

New evidence reveals state of Michigan helped to push Flint into pipeline deal

James Brookfield**19 May 2016**

Summarizing e-mails released by the office of Michigan Governor Rick Snyder, reporters at the *Detroit Free Press* wrote last week, “The City of Flint’s financial condition was so dire in 2014 that it threatened the ability of the Karegnondi Water Authority (KWA) to issue bonds and start construction on a new pipeline to Lake Huron. But the project was rescued through what was described as a ‘sweetheart’ state environmental order pushed by KWA bond attorneys.”

At issue was a debt limit imposed on the city by virtue of its being under emergency management. When Flint joined the KWA, it agreed to assume 35 percent of the \$285 million in expected construction costs of the pipeline. To prevent this debt from being counted against the city’s limits, a special environmental order was cooked up by the state to mandate Flint’s going forward with the KWA pipeline project.

The means by which this financial maneuver was implemented was an “administrative consent order” (ACO) between the state’s Department of Environmental Quality (MDEQ) and the city of Flint. Such orders have been used in the past to force municipalities to correct an environmental hazard without the costs of compliance being counted against debt limits of those local governments. In the case of Flint, however, this ACO was essentially requested from the MDEQ rather than being imposed by it.

A December 2013 e-mail from an MDEQ staffer, Nichole Zachardo, to her supervisor, William Creal, describes a phone call that Zachardo had received requesting what she categorized as a “sweetheart ACO” to exempt Flint’s debt burden for the new KWA pipeline from being counted against the Flint’s debt limits. This was a rather sensitive matter given that

Flint had been placed under an emergency financial manager owing to the devastated conditions of its public finances, which were themselves a product of the closure of automotive factories by GM and affiliated suppliers stretching back decades.

Creal took the matter to his supervisor, Liane Shekter-Smith, who in turn consulted with Steve Busch, also of the MDEQ. In the end, the ACO came from a different department of the MDEQ entirely. Busch and Smith were fired for reasons unrelated to the ACO. Busch was one of a handful of minor state officials indicted in April for his part in the crisis.

The *Free Press* cites an e-mail several months later from Miller Canfield attorney David Massaron to Gerald Ambrose, the financial director for Flint, and Darnell Earley, then Flint’s emergency manager. Massaron stated that while his client, the KWA, was ready to proceed with a bond issue, this could not be done without the ACO, and that “the city needs the ACO in place by the end of this week.”

In the end, the ACO required Flint to make only a relatively inexpensive fix to lagoons outside its wastewater treatment plant. But the bond attorneys linked this required work to the KWA pipeline project as a whole, thereby guaranteeing the bonds could be issued and pipeline construction continue without delay. As in the entire Flint water disaster, the health needs of the residents were not only subordinate to the profit needs of the bond issuers, putative bondholders and contractors—rather, they were neglected entirely as a financial heist unfolded.

Genesee County Drain Commissioner Jeff Wright, who is also the CEO of the KWA, told the *Free Press* that he had no knowledge of the ACO. Given that the ACO was instrumental in avoiding a delay or the possibility of the cancellation of the project, it strains

credibility to believe that the official in charge of the whole project was completely in the dark about this matter.

There are likely more damning e-mails to be found. The Snyder administration has released several large batches, each containing thousands of pages, making it difficult to track down the most relevant information to charges of official wrongdoing. Snyder also admitted, in a backhanded manner, that other e-mails may well have been destroyed.

In a written response to questions from US representative Elijah Cummings on May 9, Snyder wrote that he had not “to my knowledge” deleted an e-mail after litigation regarding the water crisis had been initiated. Prior to that time, the governor wrote, he “had no memory of deleting an email” that would be relevant to ongoing investigations.

Since the publication of the report in the *Free Press*, Flint Mayor Karen Weaver has suggested that Flint may decide to opt out of the KWA after all. Given the fact that Weaver is not challenging the responsibility of Flint for 35 percent of the pipeline’s construction costs, it seems that this is unlikely to be a real proposal as much as a means of defusing the growing anger of the city’s population at the role of the KWA in triggering the whole disaster.

Two years after the switch to the Flint River, residents are still not able to drink from their taps, continue to report skin ailments and other health problems from trying to bathe in the water, and have seen fewer than 30 homes in the city of 100,000 residents have their lead pipes replaced. For her part, Mayor Weaver remains on the board of directors of KWA.



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