

# Michigan judge throws out state charges against Flint water consultants

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Charges against two corporations in relation to their paid services in Flint, Michigan during the period of 2014-2015 when the city's residents were being poisoned by lead in their water were dismissed by a circuit court judge on November 8. The companies, Veolia North America and Lockwood, Andrews and Newnam (LAN), were hired by the city of Flint for services in the period of time that the city was drawing water from the Flint River.

The ruling by Genesee County Judge Richard Yuille dismissed four of five of the state's claims: professional negligence, negligence, public nuisance and fraud. A request for exemplary damages was also denied.

Yuille's ruling on the claims of negligence and public nuisance stated, "If the People's damages are premised on injuries to the consumers of the city of Flint water, then consumers of the city of Flint's water are the individuals that ought to be suing for negligence."

The only state allegation left for Attorney General Dana Nessel to pursue is that of unjust enrichment.

The civil suit against the two companies was initially filed in 2016 by the Attorney General in Republican governor Rick Snyder's administration, Bill Schuette, just months after the exposure of the scheme hatched by the state government to switch Flint's water source to the yet-to-be completed Karagondi Water Authority (KWA) pipeline. The state made the decision for the interim period to use the city's long-dormant water treatment plant to deliver water from the polluted Flint River until the planned connection to the KWA was complete.

In July, after dropping all criminal charges against the eight remaining defendants named by Schuette in 2016-17, Nessel said she would still pursue the civil charges against LAN and Veolia with a claim of \$350 million.

In response to the companies' requests earlier this year to dismiss all charges, the state submitted its statement, asserting in part, "It has become clear through documents obtained in discovery that the consultants made repeated missteps and engaged in reckless behavior. While Veolia and LAN continue to rely on their own distorted view of the

facts, we stand by our complaint, which is backed by the evidence."

The companies have made the argument that since their client was the city government of Flint, it has no legal responsibility to the city's residents, only to its primary customer.

Veolia's filing last May stated, "The reality is that principal responsibility for the crisis lies with the government entities and officials—including the engineers, scientists and regulators at the state's environmental agency and the city of Flint's department of public works—not the defendants."

This argument contrasts starkly with the glowing praise Veolia gave the city in its March 2015 Water Quality Report:

The City of Flint has made a number of good decisions regarding treatment changes that have improved water quality. However, this is a very complex water quality issue and the City is seeking additional advice on what to do to ensure healthful drinking water for the community.

Veolia appreciates the City's decision to seek independent third parties to review current treatment processes, maintenance procedures and actions taken to date, and provide ideas for improvement. We are pleased to present this final report to the City of Flint following our experts' 160-hour assessment of the water treatment plant, distribution system, customer service and communications programs, and capital plans and annual budget.

Starkly absent anywhere in Veolia's report is the fact that the city, in violation of federal regulations, failed to use a system of corrosion control to prevent the metal in the pipes, including lead, from being leached into the water.

Miguel Del Toral, a water expert employed by the US

Environmental Protection Agency (EPA), became aware that federally mandated corrosion control was not being used in Flint's water and wrote in a June 2015 internal memorandum:

Although there have been two written assessments regarding water quality and operational issues in Flint at the time of this report, they do not address lead in drinking water. The first is an Operational Evaluation Report (OER) produced in November 2014 by Lockwood, Andrews and Newnam, Inc. to assess the factors contributing to high Total Trihalomethane (TTHM) levels in Flint following the source change. The focus of this report is to identify potential causes and remedial actions for lowering TTHM levels. The second report (Water Quality Report) produced by Veolia for the City of Flint on March 12, 2015, is an assessment of Flint's water quality and operations which provides advice to the City of Flint primarily focused on TTHM control and other operational issues. Both reports were written prior to the recent discovery of high lead results in Flint's drinking water. As such, the reports do not take into account the potential effects on lead levels in drinking water.

When the decision was made by the state, in 2013, to sign Flint on with the KWA scheme, LAN was contracted by Edward Kurtz, Flint's state-appointed emergency manager in a sole-source (no-bid) \$171,000 agreement for "assistance in placing the Flint Water Plant into operation using the Flint River as a primary drinking water source for approximately two years and then converting to KWA delivered lake water when available..."

The scheming over Flint's water was essentially a form of privatization, pushed by a cabal of conspirators including the Snyder administration, which oversaw the 2013 forced bankruptcy of Detroit and the carving up of its water system, which had supplied Flint's drinking water for some 50 years. The federal bankruptcy court headed by Democratic Judge Steven Rhodes was instrumental in the scheme.

The economic devastation in Flint inspired a layer of entrepreneurs and political insiders to envision ways to profit from the hardship of the population. The scheme in Flint was never about providing relief for its residents, who pay the highest water rates in the country, but exploiting popular distress to turn profits for a privileged few.

Democrat Jeff Wright, Genesee County's drain commissioner and creator and CEO of the KWA,

campaigns for years to get Flint committed financially to the construction of his long sought-after pipeline. UAW Regional leader Norwood Jewell, who has since been convicted of bribe taking, assisted in the crusade for the KWA.

The role of Democratic President Barack Obama must be mentioned in this regard. His government's response to the 2008 financial crash was to bail out the banks and other massive financial institutions to the tune of trillions of dollars while making the working class pay for it, including slashing the wages of autoworkers and using the bankruptcy of GM and Chrysler as a club against any opposition.

Appeals by the city of Flint for federal help were answered with a pitiful \$5 million while Obama infamously sipped from a glass and told residents to shut up and drink the water during his belated 2016 visit to the city.

It is no wonder, that four years and two state administrations after being publicly exposed, the state has been unable to bring to justice any of the perpetrators of the crime against Flint's 100,000 residents. Not to mention the millions of dollars of taxpayer's money spent in the process.

Of course, both Veolia and LAN are pleased with Yuille's ruling. In a public statement Friday, Veolia said, "The ongoing efforts by those officials to pervert the facts and shift blame away from themselves are shameful. The Attorney General is clearly trying to create a corporate villain where one does not exist. Ignoring reality, the Attorney General bizarrely claims that VNA is 'unjustly enriched' because the State of Michigan provided assistance and services to the citizens of Flint which were needed because of the government's failures that caused the disaster."

With the severely curtailed suit continuing against Veolia and LAN, other civil suits are still pending against Snyder and many of the functionaries who made the decision leading to the poisoning of the water and subsequently lied about its safety.



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