

September 2, 2016

Michigan Civil Rights Commission
Michigan Department of Civil Rights
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110 WEST MICHIGAN AVE SUITE 800
Lansing, MI 48933

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MDCR
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TO WHOM IT MAY CONCERNS

Enclosed please find my testimony in the Flint River case - Thank you for your time and attention to this matter.

If there are any questions or concerns, please do not hesitate to contact me.

Sincerely,



Tom Stephens

[REDACTED]
Detroit, MI 48224

[REDACTED]@ [REDACTED]
[REDACTED]

The Flint River Lead Poisoning Catastrophe in Historical Perspective by THOMAS STEPHENS

By now the main facts of the Flint River lead poisoning are pretty well known and essentially undisputed. A spectacular regulatory failure by all levels of government – enabled by Michigan Governor Snyder’s unprecedented “emergency management” policies for African-American majority cities. The big remaining question is *why this disaster happened?*

The Snyder administration and investigators have focused on gross incompetence of many officials, especially state and federal environmental regulators. That is clearly part of what happened, but *why?*

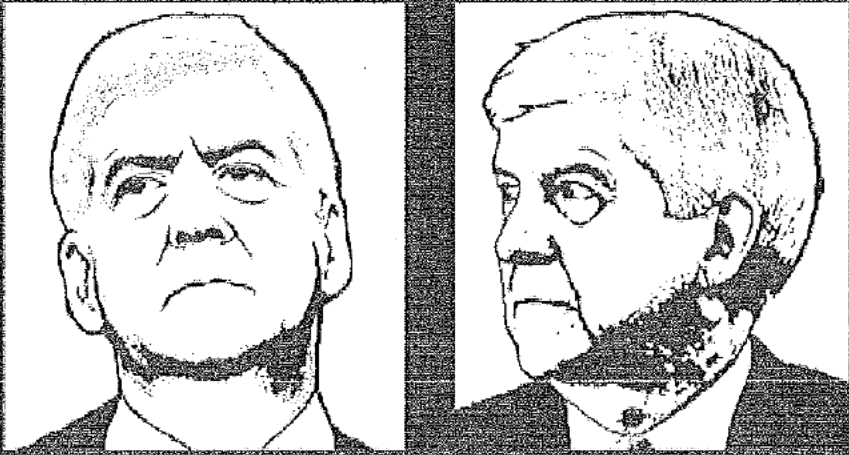
Historical context may help us understand. Some 20 years ago, the issues of environmental racism and environmental justice – the disproportionate adverse exposure of People of color communities and the poor to pollution and other environmental dangers – were addressed by environmental agencies and courts in two (2) major cases that arose in Flint: 1) The Genesee Power Station (GPS) case; and 2) The Select Steel case.

The GPS case involved a wood-burning incinerator sited near Flint’s impoverished north end, a community already swamped with other toxic, heavy industrial sources of pollution. Negotiations with the incinerator resulted in an agreement to significantly reduce the amount of lead paint-contaminated construction and demolition wood the incinerator was allowed to burn. (They originally described their business to state environmental officials as “burning demolished Detroit crack houses”.)

After that partial settlement, the Michigan Department of Environmental Quality (DEQ) under Gov. John Engler and Director Russell Harding insisted on a historic environmental justice trial of the allegation that they violated Michigan’s Elliott-Larsen Civil Rights Act by permitting the GPS, the first such trial ever. The Genesee County Circuit Court, Hon. Archie Hayman, entered an injunction against granting more air pollution permits in Genesee County after a 1997 trial that included lots of evidence of increased lead poisoning in Flint because of the GPS; the injunction was subsequently reversed on appeal for a procedural technicality.

UNWANTED!

RICK SNYDER



CONVICTED!

JANUARY 23RD 2016 - BY THE PEOPLE'S WATER CRIMES TRIBUNAL - DETROIT, MICHIGAN

FOR
CRIMES AGAINST THE PEOPLE OF THE STATE OF MICHIGAN
 -AND-
CRIMES AGAINST DEMOCRACY

POISONING THE PEOPLE OF FLINT
MASS WATER SHUTOFFS IN DETROIT
DISMANTLING DETROIT PUBLIC SCHOOLS
THEFT OF THE PUBLIC COMMONS
ENVIRONMENTAL RACISM
VANDALISM OF CIVIC TRUST

AND OTHER CRIMES OF
EMERGENCY MANAGEMENT

IN BENTON HARBOR, MARQUAM, HIGHLAND PARK, MURFREESBORO, MERGATE & AFRICAN AMERICAN CITIES AND SCHOOL DISTRICTS ACROSS THE STATE.

REPEAL EMERGENCY MANAGER LAW PA436

ARREST SNYDER

The Plaintiffs in the GPS case had also filed the first administrative Title VI environmental racism claim with the US Environmental Protection Agency (EPA) in 1992. After initially losing the file, EPA later found it and opened an investigation, but they have never issued any decision. Meanwhile, 3 of the 4 Plaintiffs died.

A second major environmental justice case arising in Flint was decided adversely after a bogus, *pro forma* investigation in 1998 by EPA: the infamous Select Steel decision. In Select Steel, the same plaintiffs complained about a proposed (never built) steel recycling facility, that would further pollute their already overburdened community. EPA came under heavy political pressure in both Michigan and Washington, DC, including explicit threats to zero out the budget of their Office of Civil Rights. EPA rendered a decision against environmental justice that abandoned any meaningful attempts to remedy environmental racism, refusing to use their power to bring public health and environmental quality in Flint up to standards enjoyed in white suburban communities.

In significant part as a result of the Flint Select Steel precedent, environmental racism has found no legal remedy at EPA.

Why did these regulators ignore the pleas of Flint residents who were forced to drink smelly, foul and discolored water for a year and a half? Because that was the policy of allowing substandard environmental and public health conditions in communities like Flint, conditions that would never be allowed in whiter, more affluent communities. And that precedent was largely established in Flint in the 1990s. The ongoing Flint River scandal was the result of emergency management and the Snyder administration's depraved indifference to health of People in Flint, as well as longstanding, established *de facto* environmental policy to allow such pollution in these communities. The Flint River's lead poisoning is just an extreme case.


US congressional delegate Stacey Plaskett (D-Virgin Islands) eloquently addressed the history of environmental racism nationally at the recent Flint River congressional hearing on February 3, 2016. My colleague Mark Fancher of the Michigan ACLU recently explained the racist colonial roots of this issue:

“Michigan state government's arrogant, callous indifference to both the plight of the people of Flint and the weight of outraged public opinion is explained quite simply by the fact that some officials regard black Michigan as their own little Africa. With the mentality of colonizers, they created and wielded the mighty weapon of Michigan's emergency manager law, and they set out to dominate and exploit

predominantly black cities with breathtaking indifference to the rights and the welfare of those who live there.”

The above is merely a summary of complex historical legal issues and facts, recounted more fully in the Petition to Re-Open the Select Steel Investigation filed by Sugar Law Center, California Rural Legal Assistance and others, which can be read [here](#).

The exhaustive chronology of the Flint River Catastrophe published by Bridge Magazine on February 4, 2016 (BridgeDisaster Day by Day: A Detailed Flint Crisis Timeline) emphasizes how the documents revealed so far show the regulators “trying to endure the Flint River water situation, regardless of the risks, until the Karegnondi Water Authority comes online in late 2016.” This was a clear example of the policy of environmental racism established in the 1990s in and around Flint. The policy goes well beyond the gross incompetence displayed by many in the Snyder administration in this case.


Tom Stephens


Detroit, Michigan 48224



This essay/testimony – with hyperlinks to cited documents - is posted on line at:

<http://www.counterpunch.org/2016/02/12/the-flint-river-lead-poisoning-catastrophe-in-historical-perspective/>

and also at:

<http://www.d-rem.org/the-flint-river-lead-poisoning-catastrophe-in-historical-perspective/>