

**T**he fallout from the Flint water crisis continues as the local prosecutor, Bill Schuette, recently filed criminal charges against the city's laboratory supervisor and two Michigan Department of Environmental Quality (DEQ) employees.

The charges allege that the employees committed "misconduct in office", an indictable offense at common law, by willfully and knowingly misleading U.S. Environmental Protection Agency (EPA) officials. No charges, civil or criminal, have been brought against the city itself or its elected leadership.

In response to the tragic water crisis that has laid siege to the families of Flint, President Obama had this to say: "It's not enough to fix the water. We need to fix the culture of neglect." The President's assessment is partially correct—culture had a lot to do with the Flint tragedy. However, rather than a "culture of neglect," I'd argue it is also the "neglect of culture" that contributed to the crisis in Flint.

# More Lessons From Flint

Neglecting culture comes with a hefty price tag

By Brent Fewell



Please hear me out. If the city of Flint were a private company like Volkswagen or BP—or Suez, Veolia or American Water, for that matter—it would be facing a major enforcement by the U.S. EPA or the Department of Justice (DOJ), with millions in civil and/or criminal fines, and responding to a shareholder rebellion and class action lawsuit for serving its customers unsafe water. But in this case, the city and its officials are largely shielded by sovereign immunity.

Instead of holding the city responsible, the solution by Congress is simply to provide more federal funding in the form of grants and zero interest loans. Don't get me wrong—Flint needs all the help it can get, including financial help. And Congress has no choice but to act in this case. But simply giving failing systems more money without doing or asking more is akin to treating the symptoms without treating the disease. What this very ill patient needs is serious, long-term care and rehabilitation, not a bandage.

No one is suggesting that EPA, state or local officials intended to poison an entire community; the fact is, that's what happened. But be there no mistake, Flint is a symptom of a much bigger problem across the U.S. and our water systems. Almost 85% of water provision in the U.S. is provided by local government. The other 15% is provided by private entities.

He who owns the assets has a moral and legal obligation to the public to ensure the water is safe and clean.

Our nation's water and wastewater infrastructure is literally falling apart, pipe by pipe and valve by valve. This is particularly evident in small towns across America, where failing schools and water systems are the casualty of faltering economies, shrinking tax rolls and fleeting jobs. But like any failing school or company, a failing water system must voluntarily change or be forced to change, and that means not only providing the tools and resources needed to change, but also holding a failing system accountable for its failure.

## Assessing Accountability

We're all familiar with the definition of insanity: Doing the same thing over and over again yet expecting a different outcome.

Last September, I devoted this column to exploring the need for more carrots and sticks to incentivize better environmental outcomes, with the focus on carrots, such as financial and legal incentives. This time, my focus turns to the sticks.

So why aren't failing systems being held accountable by the federal government? Well, according to David Uhlmann, the former head of DOJ's environmental crimes section under President Clinton, "there is a significant reluctance within the U.S. EPA and Justice Department to bring actions against municipalities, because there's a view that they are often cash-strapped, and fines would ultimately be paid by local taxpayers." That's right, you heard it here. Those who are responsible for ensuring the provision of basic human services are not being held accountable due to concern that taxpayers will be injured. That's sad commentary.

As a water lawyer and former EPA water official who works routinely with local water and wastewater systems, I have witnessed time and again local governments that simply ignore requirements of the federal Clean Water or Safe Drinking Water Acts. Some are not the least bit concerned about the consequences of missing permits or regulatory deadlines or non-compliant systems. And worse yet, in other cases, some officials simply turn a blind eye to misleading or false data being reported to environmental regulators. In these cases, a low-level employee operating the plant or collecting samples often becomes the fall guy for the neglect of a city's leadership.

Too often, it's not until after something goes terribly wrong, like Flint, where either people get sick, fish die or criminal charges are filed—accompanied by negative press coverage—where action finally is taken. This has to stop.

Changing a culture takes time and hard work, and so will rehabilitating our failing water infrastructure.

The issue of culture is a tricky one; however, behind every entity, be it company or agency, is a culture embodied in the values, attitudes and standards of the people that make decisions for and bring life to that organization. People are an organization's most important asset, and it's people who create its culture—good or bad. Many cities, like New York, Los Angeles, Philadelphia, San Diego and Milwaukee, are doing a great job with managing water and wastewater systems because of strong leadership and good cultures.

Culture starts at the top with leadership charting the course and setting the tone. But what are we to do when a mayor or city council fails to chart a sustainable course that will ensure safe provision of water to local residents? What are we to do when local officials simply ignore the moral and legal obligation to maintain their water systems in compliance with federal and state law? Should we not expect more from local officials? Shouldn't they be held to the same standard as a corporate CEO?

We must change the broken culture of water in this country if we are to ensure our water is clean and safe. If we choose to ignore this epidemic, we do so at our own peril and expense. The price tag of doing nothing is a hefty one, and it involves the safety of our children and a clean environment. **w&wd**

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