



"Together We Can"

## American Federation of Government Employees (AFL-CIO)

February 2, 2016

The Honorable Jason Chaffetz  
Chair, Oversight and Government Reform Committee  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515

RE: "Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan"

Dear Chairman Chaffetz:

I am submitting the following statement for the hearing entitled, "Examining Federal Administration of the Safe Drinking Water Act in Flint, Michigan," scheduled for Wednesday, February 3, 2016.

### Introduction

My name is John J. O'Grady, and I currently serve as the President for Local 704 of the American Federation of Government Employees (AFGE), representing bargaining unit employees at the U.S. Environmental Protection Agency (U.S. EPA) Region 5 Office in Chicago. I have been with the U.S. EPA Region 5 Office for over 29 years, and have served as a Project Manager in the Water Division, as a Project Manager in the Pesticides Program, and prior to serving as AFGE Local 704 President, I served ten years as a Remedial Project Manager in the Superfund Division, cleaning up abandoned hazardous waste sites. I fully and completely endorse the mission of the U.S. EPA, which is to safeguard human health and the environment.

The recent event in Flint, Michigan is an example of politics and protocol at its worst, when children should have come first. On January 21, 2016, EPA Administrator Gina McCarthy sent a mass e-mail to all EPA employees, stating among other things, the we need "to elevate critical public health and/or environmental issues so that we can properly assess them and respond at appropriate policy and governmental levels" (attached). To say the least, Administrator McCarthy's e-mail is a 'dollar short and a day late.' However, at least some of the employees here at the U.S. EPA Region 5 Office believe it to be a bit odd that of this date, Regional management have said relatively little about Flint, Michigan, to the employees of the Agency.

### General Comments

The American Water Works Association (AWWA) stated on page 10 in its February 2012 report, *Buried No Longer: Confronting America's Infrastructure Challenge*, "Investment needs for buried drinking water infrastructure total more than \$1 trillion nationwide over the next 25 years," Further, the AWWA emphasized that the "national level investment we face will

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*roughly double from about \$13 billion a year in 2010 to almost \$30 billion annually by the 2040s for replacement alone. If growth is included, needed investment must increase from a little over \$30 billion today to nearly \$50 billion over the same period.”* (Buried No Longer, 12) I would have to agree with the AWWA, and in light of EPA’s static budget and the number of full-time equivalents (FTEs) at EPA down to 15,000, that the events in Flint, Michigan, may be only the tip of the iceberg.

### **Incidents of Interest**

A couple of incidents may shed some light on how U.S. EPA Region 5 was led into this tragedy by its own management.

1) In 2008, the U.S. EPA Office of Inspector General reviewed a case in the U.S. EPA Region 5 Land and Chemicals Division where the Regional Counsel’s basis for a reduction in penalty was not documented. As a result of the Regional Counsel’s actions, the government received \$25,000 less than it could have. In addition, Region 5 may have sent a signal to other violators that they may have their civil penalties reduced regardless of the evidence supporting EPA’s decision. See attached report, “A Region 5 Penalty Reduction Was Unjustified and Undocumented,” Report No. 08-P-0291, September 29, 2008.

2) In 2012, a bargaining unit employee who worked in the U.S. EPA Region 5 Water Division, was the Laboratory Certification Program Manager. This employee was tasked with managing the safe drinking water laboratory certification program to ensure that laboratories used by states in Region 5, like Michigan, provide analytical services that meet the technical requirements necessary to produce reliable analytical data. This employee reviewed the Michigan program and prepared an audit letter to inform the State of Michigan about problems with its laboratory program. Instead of deferring to his expertise in the matter, U.S. EPA Region 5 management demanded that he revise the letter to remove any reference to deficiencies. The employee resisted, and management took a disciplinary action against him, and harassed him until his only way out was to retire early.

3) The Beck’s Lake Superfund Site (EPA ID#IND980904379) is named for the man-made six-acre lake in LaSalle Park, located along Washington Street on South Bend’s west side. The site came to EPA’s attention in the 1980s when the Agency became aware of former waste disposal activities, including asbestos, plating wastes, solvents, paint wastes, oils, sludge, and arsenic-contaminated foundry sand. The site was placed on the National Priorities List (NPL) in December 2013, as a result of additional testing that found elevated levels of arsenic and other known contaminants. Currently, a Remedial Investigation/Feasibility Study (RI/FS) is being conducted that is focused solely on the former landfill. The focused RI/FS ignores any further investigation of residential soils or drinking water in an environmental justice neighborhood. Until further investigation is conducted, the Agency will not be able to assure residents of their safety.

4) The residential cleanup at the Jacobsville Neighborhood Soil Contamination site, includes the Jacobsville neighborhood, as well as twelve other neighborhoods in Evansville, Indiana, covering a 4.5-square-mile area. Lead has contaminated a wide area of soil, with some co-contamination of arsenic. The U.S. EPA has spent approximately \$57 million to date, but may

not have properly addressed the lead burden on the children in the community. Estimates of EPA's final costs are as high as \$150 Million by the time the project is complete. For more information, please go to: <http://cumulis.epa.gov/supercpad/cursites/csinfo.cfm?id=0508142>

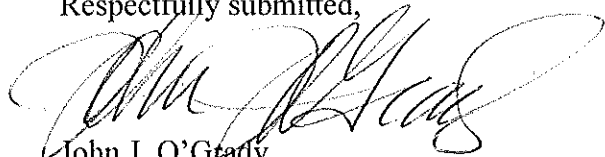
## Summary

When I was in the Water Division in the 1980s, if a manager felt something was not right, they would do something about it. They would argue for the 'right' thing to be done. If they were somehow stymied, they would find a way to have the information released to the press or various non-governmental organizations (NGOs), who would then put the appropriate pressure on the Agency to 'do the right thing.' Apparently, that doesn't happen anymore. Thank goodness Mr. Miguel Deltoral did the right thing, but what about his management? There are quite a few managers in-between Mr. Deltoral and former EPA Region 5 Regional Administrator Susan Hedman. Did they believe that policy, politics, and protocol were more important than the poisoning of the citizens of Flint?

It is a sad point in the history of the U.S. EPA that rather than being an Agency Americans can count on to protect them, it has not. I believe the answer to this problem will require a bi-partisan solution including ensuring that the Agency has sufficient staff, more money in the Safe Drinking Water Act State Revolving Fund, and management that is not only held accountable, but acts in the best interest of American citizens, not policy, politics, or protocol.

U.S. EPA Region 5 has become too focused on developing enforcement numbers for reports that go to EPA Headquarters (we call them 'beans'), so that Regional programs look good in the eyes of Headquarters. Could it be that this attitude has blinded some managers to ignore potential or known violations, simply because those potential problems may not add to their 'bean count?'

Respectfully submitted,



John J. O'Grady  
President, AFGE Local 704

## Attachments

- AWWA Report "Buried No Longer: Confronting America's Infrastructure Challenge," accessed February 2, 2016, <http://www.awwa.org/portals/0/files/legreg/documents/buriednolonger.pdf>.
- 2015 AWWA "State of the Water Industry Report," accessed February 2, 2016, <https://www.awwa.org/Portals/0/files/resources/water%20utility%20management/sotwi/2015-AWWA-State-of-the-Water-Industry-Report.pdf>.
- Gina McCarthy, e-mail message to all EPA employees, "Policy on Elevation of Critical Public Health Issues," January 21, 2016.
- U.S. EPA Office of Inspector General, "A Region 5 Penalty Reduction Was Unjustified and Undocumented," Report No. 08-P-0291, September 29, 2008