion control" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov") "water treatment" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov") polyphosphate AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcitcity.us" OR "sasyn@michigan.gov")	Liesl Clark James Clift Aaron Keatley Eric Oswald Kristina Donaldson Kris Phillip Brandon Onan Regina Strong

Search 4					Search 4	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
All EGLE	1/1/2019 - 10/15/2021	water AND test* AND "(GOV)" AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcity.us")	65,846	4,836	water AND test* AND ("Benton Harbor" OR "momalley" OR "banco9342@sbcglobal.net" OR "cisar.elizabeth@epa.gov" OR "cdavis@bchdmi.org" OR "gconrad@bchdmi.org" OR "mmuhammad@bhcity.us" OR "sasyn@michigan.gov")	James Clift Aaron Keatley Eric Oswald Kristina Donaldson Kris Phillip Brandon Onan Regina Strong

Search 5
Manual discovery to provide documents, not through email discovery

Search 6					Search 5	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
All EGLE	1/1/2019 - 10/15/2021	"elevated lead levels" AND "Benton Harbor" AND NOT (FROM:"michigan.gov")	2,151	Entirely duplicative	No Change	No Change

Search 7					Search 6	
Custodians	Date Range	Original Search Terms	Original Results	Revised Search Results	Revised Search Terms	Custodians
All EGLE	1/1/2019 - 10/15/2021	"elevated lead levels" AND "Benton Harbor" AND NOT(RECIPIENTS:"michigan.gov")	54	4,682	elevated lead levels AND "Benton Harbor"	No Change

	Original Results	Revised Search Results
Total	118,117	20,986