BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Petition for Emergency Action under the Safe Drinking Water Act, 42 U.S.C. § 300i, to Abate the Imminent and Substantial Endangerment to East Chicago, Indiana Residents from Lead Contamination in Drinking Water

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Submitted on Behalf of Petitioners Calumet Lives Matter; We the People for East Chicago; East Chicago Calumet Coalition Community Advisory Group; Community Strategy Group; the Hoosier Environmental Council; Duneland Environmental Justice Alliance; Northwest Indiana Federation of Interfaith Organizations; The Twin City Minister Alliance of East Chicago; Greater First Baptist Church of East Chicago; Antioch Network of Church & Ministries; League of United Latin American Citizens—Indiana Council; NAACP / NAACP Indiana State Conference Environmental and Climate Justice Program; National Nurses United; Loyola University Chicago School of Law's Health Justice Project; the Sargent Shriver National Center on Poverty Law; University of Chicago Law School's Abrams Environmental Law Clinic; Northwestern University Pritzker School of Law's Environmental Advocacy Clinic; and the Natural Resources Defense Council

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For decades, the City of East Chicago (the "City" or "East Chicago") has been plagued by a legacy of lead and arsenic contamination from the operation of industrial facilities in the city and surrounding areas. The City is also home to the USS Lead Superfund site (the "Superfund site"), listed under the federal government program designed to fund cleanup of hazardous contaminants and pollutants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA").

Against this backdrop of legacy contamination, residents of East Chicago recently discovered that at the Superfund site, over 40 percent of homes tested as part of a U.S. Environmental Protection Agency ("EPA" or "Agency") pilot study had elevated levels of lead in the drinking water. The EPA concluded that the lead contamination is "system-wide," caused not by legacy soil contamination, but instead by lead service lines and insufficient corrosion control treatment in the water system.

East Chicago's drinking water is currently unsafe to drink. Based on the pilot study results, EPA has publicly stated that all residents of East Chicago should assume the presence of lead service lines and use a properly certified filter.[1] The Agency has also indicated that no further testing is necessary because the pilot study results are indicative of a "system-wide" problem.[2] EPA has provided filters for pilot study participants and has recommended that they continue to use filters for drinking, cooking and brushing teeth until further notice.[3]

East Chicago and the State of Indiana ("State") have begun implementing longer term measures to address the water contamination, but these efforts are insufficient to address the immediate need to secure a safe source of drinking water for East Chicago residents. In connection with the release of EPA's pilot study, enhanced corrosion control treatment measures were put in place in late 2016, and officials have made efforts to secure funding to begin a city-wide lead service line replacement process.[4] However, additional measures are needed to ensure a safe drinking water supply, at least until the full benefits of the

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[1] Ex. 1, EPA, *Frequently Asked Questions about Drinking Water Pilot Study* (Jan. 2017) (accessed Feb. 27, 2017) ("Pilot Study FAQs"), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/faqs_uss_lead.pdf; Ex. 2, Sarah Reese, *EPA: East Chicago residents should use water filters*, The Times of Northwest Indiana (Feb. 6, 2017) ("Reese February water filters"), *available at* http://www.nwitimes.com/news/local/lake/epa-east-chicago-residents-should-use-water-filters/article_9e06a949-937f-5610-8c6b-a1316ff9a73d.html; Ex. 3, Sarah Reese, *State to provide free water testing to school districts,* The Times of Northwest Indiana, (Feb. 23, 2017) ("Reese school testing"), *available at* http://www.nwitimes.com/news/local/lake/state-to-provide-free-water-testing-to-public-schools/article_8be25d7f-b0f6-536f-9f4f-3baffa2540e9.html; Ex. 4, Associated Press, *Indiana to provide free water testing to school districts*, (Feb. 24, 2017), *available at* http://www.therepublic.com/2017/02/24/in-indiana-schools-water-testing/.

[2] Ex. 5, Letter from Robert Kaplan, Acting U.S. EPA Regional Administrator, to Peter Visclosky, Indiana Congressman (Jan. 3, 2017) ("January 2017 Kaplan letter"), at 3.

[3] Ex. 1, Pilot Study FAQs.

[4] The State has also begun to offer free drinking water testing in Indiana public schools, including in East Chicago. *See* Ex. 3, Reese school testing.

corrosion control treatment are in effect, including that lead levels are reduced, and/or the lead service lines are replaced.

Petitioners thus call upon EPA to use its emergency powers under the Safe Drinking Water Act ("SDWA" or the "Act"), 42 U.S.C. § 300i, to take action to abate the imminent and substantial endangerment to human health caused by lead contamination in East Chicago's drinking water. As Petitioners demonstrate below, this contamination meets the SDWA requirements – and EPA's own internal guidance – for immediate action by EPA, and requires a comprehensive federal response.

I. Background

A. Legacy of industrial contamination leading up to state declaration of disaster emergency

For decades, the residents of East Chicago have been plagued by industrial pollution from lead smelting and refining as well as other manufacturing processes that has left ongoing lead, arsenic and other contamination in the air and soil. EPA has designated East Chicago an environmental justice community. In the city of roughly 29,000 people, approximately 90 percent are people of color and over a third live below the federal poverty line.[5] An even greater degree of households with young children in East Chicago – who are most susceptible to the worst impacts of lead exposure – fall below the federal poverty line. Moreover, residents of the Superfund site, compared to the City at large, are even more predominantly persons of color, with an even greater percentage living below the poverty line.

East Chicago housed several facilities on or in close proximity to the land that is now covered by the Superfund site, including the Anaconda Copper Company lead refinery; a pesticide lead arsenate manufacturing facility owned and operated by Dupont; the USS Lead refinery; the Eagle-Picher Company white lead plant; and the International Lead Refining Company metal-refining facility. These facilities are no longer in operation, but their legacy – along with that of numerous other facilities that have operated in East Chicago and surrounding areas – still haunts the City.

The community has faced real consequences as a result of the legacy of contamination.[6] For example, soil testing results released in May 2016 revealed high levels of lead in the West

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[5] Ex. 6, United States Census, *QuickFacts: East Chicago city, Indiana*, *available at* http://www.census.gov/quickfacts/table/RHI805210/1819486. The median household income in East Chicago is $26,486 per year. *Id*.

[6] The State recently announced that East Chicago Urban Enterprise Academy, a charter school, is slated for soil sampling. The school is located north of the Superfund site and occupies property located a half mile east of the old US Reduction Co., a former aluminum and lead smelter facility. *See* Ex. 7, Lauren Cross, *Old smelter north of Superfund site to be investigated*, The Times of Northwest Indiana (Feb. 26, 2017) ("Cross old smelter investigation"), *available at*

Calumet Housing Complex, which resulted in the closure of the building and residents being forced to move. On the eve of the fall school semester last year, the Carrie Gosch Elementary School was closed down due to safety concerns arising out of the lead levels at the nearby West Calumet Housing Complex.[7] Residents throughout the City face compounded exposures to lead, including residue of contaminated dust from basement flooding, lead dust at entry ways and lead paint.[8]

On December 1, 2016, before the EPA study findings were released to the public, the City of East Chicago sought a declaration of emergency from then-Governor Mike Pence before he left office to serve as Vice President of the United States.[9] Pence's office rejected the request.[10] After Pence left state office, and after EPA released the results of the drinking water pilot study, the City renewed the request in a letter to Governor Holcomb, who declared a disaster emergency for the Superfund site.[11]

B. Water contamination and 42 U.S.C. §300i

In the fall of 2016, EPA conducted a pilot water study to determine whether remediation efforts to excavate the lead in soil at the Superfund site would result in a dislodging of lead from the city's water pipes.[12] Results of the study, released in December 2016, revealed that lead levels in East Chicago's drinking water are well above the action level set by EPA that triggers corrective action by public water systems.[13] Moreover, results revealed high levels in samples collected *before* disruption of the soil.[14] Despite knowledge of these findings in December 2016, to date no agency has made a broad commitment to ensure the

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http://www.nwitimes.com/news/local/lake/old-smelter-north-of-superfund-site-to-be-investigated/article_8a759b44-6bb6-5618-bc2b-fb40021673e4.html.

[7] Ex. 8, Joseph Pete and Carrie Gosch, *Elementary students relocated over lead fears*, The Times of Northwest Indiana (Aug. 8, 2016), *available at* http://www.nwitimes.com/news/local/lake/east-chicago/carrie-gosch-elementary-students-relocated-over-lead-fears/article_9613b63e-0722-51dd-a7f0-6090566c9c89.html.

[8] Residents of East Chicago also face relatively high levels of lead pollution in the air from concentrated industrial sources in and around their city, as evidenced by the number of lead air quality monitors in East Chicago (two monitors) and nearby Gary and Hammond, as well as Burns Harbor (one monitor each). *See* Ex. 9, Indiana Department of Environmental Management, Lead (Pb) Data Map, *available at* http://www.in.gov/idem/airquality/2651.htm.

[9] Ex. 10, Letter from Anthony Copeland, East Chicago Mayor, to Michael Pence, Indiana Governor (Dec. 1, 2016).

[10] Ex. 11, Letter from Mike Ahearn, General Counsel's Office of Indiana Governor Mike Pence, to Anthony Copeland, East Chicago Mayor (Dec. 14, 2016).

[11] Ex. 12, Craig Lyons, *Holcomb grants East Chicago disaster request Pence denied*, Chicago Tribune (Feb. 9, 2017), *available at* http://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-east-chicago-disaster-st-0210-20170209-story.html.

[12] Ex. 13, EPA, *USS Lead Drinking Water Pilot Study*, (accessed Feb. 27, 2017) ("Pilot Study webpage"), *available at* https://www.epa.gov/uss-lead-superfund-site/uss-lead-drinking-water-pilot-study .

[13] *Id.*

[14] *Id.*

safety of the drinking water supply to residents of the City as a whole, aside from long-term measures like corrosion control and lead pipe replacement.

Where, as here, state and local authorities have failed to adequately address a public health crisis, the SDWA empowers EPA to act. Section 1431 of the Act vests EPA with broad emergency authority to address endangerments to public health from contaminated drinking water. The EPA Administrator may use these emergency powers "upon receipt of information that a contaminant which is present in or is likely to enter a public water system. . . . may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons."[15] Once the Administrator receives this information, he may "take such actions as he may deem necessary in order to protect [public] health."[16] These actions "may include (but shall not be limited to). . . issuing such orders. . . requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment."[17] EPA has, in the past, used its emergency powers to issue orders to provide alternative safe water sources to community members, require public notice of the drinking water hazard, require contributors to the hazard to treat or otherwise mitigate the hazardous conditions, and require additional monitoring and data collection activities.[18] EPA exercised such emergency authority to provide oversite on water treatment techniques in the case of Flint, Michigan.[19]

II. Interests of Petitioners

Petitioners are community groups and local, regional and national advocacy organizations seeking a lead free environment for East Chicago. Petitioners include: Calumet Lives Matter; We the People for East Chicago; East Chicago Calumet Coalition Community Advisory Group (the "CAG"); Community Strategy Group; the Hoosier Environmental Council; Duneland Environmental Justice Alliance; Northwest Indiana Federation of Interfaith Organizations; The Twin City Minister Alliance of East Chicago; Greater First Baptist Church of East Chicago; Antioch Network of Church & Ministries; League of United Latin American Citizens—Indiana Council ("LULAC"); NAACP / NAACP Indiana State Conference Environmental and Climate Justice Program; National Nurses United; Loyola University Chicago School of Law's Health Justice Project; the Sargent Shriver National Center on Poverty Law (the "Shriver Center"); University of Chicago Law School's Abrams

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15 42 U.S.C. § 300i(a).

16 *Id.*

17 *Id*.

18 *See* H.R. Rep. No. 93-1185, 1974 U.S.C.C.A.N. 6454, 6487 (1974); Ex. 14, *In re Yakima Valley Dairies*, Admin. Order on Consent (U.S. EPA Region 10, Mar. 5, 2013), *available at* https://www3.epa.gov/region10/pdf/sites/yakimagw/consent_order_yakima_valley_dairies_march2013.pdf.

19 Ex. 15, *In the Matter of City of Flint, Michigan; Michigan Department of Environmental Quality; and the State of Michigan* (Jan. 21, 2016) (U.S. EPA, emergency order issued pursuant to Section 1431 of the Safe Drinking Water Act, 42 USC § 300i) ("Flint emergency order"), *available at* https://www.epa.gov/sites/production/files/2016-01/documents/1_21_sdwa_1431_emergency_admin_order_012116.pdf.

Environmental Law Clinic; Northwestern University Pritzker School of Law's Environmental Advocacy Clinic; and the Natural Resources Defense Council ("NRDC") (collectively, "Petitioners").

Petitioners have advocated on behalf of East Chicago residents in a wide-range of issues to address cumulative exposures of lead. For example, on November 1, 2016, We the People for East Chicago, Calumet Lives Matter and three East Chicago residents sought to intervene in the underlying federal Superfund action involving a lawsuit filed by EPA and the State against polluting facilities in connection with response and clean up actions in areas of the Superfund site.[20] Petitioners have advocated on local, state and national efforts to secure long term efforts in East Chicago and other cities to replace lead service lines at low or no cost to residents. Still other groups have been advocating on behalf of East Chicago residents facing the consequences of a wide range of lead exposure. For example, the Shriver Center has been advocating on behalf of residents living in the West Calumet Housing Complex in connection with their forced housing displacement due to lead soil contamination. As far back as 1986, NRDC sued EPA over the agency's failure to act on studies showing high lead levels in air emissions at the former USS Lead facility, which is now the Superfund site in East Chicago.[21] And since the results of EPA's water pilot study were made public in December 2016 showing elevated lead levels in the drinking water, the Community Strategy Group and the CAG have been advocating with local and state officials to obtain water filters and/or bottled water for residents at the Superfund site and greater East Chicago.

A detailed description of each of the Petitioners is located at Appendix A.

III. Lead Is Present and Likely to Persist in East Chicago's Drinking Water, and Presents an Imminent and Substantial Endangerment to Human Health

A. East Chicago's drinking water is contaminated with lead, and lead will likely continue to enter the City's drinking water

The data showing elevated levels of lead in East Chicago's drinking water emerged from a pilot study conducted by EPA in 2016.[22] EPA undertook the study, which targeted 43 homes within the Superfund site, to determine if the soil excavation work would cause lead to be dislodged from the old lead service lines. Studies have shown that physical disturbances, including from construction work, can result in increased lead released from water pipes.[23] Of those homes tested, the study revealed that 18 homes, or over 40 percent, had levels of lead above the federal action level of 15 parts per billion (ppb). Three homes

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[20] Ex. 16, *See United States and Indiana v. Atlantic Richfield Company and E.I. DuPont De Nemours Company*, Motion to Intervene, Civil Action No. 2:14-cv-00312 (N.D. Ind. 2016).

[21] Ex. 17, E.P.A Faces a Suit on Lead Emissions, New York Times (Aug. 20, 1986), *available at* http://www.nytimes.com/1986/08/21/us/epa-faces-a-suit-on-lead-emissions.html.

[22] Ex. 13, Pilot Study webpage.

[23] *Id.*

had samples measuring at least 81 ppb (five times the federal action level), and with one home's highest sample registering at 130 ppb (nearly nine times the federal action level).[24]

While testing was conducted to determine the impact from the soil excavation work, the results of the pilot study showed elevated levels of lead *before* excavation ever took place.[25] EPA concluded that the primary reasons for the elevated lead levels were unrelated to the soil contamination and, instead, arose from: "(1) presence of lead in plumbing materials and (2) insufficient orthophosphate levels in the drinking water system."[26] Despite the intent of the study, EPA has "not yet come to any conclusions regarding the effect of excavation work on lead service lines."[27]

In releasing the data, EPA stated that it is possible that up to 90 percent of homes in East Chicago have lead service lines and all residents (not just those in the Superfund site) should therefore assume they have lead lines.[28] For the pilot study participants, EPA installed filters on kitchen taps and recommended "that participants continue to use the filter for drinking, cooking, and brushing. . . teeth until further notice" as well as that "[a]erators should be cleaned on [a] weekly basis" and "[f]ilter cartridges should be replaced regularly."[29] Concluding that the water contamination is a "system-wide" problem, EPA recommended that residents use properly certified filters.[30] However, despite its awareness of the presence of lead in select houses, EPA indicated that it would not conduct additional testing throughout the City "because the pilot study identified a system-wide issue that the city is addressing with [the Indiana Department of Environmental Management] IDEM" and that "[a]dditional sampling would confirm a problem that has already been identified and is being appropriately remedied."[31] To Petitioners' knowledge, no government agency has committed to comprehensive testing to gauge the full extent of the problem or is providing alternative sources of clean drinking water in the near-term for impacted residents throughout the City.

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24 Ex. 18, EPA, *USS Lead Drinking Water Pilot Study: Data* (accessed Feb. 28, 2017) ("Pilot Study data"), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/uss-lead-dw-pilot-study-data-20170120-127pp.pdf.

25 Ex. 13, Pilot Study webpage; Ex. 6, Cross old smelter investigation.

26 Ex. 5, January 2017 Kaplan letter.

27 Ex. 13, Pilot Study webpage.

28 Ex. 19, Associated Press, *EPA officials: Up to 90% of homes in East Chicago, IN have lead water lines* (Feb. 6, 2017), *available at* http://fox59.com/2017/02/06/epa-officials-up-to-90-of-homes-in-east-chicago-in-have-lead-water-lines/.

29 Ex. 1, Pilot Study FAQs.

30 *Id.; see also* Ex. 3, Reese February water filters.

31 Ex. 5, January 2017 Kaplan letter.

B. Lead in drinking water presents a substantial and imminent danger to East Chicago residents, particularly at the Superfund site where the residents face exceptionally high cumulative impacts of lead exposure

East Chicago residents, and particularly those living at the Superfund site, face an ongoing imminent and substantial endangerment from lead contamination in their drinking water. The lead in drinking water has increased, and continues to increase, the cumulative exposure to residents of this environmental justice community that is home both to a Superfund site and other polluting facilities across the City and in neighboring areas, imposing decades of lead and arsenic contamination in the soil and the air.[32]

The poisonous effects of lead on "virtually every system in the body," and particularly on the developing brains of young children, are well documented.[33] "Even low levels of lead in blood have been shown to affect IQ, ability to pay attention, and academic achievement," and the effects are irreversible.[34] The scientific community has not identified *any* threshold of lead in blood below which there are no adverse health impacts.[35]

Increased lead exposure from drinking water is dangerous because "drinking water can make up 20 percent or more of a person's total exposure to lead."[36] A person's exposure to lead starts very early, with a woman's lead levels relevant to or impacting her fetus: "[d]uring pregnancy, lead is often remobilized from bone and may be transferred from mother to fetus. Approximately 80 percent of lead in fetal cord blood appears to derive from maternal bone stores. Maternal lead can also be transferred to infants during

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[32] *E.g.*, *Me. People's Alliance v. Mallinckrodt, Inc.*, 471 F.3d 277, 288 (1st Cir. 2006).

[33] Ex. 20, Centers for Disease Control and Prevention, Preventing Lead Poisoning in Young Children: Chapter 2 (Oct. 1991), *available at* http://www.cdc.gov/nceh/lead/publications/books/plpyc/chapter2.htm; *see also* 80 Fed. Reg. 278, 290 (Jan. 5, 2015) ("Lead has been demonstrated to exert a broad array of deleterious effects on multiple organ systems."); 56 Fed. Reg. 26,460, 26,467-68 (June 7, 1991).

[34] Ex. 21, Centers for Disease Control and Prevention, *What Do Parents Need to Know to Protect Their Children?* (last updated January 30, 2017), *available at* http://www.cdc.gov/nceh/lead/ACCLPP/blood_lead_levels.htm.

[35] Ex. 22, Centers for Disease Control and Prevention, National Biomonitoring Program, Factsheet: Lead (last updated July 12, 2013), *available at* http://www.cdc.gov/biomonitoring/Lead_FactSheet.html ("No safe blood lead level has been identified."). *See also* Flint emergency order, at ¶ 28.

[36] Ex. 23, EPA, *Lead and Copper Rule: A Quick Reference Guide for Schools and Child Care Facilities that are Regulated Under the Safe Drinking Water Act (*Oct. 2005), *available at* https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10058C5.txt.

breastfeeding."[37] For infants whose diet consists of baby formula made with drinking water, lead in drinking water can make up over 85 percent of total lead exposure.[38] Lead levels in drinking water above the federal action level have been associated with an increase in the rate of individuals with elevated blood lead levels.[39] Exposure to lead-contaminated drinking water has also been associated with fetal death and reduced birth rates.[40] As EPA has recognized, "[i]nfants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development."[41]

Nor are adults free from the negative health impacts of lead. Research shows an association between adult blood lead levels and risk of all-cause mortality and cardiovascular mortality.[42] In addition, the U.S. Department of Health and Human Services has determined that lead and lead compounds are reasonably anticipated to be human carcinogens, and EPA has determined that lead is a probable human carcinogen.[43]

Further, EPA has set the Maximum Contaminant Level Goal ("MCLG") for lead in water at zero because "(1) there is no clear threshold for some non-carcinogenic lead health effects,

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[37] Ex. 24, California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Public Health Goals for Chemicals in Drinking Water: Lead (Apr. 2009), at 6 (internal citations omitted), *available at* https://oehha.ca.gov/media/downloads/water/chemicals/phg/leadfinalphg042409_0.pdf.

[38] Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper, 56 Fed. Reg 26,460, 26,468 (June 7, 1991) (codified at 40 C.F.R. Part 141 Subpart I) ("Lead and Copper Rule") (cited by Ex. 25, Triantafyllidou, S., and Edwards, M., Lead (Pb) in tap water and in blood: implications for lead exposure in the United States. Critical Reviews in Environmental Science and Technology, 42(13), 1297–1352 (2012), excerpt provided, in turn cited in Ex. 26, EPA, *Proposed Modeling Approaches for a Health-Based Benchmark for Lead in Drinking Water*, at 20, *available at* https://www.epa.gov/sites/production/files/2017-01/documents/report_proposed_modeling_approaches_for_a_health_based_benchmark_for_lead_in_drinking_water_final_0.pdf.

[39] Ex. 27, Ronnie Levin, et al., *Lead Exposure in U.S. Children, 2008: Implications for Prevention*, 116 Environ. Health Perspect. (1) 1285-93 (2008), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569084/; Ex. 28, CDC, *Blood Lead Levels in Residents of Homes with Elevated Lead in Tap Water—District of Columbia, 2004*, 53 MMWR Weekly (No. 12) 268-70 (Apr. 1, 2004), *available at* http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5312a6.htm.

[40] Ex. 29, Marc Edwards, *Fetal Death and Reduced Birth Rates Associated with Exposure to Lead-Contaminated Drinking Water*, 48 Envtl. Sci. & Tech. 739-40 (2013), *available at* http://pubs.acs.org/doi/pdf/10.1021/es4034952.

[41] Ex. 30, EPA, *Basic Information about Lead in Drinking Water*, *available at* http://water.epa.gov/drink/contaminants/basicinformation/lead.cfm.

[42] Ex. 31, *See* Brown, Mary Jean and Margolis, Stephen, National Center for Environmental Health, Centers for Disease Control, *Lead in Drinking Water and Human Lead Levels in the United States* (2012), *available at* https://www.cdc.gov/mmwr/preview/mmwrhtml/su6104a1.htm.

[43] *Id.*

(2) a substantial portion of the sensitive population already exceeds acceptable blood lead levels, and (3) lead is a probable carcinogen."[44]

In short, there is no safe level of lead in drinking water. And while the health impacts of lead may be more profound during the early years, no age group is exempt from negative outcomes associated with lead exposure.

Petitioners have reason to be concerned about the health impacts of exposure to lead from East Chicago's drinking water. A recent study conducted by Reuters evaluated blood lead level data for the census tract containing the Superfund site, the City of East Chicago and the State of Indiana, from 2005 to 2015.[45] The data shows not only disturbing levels of lead in child residents of the Superfund site, but also of the city as a whole, with approximately 4 to 18 percent of tested children in the city with levels above the Center for Disease Control's current reference level of 5 μg/dL, far above the state and national rates. Given the exceedingly low rate of child blood lead screening in Lake County during this period, and particularly between 2012 and 2015, it is very likely that the actual number of children above the reference level in East Chicago is substantially greater.[46] While lead poses threats to adult health as well, and adults in East Chicago have been tested for lead, the results of this testing have not been forthcoming.

The threat to health from high levels of lead in city drinking water is even more alarming because the East Chicago community may be more at risk than other communities in the country for elevated blood lead levels and lead poisoning from sources other than water. Low income is a risk factor for lead poisoning, and the proportion of families living below the poverty level in East Chicago is more than three times the national proportion (34.6 percent in East Chicago vs. 11.3 percent nationally in 2015 estimates).[47] This figure is particularly stark for families with children under 5 years of age, i.e., those kids most impacted by lead exposure, with 52.7 percent of such families in East Chicago living below the poverty level. As noted above, residents of the Superfund site are more predominantly

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[44] Ex. 15, Flint emergency order, at ¶ 27, citing the Lead and Copper Rule, at 26,467.

[45] Ex. 32, Schneyer, Joshua, and Bell, M.B., *Special Report: Flawed CDC report left Indiana children vulnerable to lead poisoning*, Reuters.com (Sep. 28, 2016), *available at* http://www.reuters.com/article/us-usa-pollution-report-specialreport-idUSKCN11Y1BH.

[46] Ex. 33, Centers for Disease Control and Prevention, *Lead: Indiana Data, Statistics, and Surveillance* (2015), *available at* https://www.cdc.gov/nceh/lead/data/state/indata.htm. Notably, in 2015 leading up to the Superfund site evacuation, a mere 1,183 young children were screened in Lake County as a whole. In addition, a news article from November 2016 notes that a number of East Chicago residents at a housing complex outside the lead-contaminated clean-up site have been tested since July, and the results show elevated levels (though the city did not release the data). *See* Ex. 34, Nick Janzen, *More East Chicago Residents Have Elevated Blood Lead Levels*, Indiana Public Media (Nov. 21, 2016), *available at* http://indianapublicmedia.org/news/east-chicago-residents-elevated-blood-lead-levels-109467/.

[47] Ex. 35, U.S. Census Bureau, *2011-2015 American Community Survey 5-year Estimates* (2015), *available at* http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (enter "East Chicago, IN" in the box under "Community Facts," click on "Income" on left-side bar, then click "Selected Economic Characteristics" under "2015 American Community Survey").

persons of color than East Chicago as a whole, with even greater levels of poverty. Living in housing built before 1978 (when the federal ban on high-lead paint went into effect) is also a risk factor because dust from lead paint continues to be a major source of lead exposure in children.[48] Indiana's annual child lead surveillance report has identified over 80 percent of Lake County housing stock as built before 1980.[49] These factors show that the risks to East Chicago residents from lead exposure may be particularly acute, and to those living at the Superfund site even more disturbing. Adding contaminated water to these other significant sources of lead poses an exceptional cumulative threat to public health.

The monitoring data showing high lead levels in East Chicago drinking water, combined with the well-known serious adverse health impacts of lead exposure, demonstrate "a substantial likelihood that contaminants capable of causing adverse health effects will be ingested by consumers if preventive action is not taken."[50] These circumstances are particularly stark in this environmental justice community where the lead in drinking water has increased, and continues to increase, the cumulative exposure to residents facing the impacts of a Superfund site and other polluting facilities across the City and in neighboring areas, constituting an imminent and substantial endangerment warranting emergency federal action.[51]

IV. Neither the City nor the State Has Acted to Protect East Chicago Residents Across the City from Current and Continuing Health Risks of Exposure to High Lead Levels in Drinking Water

While various local, state and federal agencies are rightly focusing attention on addressing high levels of lead in soil at the Superfund site, neither the City nor the State is adequately

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[48] Ex. 36, American Cancer Society, *Lead, Lead in the Environment* (last updated May 27, 2014), *available at* http://www.cancer.org/cancer/cancercauses/othercarcinogens/athome/lead (characterizing lead paint as a "major" source of exposure).

[49] Ex. 37, Indiana State Department of Health, Lead & Health Homes Program, *2013 Surveillance Report* (Mar. 2013) at 12, *available at* http://www.in.gov/isdh/files/2012_Lead_Report_4-5-13.pdf. We note that other versions of the annual surveillance report variably cite Lake County pre-1980 housing rates of "65% and higher" and "Between 50% and Less than 75%" (*See* Ex. 38, Indiana State Department of Health, Lead & Health Homes Program, *2015 Childhood Lead Surveillance Report*" at 11, *available at* https://www.in.gov/isdh/files/Lead_Report_2015_w_reportable_disease.pdf and Ex. 39, Indiana State Department of Health, Lead & Health Homes Program, *2013 Surveillance Report* (June 2014) at 12, *available at* https://www.in.gov/isdh/files/Final_Lead_Report_2013.pdf).

[50] H.R. Rep. No. 93-1185, 1974 U.S.C.A.A.N. 6454, 6488 (July 10, Aug. 15, 1974) (defining when an endangerment may be considered substantial).

[51] *See Trinity Am. Corp. v. U.S. E.P.A.*, 150 F.3d 389, 399 (4th Cir. 1998) (imminent and substantial endangerment found when "dangerous levels of [a] contaminant[] exist in [the] water supply," and that the contaminant "pose[s] a great risk to human health").

addressing the imminent and substantial threat to public health faced by residents in the entire city given the lead levels in their drinking water.[52]

A. Recent attempts to improve corrosion control treatment do not render East Chicago's drinking water currently safe to drink

East Chicago's drinking water is unsafe to drink. The presence of high lead levels should be presumed unless and until studies demonstrate that the corrosion control treatment added in late 2016 is effectively reducing lead levels, and/or until lead service lines are replaced.

Forty percent of homes tested as part of EPA's study had elevated levels of lead, which EPA attributed to lead service lines and water sampling detecting "low or no orthophosphate levels."[53] EPA states on its website that "[a]fter EPA notified the city of East Chicago and the Indiana Department of Environmental Management about the elevated lead levels, the city boosted the amount of orthophosphate added at the water treatment plant," and that "[t]his step should coat the interior surfaces of plumbing materials and decrease the amount of lead released into the drinking water."[54] EPA further states that "[r]eplacing lead service lines is an effective but costly and time-intensive solution," and that "[i]ncreasing the orthophosphate level to coat the pipes and fixtures *is a more immediate solution.*"[55] However, the of East Chicago's water depends not simply on *whether* corrosion control treatment (e.g., orthophosphates) has been implemented, but rather, when the treatment is shown to be effectively reducing lead levels.

A new protective scale can take up to 12 months to form and depends on the characteristics of the water infrastructure.[56] As described in EPA's 1991 Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper, also known as the Lead and Copper Rule ("Lead and Copper Rule" or "LCR"), "[m]ost lead contamination is from corrosion by-products."[57] Specifically:

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52 *See id.* (explaining that "minor" and "ineffective" action by state and local authorities does not "strip EPA of its statutory emergency powers"); EPA OIG Management Alert (Ex. 49, *infra*), at 3 ("EPA may use its emergency authority even when a state is acting or is going to act.").

53 *See* Ex. 5, January 2017 Kaplan letter, at 3. Furthermore, it is unclear whether and to what extent the East Chicago water system was implementing effective corrosion control treatment before EPA began the pilot study. According to news reports, "East Chicago changed the chemical it was using for corrosion control in September [2016] under guidance from [IDEM], which had been approached by EPA," and "IDEM and the city have been working since October [2016] to increase phosphate levels in the system, officials said." Ex. 2, Reese February water filters. According to a subsequent report, however, officials have said that "[t]he city began adjusting corrosion control chemical levels before EPA tested drinking water." Ex. 3, Reese school testing.

54 Ex. 13, Pilot study website.

55 *Id.* (emphasis added).

56 *See Concerned Pastors for Social Action v. Khouri*, No. 16–10277, 2016 WL 6647348, at*3 (E.D. Mich. Nov. 10, 2016) (noting expert's opinion that "[a] new protective scale can take up to twelve months to form.").

57 Lead and Copper Rule, at 26,463.

> Lead in drinking water results primarily from corrosion of materials located throughout the distribution system containing lead and copper and from lead and copper plumbing materials used to plumb public- and privately-owned structures connected to the distribution system. The amount of lead in drinking water attributable to corrosion by-products depends on a number of factors, including the amount and age of lead and copper bearing materials susceptible to corrosion, how long the water is in contact with the lead containing surfaces, and how corrosive the water in the system is toward these materials.[58]

The Emergency Order issued by EPA in Flint, Michigan, is instructive. In Flint, lead contamination in the drinking water occurred after officials switched Flint's water source from Detroit's pre-treated Lake Huron water to the corrosive Flint River, and subsequently failed to treat it to reduce the release of lead from pipes. After officials had eventually begun to treat the water with corrosion-inhibiting chemicals, EPA issued an Emergency Order, dated January 21, 2016, to provide oversight of the treatment. EPA indicated that "[n]otwithstanding the orthophosphate addition [added on December 9, 2015], *high levels of lead and other contaminants are presumed to persist in the City's water system until LCR optimization process, utilizing sampling and monitoring requirements, have confirmed lead levels have been reduced.*"[59] The Order concluded:

> The lead and other contaminants will remain present in the [water system] and will continue to present an imminent and substantial endangerment to the health of persons until the underlying problems with the corrosion control treatment and fundamental deficiencies in the operation of the [water system] are corrected and sampling results confirm the lead and other contaminants are adequately treated.[60]

Like Flint, the relevant inquiry regarding the potability of East Chicago's water is not simply whether corrosion control treatment has been implemented, but rather, whether the corrosion control treatment is shown to be effectively reducing lead levels. In other words, notwithstanding the addition of orthophosphates to the East Chicago water system in late 2016, high lead levels should be "presumed" and will "persist" until sampling and monitoring shows that levels have reduced.

Further, the type of corrosion control treatment fed into the water distribution system is a factor impacting whether (and when) the treatment will form and maintain a sufficiently robust scale to reduce on-going lead leaching. According to a report prepared by Crowley Engineering for the East Chicago Water Department, the specific type of corrosion treatment recommended by IDEM in September 2016 was an "orthophosphate-polyphosphate blend that is currently being fed at both plants to further improve the

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58 *Id*.

59 Ex. 15, Flint emergency Order, at ¶ 21.

60 *Id.* at ¶ 46.

control of lead leaching in customer service lines."[61] According to EPA's own recent guidance, such "[b]lended phosphates have been shown to be effective for reducing lead levels; however, the lead corrosion scale may not be as robust as the scale created by orthophosphate and, thus, may be more susceptible to physical disturbances and low water use conditions."[62] EPA guidance further suggests that effectiveness of the treatment is likely dictated by the concentration of orthophosphates in the blend. As such, the use of blended orthophosphate is a factor as to whether and when the treatment will create a robust scale to reduce leaching lead.[63]

In short, while it is promising that the water is now being treated to control for corrosion, the presence of lead should be presumed unless and until evidence reveals that the treatment is effectively reducing the levels of lead in the water. Absent such evidence, the use of corrosion control treatment alone does not necessarily indicate the water is *currently* safe to drink, given the results of the EPA pilot study, the nature of the corrosion control treatment being implemented and the timeframe needed for the corrosion control to take effect.

B. Neither the City nor the State has acted adequately to protect East Chicago from the continuing public health threat from exposure to lead in drinking water.

Neither the City nor the State has acted adequately to protect East Chicago from the continuing public health threat from exposure to lead in drinking water, including that no commitments have been made to provide city-wide access to safe drinking water in the short-term.

EPA's pilot study revealed that 18 homes tested, or 40 percent of the total homes tested, had elevated levels of lead. As discussed above, although the pilot study included a relatively small number of homes, EPA itself concluded that these elevated lead levels are not isolated and indicate a "system-wide" issue based on the prevalence of lead service lines in the City and the lack of insufficient corrosion control treatment. In fact, despite the findings of elevated lead levels in the drinking water, EPA concluded that no further testing is necessary because the pilot study results are indicative of a "system-wide" problem.[64] EPA has publicly stated that all residents of East Chicago should assume the presence of lead service lines in their homes and to use certified water filters.[65] EPA has provided

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61 Ex. 40, Crowley Engineering, LLC, *Preliminary Engineering Report: Water Distribution System Improvements*, Prepared for the East Chicago Water Department, at 8 (submitted Dec. 22, 2016) ("Engineering report").

62 Ex. 41, U.S. EPA, *Optimal Corrosion Control Treatment Evaluation Technical Recommendations for Primary Agencies and Public Water Systems*, at 47 (2016), *available at* https://www.epa.gov/sites/production/files/2016-03/documents/occtmarch2016.pdf.

63 Ex. 40, Engineering report. Additional factors relating to the City's water infrastructure may also impact the efficacy of the corrosion control treatment being used. For example, in 2015, East Chicago suffered a water loss of 35 percent, reflecting a higher loss than previous years. *Id*. at 15.

64 Ex. 1, Pilot study FAQs.

65 Ex. 2, Reese February water filters.

filters for pilot study participants, though not the entire city, and has recommended that pilot study participants continue to use filters for drinking, cooking and brushing teeth until further notice.[66] Yet no state, local or federal agency has taken any necessary measures to ensure that residents beyond these few homes currently have a source of clean, safe water. Further, the City has indicated publicly that it does not have sufficient resources to conduct further water testing, nor does it have the ability to replicate the EPA's testing methods, which would help identify those homes at highest risk.[67]

The EPA study also raises factual questions regarding whether the City and State's efforts to date have in fact ensured a safe drinking water supply sufficient to protect the public health. Despite EPA's pilot study results showing elevated lead levels, for example, East Chicago does not appear on EPA's database listing violations of lead contamination.[68] This omission raises the question of whether East Chicago is in fact complying with treatment, reporting, and monitoring requirements of the Lead and Copper Rule.[69] Such questions are relevant where EPA estimates than 90 percent of homes in East Chicago have lead service lines, 40 percent of homes tested had elevated levels of lead, and EPA's conclusion that the pilot study lead levels revealed a "system-wide" problem.[70] Moreover, even if the City is fully compliant with applicable requirements for lead, EPA has acknowledged in the context of the pilot study that it is "actively considering potential revisions to the Lead and Copper Rule" at the national level, with the "primary goal [of improving] the effectiveness

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66 *Id.*

67 Ex. 42, Lauren Cross and Sarah Reese, *East Chicago Lead Crisis: "Our Site is Parallel with Flint Now,"* Times of Northwest Indiana (Dec. 9, 2016), *available at* http://www.nwitimes.com/news/special-section/ec-lead/east-chicago-lead-crisis-our-site-is-parallel-with-flint/article_eb54256f-8511-54b4-913d-614fea555a53.html.

68 This omission may illustrate another case of serious gaps in reporting, as was evidenced in Flint. *See* Ex. 43, Olson, Erik and Pullen-Fedenick, Kristi, NRDC, *What's In Your Water? Flint and Beyond* (2016), *available at* https://www.nrdc.org/resources/whats-your-water-flint-and-beyond.

69 The City may also have a history of not complying with IDEM's orders on the use of corrosion control treatment at one of the City's filtration plants. East Chicago owns and operates two water treatment plans, the Aldis Avenue conventional filtration plant (built in 1929 and upgraded in 1964), and the Pennsylvania Avenue membrane filtration plant (built in 2011). Design and other flaws in the Pennsylvania Avenue plant delayed its ability to be fully operational, resulting in related litigation. In 2011, IDEM approved the use of a corrosion inhibitor for this plant, but due to a strainer pretreatment system performance failure during startup of the Pennsylvania plant operations in 2011, the inhibitor was not fed into the system until spring 2016. *See* Ex. 40, Engineering report, at 7-8.

70 Despite federal requirements that water sampling be done at "high risk" locations, recent news articles have highlighted cities that have failed to do so. *See*, e.g., Ex. 44, Fonger, Ron, *Documents show Flint filed false reports about testing for lead in water,* Mlive (Nov. 12, 2015) (Flint), *available at* http://www.mlive.com/news/flint/index.ssf/2015/11/documents_show_city_filed_fals.html, and Ex. 45, Michael Hawthorne and Jennifer Richards, Chicago often tests water for lead in homes where risk is low, Chicago Tribune (Feb. 26, 2016) (Chicago), *available at* http://www.chicagotribune.com/news/watchdog/ct-chicago-lead-pipes-water-testing-met-20160226-story.html.

of the rule in reducing exposure to lead and copper from drinking water."[71] The emergency in East Chicago demonstrates the dire need for such improvements.

Finally, evidence suggests that IDEM has failed to ensure that the City is adequately treating the water to reduce lead levels sufficient to protect the public health. Upon information and belief, IDEM was aware that the City had not been implementing appropriate corrosion control before the pilot study took place. Specifically, EPA's preliminary findings detected "low or no orthophosphate levels" which "were consistent with monthly operating reports East Chicago submitted to IDEM."[72] In other words, IDEM was well aware, or should have been well aware, that the City may not have been implementing appropriate corrosion control measures to ensure lead levels were reduced in East Chicago's drinking water.[73] These facts, calling into question the City and States' prior efforts to effectively reduce lead levels and the ongoing failure to ensure an alternate source of clean, safe water, support federal intervention.

V. EPA Has Authority to Issue an Emergency Order Here, as it Had in Flint

The Administrator has the opportunity to act now to protect East Chicago, to avoid delay resulting in irreversible and avoidable harm to the City's residents. EPA Administrator Pruitt, in his confirmation hearing before the Senate Environment and Public Works Committee, stated: "[T]he Flint tragedy was a failure at every level of government," and noted his personal disturbance that "EPA did not take action until long after [EPA] became aware of the elevated lead levels in Flint drinking water."[74] He further stated that EPA did not do an adequate job in the instance of the Flint water crisis, and said: "If confirmed and faced with a similar situation, I would inform the state that EPA will take action if they fail to do so, and *use EPA's emergency authority if the state fails to act*."[75] He also stated that he would "commit to undertaking stronger EPA oversight and enforcement of drinking water rules."[76] Likewise, then-presidential candidate Donald Trump stated while campaigning in

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[71] Ex. 1, Pilot study FAQs.

[72] Ex. 5, January 2017 Kaplan letter, at 3.

[73] According to the Indiana Finance Authority, the use of corrosion control treatment is not consistently implemented in Indiana. "Though utilities serving the bulk of the [state's] population consider or implement anti-corrosion methods, it is not clear as to how many utilities perform the treatment or do so consistently. Further investigation will be needed to understand the risks of lead in the State." Ex. 46, Indiana Finance Authority, *Indiana's Water Utilities: An Analysis of the State's aging infrastructure* (Nov. 2016), at 13, *available at* http://www.in.gov/ifa/files/IFA-Report-11-18-2016.pdf.

[74] Ex. 47, *Nomination of Attorney General Scott Pruitt to be Administrator of the U.S. Environmental Protection Agency: Hearing Before the Senate Comm. on Env't and Public Works*, 115th Cong. (Jan. 18, 2017) (Questions for the Record for the Honorable E. Scott Pruitt), at 28-29 (emphasis added), *available at* https://www.epw.senate.gov/public/_cache/files/6d95005c-bd1a-4779-af7e-be831db6866a/scott-pruitt-qfr-responses-01.18.2017.pdf.

[75] *Id.* at 29 (emphasis added).

[76] *Id.*

regards to the Flint water crisis: "I think it's a horror show that it was allowed to happen and. . .it should have never, ever been allowed to happen. That was really the problem."[77]

EPA now has the obligation to ensure that a similar failure that occurred in Flint does not take place under the current administration. Petitioners seek "temporary relief to provide . . . residents basic life necessities while the water crisis is resolved."[78] If history serves a lesson, EPA should swiftly act on this petition.

In reviewing EPA's failure to act promptly in the face of the Flint, Michigan water crisis, the EPA's Office of Inspector General ("OIG") issued guidance on October 20, 2016 clarifying EPA's authority to issue emergency orders to protect the public. The OIG concluded that "EPA Region 5 had the authority and sufficient information to issue a SDWA Section 1431 emergency order to protect Flint residents from lead-contaminated water as early as June 2015,"[79] although the Agency did not act until late January 2016. In the case of East Chicago, EPA has sufficient information to issue an emergency order now. In rendering its conclusion regarding Flint, the OIG relied on the same factors that that are currently present in East Chicago and found that EPA had sufficient information that contamination may present an imminent and substantial endangerment to human health, namely: (1) test results that indicated a requirement for corrosion control, (2) information that the water system was not using adequate corrosion inhibitor, and (3) information that homes had lead levels that exceeded the federal action levels.[80] Further, the OIG concluded that EPA had sufficient information that the appropriate state and local authorities had not acted to protect the health of persons based on the State's notice to EPA that no corrosion control had been in place. In short, the situation in East Chicago meets the same criteria that the OIG found authorized EPA to act in Flint pursuant to its emergency authority before it issued an emergency order in Flint.[81]

In sum, EPA has concluded that its own testing results establish that the elevated levels of lead are system-wide. Based on the results of the pilot study, EPA has recommended that East Chicago residents drink filtered tap water. Meanwhile, the Agency provided drinking water filters and cartridges only for those homes that participated in the pilot study.[82] EPA is also aware of a pattern, described above, which raises questions as to the

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77 Ex. 48, Chad Livengood, *Trump to visit Flint 'at some point' in campaign*, Detroit News (Sept. 3, 2016), *available at* http://www.detroitnews.com/story/news/politics/2016/09/03/trump-visit-flint-point-campaign/89830710/.

78 *Concerned Pastors for Social Action,* at *17 (granting preliminary injunction and ordering city and state officials to deliver bottled water door-to-door or to verify that a faucet filter is properly installed and maintained in the home).

79 Ex. 49, EPA, Office of Inspector General, M*anagement Alert: Drinking Water Contamination in Flint, Michigan, Demonstrates a Need to Clarify EPA Authority to Issue Emergency Orders to Protect the Public*, Report No. 17-P-0004 (Oct. 20, 2016), *available at* https://www.epa.gov/sites/production/files/2016-10/documents/_epaoig_20161020-17-p-0004.pdf.

80 *Id.* at 4.

81 *Id.*

82 Ex. 13, Pilot study website.

appropriateness of the City and State's efforts to reduce lead levels. To date, no commitments have been made to provide immediate, short-term assistance to community members that will ensure their access to clean, safe water.[83] All of these facts demand federal intervention.

[83] Ex. 1, Pilot study FAQs.

VI. EPA Should Act Immediately to Address the Public Health Emergency Created by Lead in East Chicago's Drinking Water

Petitioners urge EPA to take all actions necessary to abate the endangerment presented by lead in East Chicago's drinking water.[84] At a minimum, Petitioners request that EPA:

- Immediately provide (or order the City and/or State to provide) East Chicago residents with free faucet filters that meet EPA standards and/or bottled water, prioritizing first the Superfund site as well as other portions of the City at the greatest risk of cumulative lead exposures;

- Implement a program to ensure that faucet filters are properly installed and maintained at residents' homes;

- Replace faucets in each East Chicago residents' home as needed;

- Expand blood lead level testing of children under age 7 who are enrolled in Medicaid or are otherwise at-risk for high lead levels, in coordination with other local, state and federal agencies;

- Immediately conduct city-wide testing of the drinking water, not just limited to the pilot study, to determine the actual extent of the contamination and to comply with all applicable federal and state laws;

- Use its authority under 40 C.F.R. §§ 142.19 and 141.82(i) to review IDEM's determinations concerning corrosion control requirements for the East Chicago water system;

- Ensure East Chicago's compliance with reporting, treatment and monitoring obligations under the Lead and Copper Rule; and

- Order any other additional relief that EPA determines in "necessary to protect the health" of East Chicago's residents from lead contamination in drinking water.

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[84] *See Concerned Pastors for Social Action,* at *10 and *17 ("In modern society, when we turn on a faucet, we expect safe drinking water to flow out," noting that the "interim relief is intended to provide a rough substitute for the essential service that municipal water systems must furnish: delivery of safe drinking water at the point of use.").

VII. Conclusion

For the foregoing reasons, Petitioners respectfully request that EPA take the actions necessary to abate the imminent and substantial endangerment to East Chicago residents' health from lead contamination in their drinking water.

Dated: March 2, 2017

Respectfully Submitted,

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Sherry Hunter
Calumet Lives Matter

__/s/ Carlyle Edwards_____
Carlyle Edwards
We the People for East Chicago

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__/s/ Reverend Cheryl Rivera_____
Reverend Cheryl Rivera
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__/s/ Samuel Henderson_____
Samuel Henderson
Hoosier Environmental Council

__/s/ Sam Love_____
Sam Love
Duneland Environmental Justice Alliance

__/s/ Pastor Charles Streitelmeier_____
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Northwest Indiana Federation of Interfaith Organizations

__/s/ Reverend Willie D. Johnson_____
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__/s/ Bishop Tavis Grant_____
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Anjali Waikar
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Natural Resources Defense Council

APPENDIX A
Descriptions of Petitioners

Calumet Lives Matter
Calumet Lives Matter is a community organization that aims to bring East Chicago residents of the Superfund site together and connect them to the educational, social, economic and legal resources needed to address and defend their rights as they navigate tremendous disruptions and harm to their lives due to living on a hazardous waste site.

We the People for East Chicago
We the People for East Chicago (WTPFEC) is a community organization whose members are property owners and renters on the Superfund site and other residents and concerned citizens of East Chicago. WTPFEC fights for environmental and social justice and creates awareness about the needs of residents.

The East Chicago Calumet Coalition Community Advisory Group
The East Chicago Calumet Coalition Community Advisory Group (CAG), formed under the federal Superfund process pursuant to CERCLA, includes a diverse group of individuals living within the Superfund site who raise up resident voices to demand protection of their health and the environment by EPA, the State of Indiana, and the City. The CAG informs and updates residents about Superfund site activities.

Community Strategy Group
The Community Strategy Group is comprised of residents of the Superfund Site, their allies and advocates working collaboratively for justice. The Community Strategy Group is the strategic force organizing to impact public policy, and demand environmental, health, economic and racial justice for the East Chicago community adversely impacted by catastrophic lead and arsenic contamination.

Hoosier Environmental Council
The Hoosier Environmental Council (HEC) is Indiana's oldest and largest non-profit environmental advocacy organization, founded in 1983. HEC has been actively participating in advocating for lead service line replacement funding for East Chicago.

Duneland Environmental Justice Alliance
Duneland Environmental Justice Alliance is a multiracial, anti-racist grassroots organization in the Calumet industrial corridor of Northwest Indiana fighting for a healthy environment.

Northwest Indiana Federation of Interfaith Organizations
Northwest Indiana Federation of Interfaith Organizations (the "Federation") is a 25-year old faith-based, citizen led community-organizing network targeting Lake, Porter and LaPorte Counties of Indiana. Most of the Federation's efforts are in Gary, East Chicago and Hammond due to the high degree of poverty and unemployment, as well as underperforming public schools, in these cities.

The Twin City Minister Alliance of East Chicago
The Twin City Minister Alliance of East Chicago is a group of ministers that cross denominational, gender and cultural lines to do kingdom work and to enhance the life for people in our community.

Greater First Baptist Church of East Chicago
Greater First Baptist Church is a church that was founded in the West Calumet neighborhood and has served East Chicago for 60 years.

Antioch Network of Church & Ministries
Antioch Network of Church & Ministries is a global association of churches & ministries that works with the congregations in the areas of community development, social justice, and global missions.

League of United Latin American Citizens—Indiana Council
The Mission of the League of United Latin American Citizens (LULAC) is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of Indiana.

NAACP / Indiana NAACP Environmental and Climate Justice Program
Environmental injustice, including the proliferation of climate change, has a disproportionate impact on communities of color and low income communities in the United States and around the world. The NAACP Environmental and Climate Justice Program was created to support community leadership in addressing this human and civil rights issue. The NAACP Indiana State Conference Environmental Justice Program is actively engaging and advocating for the East Chicago community. It is working with local, state and federal public officials, and faith-based groups to provide support as requested.

National Nurses United
National Nurses United (NNU) is the largest union of registered nurses in the country, representing over 180,000 registered nurses (RNs), including members in Indiana. NNU nurses have deployed across the country to work alongside frontline communities as they fight to restore, protect and heal their communities from the devastating impact of environmental injustice.

Loyola University Chicago School of Law's Health Justice Project
Loyola University Chicago School of Law's Health Justice Project works to achieve health equity and social justice on behalf of low-income individuals and families. Recognizing that lead poisoning can permanently disrupt a child's future and elevate the risk for life-long disease and disability, the Health Justice Project and its partners collaborated to provide support and resources to the East Chicago community in order to prevent further exposure to lead and arsenic hazards and subsequent poor health outcomes.

Sargent Shriver National Center on Poverty Law
The Sargent Shriver National Center on Poverty Law ("Shriver Center") provides national leadership to promote justice and improve the lives and opportunities of people with low income. The Shriver Center advances laws and policies through litigation, legislative and policy advocacy, and administrative reform, to achieve economic, racial, and social justice for our clients. The Shriver Center represents certain current and former residents of the East Chicago Housing Authority's West Calumet Housing Complex and the Calumet Lives Matter community organization.

University of Chicago Law School's Abrams Environmental Law Clinic
The Abrams Environmental Law Clinic at the University of Chicago Law School is dedicated to addressing some of the most pressing environmental problems in our region and country. The Clinic challenges those who pollute illegally; fights for stricter permits; holds environmental agencies accountable; and develops innovative approaches for protecting and improving the environment. The Abrams Environmental Law Clinic represents the interests of We the People for East Chicago and Calumet Lives Matter in the Motion to Intervene.

Northwestern University Pritzker School of Law's Environmental Advocacy Clinic
The Environmental Advocacy Center (EAC) of the Northwestern University Pritzker School of Law provides legal services and representation to communities threatened by environmental harms, particularly environmental justice communities in mid-Western states. EAC also defends and advocates on critical environmental protection and environmental health issues. EAC represents We the People for East Chicago and Calumet Lives Matter in the Motion to Intervene, and represents the CAG.

Natural Resources Defense Council
The Natural Resources Defense Council (NRDC) is an international, nonprofit environmental organization that engages in research, advocacy, and litigation to protect public health and reduce the exposure of all communities to toxic substances, including lead exposure. NRDC's work includes advocacy aimed at ensuring that all Americans have access to safe and affordable drinking water that is free from dangerous contaminants. Founded in 1970, NRDC has several hundred thousand members nationwide, including members in East Chicago, Indiana.