



COMMENTS BY TOM NELTNER TO NEJAC ON JANUARY 5, 2022

Thank you for the opportunity to provide public comments to the Council today. I am the senior director for safer chemicals at the Environmental Defense Fund and have been working on lead poisoning prevention at local, state, and federal levels for more than 25 years.

I focus my comments on lead service lines – the lead pipes connecting drinking water mains under the street to homes – and the environmental justice implications of the all-too-common practice by utilities of expecting customers to pay to replace the portion of the lead pipe on their property.

My primary concern is that when these utilities are replacing the water main attached to these LSLs, they force low-wealth customers to choose between finding the money to pay for a full replacement or risk significantly more exposure to lead when the utility replaces only part of the LSL. Renters are often at greater risk because their landlord may choose not to pay without even seeking their input. Zero-interest loans to customers offered by some utilities may soften the financial impact, but the reality for too many families is that they lack the funds to take on another monthly payment.

Three states – Michigan, Illinois, and New Jersey – and some communities have prohibited partial LSL replacements. These states have an estimated 25% of the nine million LSLs in the country. However, the vast majority of the 11,000-plus water utilities in the U.S. engage in this practice.

In communities that have a history of racial segregation, redlining, and underinvestment in neighborhoods predominately comprised of people of color, the practice of requiring customers to pay to replace lead pipes can raise significant civil rights concerns.

We want to alert the Council to two recent events that address the issue and reinforce the excellent efforts that we have seen from both the Biden Administration and EPA under Administrator Regan.

First, last week, Dr. Karen Baehler and her team at American University published a [peer-reviewed case study](#) finding that Washington, DC residents in low-income neighborhoods between 2009 and 2018 were significantly less likely than those in wealthier neighborhoods to pay for a full LSL replacement and, therefore, had an increased risk of harm from lead exposure from a partial LSL replacement. The study documents these harms in a statistically representative manner that should be useful to decision makers.

Second, earlier this afternoon, five groups – the Childhood Lead Action Project, South Providence Neighborhood Association, Direct Action for Rights and Equality, National Center for Healthy Housing, and EDF – submitted a civil rights complaint to EPA, alleging the Providence Water Supply Board's LSL replacement practices violate Title VI of the Civil Rights



Act of 1964, because it disproportionately increases the risk of lead exposure to Black, Latinx, and Native American residents.

We ask that the Council monitor these developments closely and encourage EPA to send guidance to state revolving loan fund program administrators describing their obligations to proactively ensure compliance with the Civil Rights Act of 1964 regarding LSLs. EPA should then audit state and utility compliance for projects that disturb drinking water mains.