



NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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February 24, 2014

Administrator Gina McCarthy
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW

Dear Administrator McCarthy:

On January 9, 2014, 10,000 gallons of a coal processing chemical mix spilled from an above-ground storage facility located on the banks of the Elk River, little more than half a mile upstream from the only public water intake source that services 300,000 residents in nine counties (*where 20 to 29 percent of the population lives below the poverty line and nearly one-fourth of the adult population is uninsured*) around Charleston, West Virginia. By 6:30 pm that day, a "DO NOT USE" advisory had been issued by the water utility, and residents were told not to drink or touch their tap water for an indefinite period of time. This use ban was incrementally lifted across the region starting on January 13, and customers were told to flush the contaminated water out through their home plumbing systems. Despite the lifting of the ban, residents immediately began complaining of health problems, of continued odors, and discolored water. Odors from the chemical mix persist throughout the town of Charleston and outlying areas.

President Obama issued Executive Order 13650 on *Improving Chemical Facility Safety and Security* on August 1, 2013, to improve chemical facility safety and security. The U.S. Environmental Protection Agency (EPA) co-chairs the Chemical Facility Safety and Security Working Group (EO Working Group), which is charged with implementing the Executive Order along with the U.S. Department of Homeland Security and the U.S. Department of Labor, with participation from the departments of Justice, Agriculture, and Transportation. The EO Working Group has recognized that obtaining stakeholder input is critical to the success of the Executive Order. It has scheduled public listening sessions around the country to provide attendees, including environmental and community groups, an opportunity to provide input on topics such as:

- Improving operational coordination with Federal, state, tribal, and local partners;
- Enhanced information collection and sharing;
- Modernizing regulations, guidance, and policies; and
- Identifying best practices in chemical facility safety and security.

The EO Working Group plans to use input from these public listening sessions to inform its efforts to improve chemical regulation and better protect the nation.

West Virginians continue to express concern about their water, their health, and the economic future of their state because of the lack of safety and security at a local chemical facility. Limited information continues to be available about the exact chemical composite released into the public water, the public health impacts of those chemicals, the regulatory and industrial failure that led to the leak, the most accurate and best way to remove the contaminated water from home pipes and hot water heaters, and the long-term impacts of this incident on the Capitol Region, and on the health and safety of one-sixth of the State's population. According to West Virginia Governor Earl Ray Tomblin, in a letter submitted to the Federal Emergency Management Agency (FEMA) on January 27:

"[D]espite best efforts of the company and government, many people no longer view their tap water as safe and are continuing to demand bottled water to meet their potable water needs. It is impossible to predict when this will change, if ever."

Yet this facility is but one of many in the Kanawha Valley and throughout the state. The 25-mile area of the Kanawha Valley has received more attention from the U.S. Chemical Safety and Hazard Investigation Board in the last five years than any other area of the same size across the country, yet still, several critical recommendations remain open. Both a lack of regulation and a lack of enforcement are directly linked to the current crisis. What is needed is improved guidance, standards and recommendations regarding chemical facility safety and security that can be enforceable in the community. Additionally, communities need inherently safe technology at such facilities, including safer chemicals, better worker safety training, better data coordination, and better coordination between local, state, and federal officials, and first responders.

As the Agency's advisory committee on environmental justice, which listened to impassioned pleas of West Virginia residents during the NEJAC February 12, 2014 public comment, and given recent events in Charleston, West Virginia, the NEJAC strongly recommends:

- **EPA, and the co-chairs of the EO Working Group, convene a listening session on President Obama's Executive Order 13650 in Charleston, West Virginia no later than March 31, 2014.** Such a listening session would ensure that the voices and stories of the individuals, organizations, and communities impacted by the recent chemical spill are heard and to shape the future of implementation of the EO. Implementing Executive Order 13650 is a direct way that the regulatory breakdown that led to the chemical leak in Charleston can be addressed.

Sincerely,



Margaret May
Chair

cc: NEJAC Members
Mathy Stanislaus, EPA Assistant Administrator for Solid Waste and Emergency Response
Nancy Stoner, EPA Assistant Administrator for Water
Jim Jones, EPA Assistant Administrator for Chemical Safety and Pollution Prevention
Shawn M. Garvin, EPA Regional Administrator, Region 3
Cynthia Giles, EPA Assistant Administrator for Enforcement and Compliance Assurance
Lisa Garcia, EPA Associate Assistant Administrator for Environmental Justice
Victoria Robinson, NEJAC DFO, EPA Office of Environmental Justice