

# United States: The Enormous Profit of Thirst - Michigan's water crisis

Friday 25 November 2016, by [RECTOR Josiah](#) (Date first published: November 2016).

**In June 2016, Michigan Attorney General Bill Schuette filed a lawsuit against Veolia North America (a subsidiary of the French multinational Veolia) and the Texas law firm Lockwood, Andrews & Newnam (LAN). The lawsuit charged the two firms with “professional negligence, fraud, and public nuisance.”**

## Contents

- [Back to the 1800s](#)
- [Building a Public System](#)
- [Results of Suburban Expansion](#)
- [Price Increases, Shutoffs, \(...\)](#)
- [Emergency Managers and Selloff](#)
- [Flint's Fatal Switch](#)
- [Advocating a Solution](#)

The criminal negligence of LAN and Veolia should have come as no surprise. The Flint water crisis also fits into a larger pattern, documented by environmental justice activists and scholars for decades, of people of color and low-income whites being disproportionately exposed to toxic health hazards.

Beginning in 2011, a succession of three Emergency Managers (EMs) appointed by Michigan Governor Rick Snyder hired LAN as an outside consultant to conduct feasibility studies on switching from the Detroit Water and Sewerage Department (DWSD) to the Flint River. Over the next five years, EMs outsourced professional engineering services at the Flint Water Treatment Plant to LAN and (beginning in 2015) Veolia. [\[1\]](#)

LAN failed to design a system of corrosion control for Flint River water, leading to the poisoning of a majority-Black, working-class city's water supply for over two years. In early 2015, after the lead contamination was already well-known, the city hired Veolia as a water quality consultant.

Veolia's 2015 Interim Report, released on February 18, declared that Flint's water supply was “safe” and “in compliance with drinking water standards.” It dismissed widespread reports of health problems among residents, cynically stating that “[s]ome people may be sensitive to any water.”

However, Michigan's water crisis (including the poisoning of Flint and an ongoing epidemic of shutoffs in Detroit) is also directly related to water privatization and outsourcing. Any observer of water privatization, in fact, could have predicted the disastrous consequences of outsourcing municipal engineering and water treatment work to firms like LAN and Veolia.

Two French multinationals (Suez and Veolia) control about 70% of the world's private water market, and they operate in dozens of countries. Complaints of rising prices and falling water quality have

accompanied their takeovers of municipal water systems across the globe.

For example, following the U.S. invasion of Iraq in 2003 the Bush administration gave private contractors Bechtel, Fluor and Suez billions in taxpayer dollars to construct 158 water treatment facilities. In 2009, the City of Baghdad gave Suez and Veolia \$5 billion to run the city's water system. As Karen Piper notes in her book *The Price of Thirst*, in 2013 the UN found an "alarming increase" in waterborne pollution and waterborne illness in Iraq, and Baghdad's water and sewer infrastructure remains unreliable and poorly maintained. [2]

## **Back to the 1800s**

Many of the scandals surrounding private water companies, in fact, are a replay of the 19<sup>th</sup> century. As late as 1870, over half of all municipal water systems in the United States were privately owned. Public water ownership only became the norm during the Progressive Era, between 1890 and 1910.

Nineteenth-century water companies were notorious for overcharging ratepayers, and for failing to provide safe drinking water. Improvements in the scientific understanding of infectious diseases, such as cholera and typhoid, helped turn public opinion against private water systems.

The Detroit water system, which supplied Flint from 1967 until 2013, is a case in point. The system dates back over 200 years. Traditionally, the Huron people called what is now the Detroit River Karantouan. Indigenous people, and later French fur traders, drew water directly from the Detroit River, or relied on private wells.

Following the disastrous Fire of 1805, the Detroit Common Council ordered the digging of the first public wells around Fort Detroit. With the opening of the Erie Canal in 1825, Detroit began to transform from a colonial trading outpost to a small industrial-capitalist city (and, for African-American refugees from slavery, an important stop on the Underground Railroad).

The growth of industry beyond the shores of the Detroit River, however, required building a municipal waterworks. [3] In 1829 the Detroit Common Council decided to assign this task to the private Detroit Hydraulic Company (DHC), formed by the investors Bethuel Farrand and Rufus Wells. The Common Council gave the DHC exclusive rights to supply water to the City of Detroit.

By 1831 DHC had constructed two reservoirs, with a capacity of over 20,870 gallons, and laid wooden water pipes from the river to Jefferson Avenue. However, like private water companies in other cities, the DHC did not adequately maintain its water works. Residents complained about intermittent supplies of foul-tasting water.

These criticisms came to a head during a series of devastating cholera epidemics. In 1832, cholera reached Detroit aboard the U.S.S. *Henry Clay*, which was en route to Chicago with 370 soldiers, sent to wage war against the Sauk leader Black Hawk. By the end of the summer, 219 soldiers had died of typhoid, along with between 50 and 100 people in Detroit.

In the summer of 1834, a far more devastating cholera epidemic struck, killing 320 Detroit residents, or 7-10% of Detroit's population. In the aftermath, critics accused the DHC of contributing to the epidemic.

In 1836, an investigative report commissioned by the Detroit Common Council concluded that the DHC had violated the terms of its charter. It found that "the irregular supply furnished has been far from being pure and wholesome; that it has endangered the health of our citizens; and that, from the

present condition of the works, their location and circumstances, it is utterly impracticable for the Company to furnish pure and wholesome water."

## **Building a Public System**

This failed privatization experiment led directly to the creation of Detroit's public water system. In May 1836 the city bought out the DHC for \$25,000, and began to gradually expand out a system of wooden water and sewer pipes from the original two reservoirs. In 1853 the Michigan legislature passed a bill that created a Board of Water Commissioners, which could issue municipal bonds and collect rates from water users.

In the late 19<sup>th</sup> century, politicians (including labor leaders like Samuel Goldwater of the Socialist Labor Party) criticized the Water Board for overcharging residents and exploiting immigrant workers building infrastructure projects. In his mayoral campaign in 1895, Detroit Mayor Hazen S. Pingree used this issue to electoral advantage, accusing the Water Board of paying themselves inflated salaries and subsidizing property speculation in the suburbs.

In an 1897 referendum, over 60% of Detroit voters approved a plan to abolish the Water Board, and to replace water rates with a "general tax." But when a "free water bill" with these provisions passed the Michigan legislature in 1899, the state Supreme Court struck it down, ruling that the Michigan constitution prohibited "piecemeal" amendments to city charters.

These events set the stage for the massive expansion of Detroit's public water system in the 20<sup>th</sup> century as its land area more than tripled in the 1910s and 1920s.

During the Great Depression, with hungry and unemployed residents unable to pay water bills, the Detroit Department of Water Supply adopted a policy, as Water Consumers Account Superintendent Hal F. Smith wrote in 1933, that "water service should not be discontinued to a residence where the only result would be to deprive a family of water service."

Beginning in 1940, New Deal public works investment finally eliminated typhoid in Detroit by funding primary sewage treatment. However, the city still lacked secondary sewage treatment, meaning that (while drinking water was finally safe) the city continued to discharge raw sewage into the Detroit River. The Detroit Water Board was primarily concerned with expansion during this period, not pollution and public health.

## **Results of Suburban Expansion**

By the early 1960s, the Detroit water system had expanded to cover more than 50 municipalities beyond the city itself. The Water Board, with the support of real estate developers and corporate leaders (and billions of dollars in federal infrastructure spending) subsidized the growth of Detroit's segregated postwar suburbs. The Water Board functioned essentially as a state capitalist enterprise, focused on minimizing labor costs and maximizing market share.

In 1963, during negotiations about bringing Flint into the Detroit system, Gerald J. Remus, the General Manager of Detroit's sewage plant, wrote a memo to Detroit Mayor Jerome Cavanaugh that reveals much about the Water Board's thinking. "This not only captures the Flint market," Remus wrote, but it "will eliminate Flint as a potential competitive water merchant and Flint is the only remaining threat to DWB as a supplier of water to the central state cities (Lansing, East Lansing, Jackson, Battle Creek and Ann Arbor/Ypsilanti on the "loop")."

When the Flint Commission voted 6-3 to reject Remus' proposal to join the Detroit system, Remus threatened to make separate water deals with Flint's suburbs, which would wreck Flint's plans to build its own pipeline to Lake Huron. Faced with these high-pressure tactics, Flint officials agreed to join the Detroit system, and remained on it from 1967 until 2013.

The Water Board's expansion plans in the 1950s and 1960s rested on the assumption that Detroit's population would remain stable, while the city's suburbs would continue to expand. As we know today, the first half of this prediction was very wrong. As Detroit's tax base and population continuously declined in the 1970s and 1980s, the system's fixed capital costs increased.

While Clean Water Act regulations required improvements in sewage treatment, suburban public officials pushed bills through the Michigan legislature that restricted the rate increases that Detroit could pass on to suburban customers. (However, they did not prevent suburban municipalities from adding heavy mark-ups of their own.) The result: Detroit's primarily Black, working-class residents would bear the brunt of rate increases.

In 1977, the EPA sued Detroit for violating the Clean Water Act, and Federal District Court Judge John Feikens placed Detroit under a consent decree. Detroit successfully installed its secondary treatment by 1982, which was good for public health and for the survival of Lake Erie. But partly due to technical problems with the city's sewage treatment plants, the city remained under a consent decree overseen by Judge Feikens from 1977 until 2010.

During this period Judge Feikens, a conservative Republican, became notorious for combining support for suburban control of DWSD (Detroit Water and Sewerage Department) with racist statements about African Americans. In 1984, he told the Detroit Free Press that "[o]ne of the things we have to give black people the time to learn to do is to learn how to run city governments." Feikens went a long way to associate regionalization with white racism in the minds of Detroiters.

### **Price Increases, Shutoffs, Debt Swaps**

Feikens also accelerated the internal privatization of DWSD. In 2002, Feikens recommended the appointment of Victor Mercado as its new CEO. Mercado had previously served as an executive at United Water (a subsidiary of Suez) and Thames Water (a U.K. water company privatized by Margaret Thatcher in 1989).

Mercado hired the Infrastructure Management Group, a pro-privatization consulting firm, which recommended laying off unionized workers (represented by AFSCME Local 207) and replacing them with private contractors. Mercado also ramped up DWSD's already harsh policy of shutoffs for households behind on their water bills. According to the Michigan Welfare Rights Organization (MWRO), DWSD shut off water for 40,752 households in Detroit in 2001-2002 alone.

Beginning in 2006 unpaid water bills were added to residential property taxes. We the People estimates that between 12-27% of tax foreclosures during the economic crisis included these debts.

Under Mercado, Detroit water rates more than doubled. One cause of rising rates was DWSD's municipal bond debt. As in the case of subprime mortgages, financial deregulation in the late 1990s and 2000s made new forms of predatory lending possible in the realm of municipal finance. In particular, the Commodity Futures Modernization Act of 2000 deregulated the swaps market, removing restrictions on the marketing of high-risk interest rate swaps.

In 2005, UBS, Bank of America and Merrill Lynch made a \$1.44 billion deal with Detroit, including

variable-rate debt to fund city worker pensions and an interest-rate swap to fund DWSD. The deal constituted a bet that interest rates would rise rather than fall — something the banks were in a better position to predict than the city.

When interest rates plummeted, due to the Fed's "quantitative easing" policy in the wake of the 2008 financial crisis, DWSD was forced to pay \$537 million in "swap termination fees" to the banks. To pay off the fees, DWSD took on further debt. By 2014, the majority of the department's annual budget (\$420 million) went to pay debt service to Wall Street banks while only \$380.1 million was for operating expenses.

## **Emergency Managers and Selloffs**

A final factor setting the stage for the water crises in Detroit and Flint was Emergency Manager legislation. In 2011 Governor Rick Snyder signed Public Act 4 into law, which expanded the power of Emergency Managers to sell off public assets, void public union contracts, and suspend collective bargaining for up to five years.

This law had important implications for privatization. In 2003-2004, Highland Park Emergency Manager Ramona Pearson had tried unsuccessfully to privatize the Highland Park Water Plant. The Highland Park Human Rights Coalition and MWRO led a grassroots campaign against this proposal, and won.

Public Act 4 gave EMs much more power. In 2011, Pontiac Emergency Manager Louis Schimmel sold Pontiac's water treatment plant to United Water, which proceeded to lay off unionized workers and raise water rates. In Flint, Emergency Managers Michael Brown, Ed Kurtz and Darnell Early also increased water rates, while outsourcing water treatment to private contractors like LAN and Veolia.

In 2012, after a majority of Michigan voters struck down Public Act 4 in a popular referendum, Snyder signed a replacement and referendum-proof Emergency Manager law during the lame-duck session. Under the new law, Public Act 436, Snyder appointed Kevyn Orr as Emergency Manager for Detroit shortly afterward. Orr soon began negotiations with suburban officials about replacing DWSD with a regional Great Lakes Water Authority.

During the 2014 negotiations Orr began placing bids for private companies to take over DWSD, including Veolia and United Water. When the Great Lakes Water Authority began operations in 2015, its Memorandum of Understanding listed Veolia as a contractor hired to "undertake an assessment of the systems and make recommendations to assist the parties in operating models, capital requirements and saving opportunities."

These "recommendations" will undoubtedly include increased outsourcing and layoffs for AFSCME workers. (In 2012, DWSD approved a four-year, \$48 million restructuring contract with the consulting firm EMA, Inc., which called for laying off 81% of DWSD's workforce. In response, AFSCME Local 207 went on strike.)

The creation of the GLWA under Kevyn Orr only accelerated this process. In November 2015, DWSD (now controlled by the GLWA) laid off 137 workers. The Michigan Department of Environmental Quality (MDEQ) found that because of the layoffs, staffing levels at Detroit's waste water treatment plants fell to 85% of a state-approved staffing plan. As a result of understaffing, GLWA received an environmental safety violation notice from the state in March 2016.

While the DWSD takeover occurred, a humanitarian crisis was developing in both Detroit and Flint. In Detroit, water shutoffs skyrocketed to over 6,000 a month under Kevyn Orr, leading to a campaign of civil disobedience led by the People's Water Board and MWRO in the summer of 2014 (and provoking condemnations from the UN Human Rights Council).

According to official statistics, DWSD ordered 71,436 shutoffs between 2012 and 2015, of which about 97% were residential. Although DWSD statistics do not differentiate between vacant and occupied homes, a conservative estimate for the number of Detroiters deprived of running water in this period is 100,000. Given that there are, according to DWSD, 175,000 residential customers, by the fall of 2016 approximately 33,000 households were missing. It is unclear how many residents remain off the grid but the Detroit News located 11,800 accounts that were never reconnected. We the People estimates the number as somewhere between 17,000 and 24,000.

### **Flint's Fatal Switch**

Meanwhile, as DWSD's debt service to banks increased, Flint's EMs used rising water rates as an excuse to switch Flint to the Karegnondi Water Authority (KWA). This would be a regional entity (similar to the GLWA) and needed Flint's bond-raising pipeline to clinch financing.

The first CEO of the KWA, Genesee County Drain Commissioner Jeff Wright, was a former FBI informant who'd been accused of money laundering in 2005. One of the motives for the KWA was the prospect of selling Lake Huron water to multinational corporate interests.

In 2012, Genesee County Board of Commissioners Chair Jamie Curtis said that the KWA Lake Huron pipeline "opens this whole region up to the blue economy." It would sell "raw" water to towns that would process it in their treatment plants.

In May 2014, The New York Times reported that KWA backers not only "want to dodge Detroit's future rate increases, but in an age of climate change, they also hope to harness Lake Huron for investments and jobs in agribusiness, food processing and other industries that use lots of water."

A case in point is Nestlé. Rick Snyder's chief of staff Dennis Muchmore is married to Nestlé spokesperson Deb Muchmore. It may be no coincidence, then, that Snyder's staff at the Michigan Department of Environmental Quality (MDEQ) approved Nestlé's extraction of 200 gallons of fresh water per minute from Lake Huron for free.

The decision of Flint's Emergency Manager to switch to the Flint River, backed by State Treasurer Andy Dillon and MDEQ, occurred in this context. The stated purpose was to save money while Flint prepared for a long-term transition from the Detroit system. Although warned by Michael Glasgow, Flint water plant supervisor, that there was inadequate preparation to monitor the Flint water, which was known to be highly corrosive, the switch occurred just a week later, on April 25, 2014.

Outsourcing water quality control to LAN, officials boasted about the quality of the Flint River. Yet almost immediately residents began complaining about the dirty, smelly and foul-tasting water. As early as that August Flint issued a boil-water advisory after fecal coliform bacteria was found. LAN added chlorine but in early September issued a second boil-water advisory.

By October, management returned the GM plant back to the Detroit system — the Flint water corroded its engine parts! That same month, Susan Bohm of the Michigan Department of Health and Human Services hypothesized in an email to Genesee County officials that Flint's water might be linked to an outbreak of Legionnaires' disease. Forty-seven cases were diagnosed in 2014, almost



four times the number the previous year. Yet throughout the year MDEA regulators insisted that the river water met standards.

Early in 2015 Lee-Anne Walters, a resident with two children under three, asked Michael Glasgow to test her water, which had black sediment. The test revealed high iron levels (104 parts per billion). Yet when Veolia submitted its recommendations to improve the chemical treatment of the Flint River, it said nothing about lead.

By the end of March the City Council, inundated by the complaints of residents, voted 7-1 to reconnect with Detroit's water system but Emergency Manager Jerry Ambrose called that "incomprehensible."

As a result, Flint's Emergency Managers' decisions exposed an estimated 99,763 people (the population of Flint in 2013) to lead-contaminated water for over two years. By the time Governor Rick Snyder acknowledged the Legionnaires' outbreak, nine people had died. Meanwhile, Detroit's Emergency Manager ramped up shutoffs, resulting in over 100,000 residents losing running water in 2013-2015.

We thus have the surreal spectacle of roughly 200,000 people losing access to clean water in a state that borders the Great Lakes. The ideological commitment of a neoliberal state leads to austerity, privatization, outsourcing and Emergency Managers. In the case of Flint, that commitment saw LAN and Veolia as the experts, and they ignored elementary corrosion control standards under the EPA's Lead and Copper Rule.

### **Advocating a Solution**

How can we address this crisis? A decade ago MWRO championed Roger Colton's water affordability plan for income-eligible Detroit customers. The proposal passed city council but was never implemented by the Water Department, which claimed it would be considered illegal under the state constitution. A similar plan has been adopted by Philadelphia.

The Environmental Protection Agency standard is that water rates should be pegged at 2-3% of household income. Yet in Flint and Detroit, where more than 40% of the residents are poor, they pay the highest rates in the state.

In response to grassroots demonstrations, the DWSD rolled out a one-year water assistance program (renewable for a second year) for those who are 150% below the federal poverty level and put 44,000 households on a payment plan (half are already in arrears). Gary Brown, DWSD's director, feels the plan improves record keeping and "changes the culture of delinquency." But it doesn't address the problem that rates are too high and people too poor.

The People's Water Board, a coalition of three dozen Southeast Michigan organizations, calls for a moratorium on Detroit shutoffs, restoration of service and implementation of the water affordability plan. For the past two years they have organized meetings, actions and water stations for those without water.

In the case of Flint there are also a variety of grassroots organizations keeping up the pressure for justice, transparency and long-term reparations, particularly for the affected children.

As for Emergency Manager laws in Michigan (and similar ruling-class tools, from Detroit's Financial Advisory Board to Puerto Rico's Fiscal Control Board), they stand in the way of people having

control over their lives and must be repealed.

The Michigan water struggle illustrates how the fight for environmental justice, collective bargaining rights, public ownership of the commons, and democracy itself are all fundamentally interconnected. The reality is that we need to reclaim the commons from corporate interests, which have a nearly 200-year record of failing to protect public health.

**Josiah Rector**

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**P.S.**

\* Against the Current:

<http://www.solidarity-us.org/site/node/4804#R3>

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## **Footnotes**

[1] see <http://bit.ly/2d1XvZo>.

[2] Karen Piper, *The Price of Thirst: Global Water Inequality and the Coming Chaos* (Minneapolis: University of Minnesota Press, 2014), 176. See ATC review: <http://www.solidarity-us.org/site/n...>

[3] For more details and documentation of this history, see Josiah Rector, "Accumulating Risk: Environmental Justice and the History of Capitalism in Detroit" (Ph.D Dissertation: Wayne State University, forthcoming 2017).