

United States Senate

WASHINGTON, DC 20510

October 6, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency (EPA)
1301 Constitution Ave. NW
Washington, DC 20460

Dear Administrator Wheeler:

We write to express our grave concern and request information about EPA's plans to implement the September 21, 2020 White House memorandum¹ that describes the first step in adopting the "policy that the Administration will not allow Federal tax dollars to fund cities that allow themselves to deteriorate into lawless zones." We have learned that EPA has begun internal meetings designed to comply with this directive, and that EPA is considering withholding funds that are intended to be used to clean up contaminated land and sources of drinking water in Seattle, Washington; Portland, Oregon; New York City, NY; and Washington, D.C. We strongly urge you not to do so.

The President first announced² his legally questionable policy to deny federal funding to these cities on September 2, 2020, stating that "My Administration will not allow Federal tax dollars to fund cities that allow themselves to deteriorate into lawless zones. To ensure that Federal funds are neither unduly wasted nor spent in a manner that directly violates our Government's promise to protect life, liberty, and property, it is imperative that the Federal Government review the use of Federal funds by jurisdictions that permit anarchy, violence, and destruction in America's cities." The September 21 follow-up memo directs federal agencies to submit "a report to the Director of OMB detailing all Federal funds provided to Seattle, Portland, New York City, Washington, D.C., or any components or instrumentalities of the foregoing jurisdictions."

We have learned that EPA, in its internal meetings related to the policy, has begun to identify funding sources that could be subject to the directive, some of which are vital for the provision of safe drinking water and the remediation of contamination. We have also learned that on September 22, the day after the follow-up memorandum from the White House, you sent a letter³ to the Governor of New York and Mayor of New York City threatening to relocate the EPA's Region 2 headquarters out of the current location at 290 Broadway in Manhattan due to nearby demonstrations, saying that "If you cannot demonstrate that EPA employees will be safe accessing our New York City offices," you would take steps to "move them to a location that can competently fulfill the basic mission of a local government."

¹ <https://www.whitehouse.gov/wp-content/uploads/2020/09/M-20-36.pdf>

² <https://www.whitehouse.gov/presidential-actions/memorandum-reviewing-funding-state-local-government-recipients-permitting-anarchy-violence-destruction-american-cities/>

³ https://insideepa.com/sites/insideepa.com/files/documents/2020/sep/epa2020_1833.pdf

Setting aside the legally questionable and abhorrent nature of the President's directive, EPA's implementation thereof could endanger human health and the environment. The retaliatory threat to move EPA's regional headquarters out of New York City would waste taxpayer dollars and endanger the jobs of the nearly 600 people who work there. Some examples of funding that EPA may seek to halt, deny or rescind include:

- **Portland:** The city was invited by EPA⁴ to apply for \$554 million in Water Infrastructure and Finance Innovation Act (WIFIA) loans to “complete three projects to improve public health and water quality and increase drinking water system resiliency and reliability for nearly 1 million people.” The city also received⁵ \$500,000 in Brownfields grant funding to clean up a site that “is contaminated with polycyclic aromatic hydrocarbons, ethylbenzene and metals” and \$600,000 in Brownfields funding for⁶ the assessment of additional contaminated sites. The State of Oregon was allotted \$18,133,000 in FY 2020 for the Clean Water State Revolving Fund (SRF) and \$14,487,000 for the Drinking Water SRF.
- **Seattle:** The city received⁷ a \$192.2 million WIFIA loan to “reduce combined sewer overflows to support public health, ecosystems and the economy in the Seattle metropolitan area.” The State of Washington was awarded \$27,914,000 in FY 2020 for the Clean Water SRF and \$24,598,000 for the Drinking Water SRF.
- **New York City:** The city received⁸ \$300,000 in Brownfields funding to clean up sites with “the intention of redeveloping vacant and abandoned properties and turning them into community assets such as housing, recreation and open space, health facilities, social services and commerce opportunities.” The Port Authority of New York and New Jersey also received⁹ \$420,000 in Diesel Emissions Reduction Act grant funding. The State of New York was allotted \$177,173,000 in FY 2020 for the Clean Water SRF and \$44,967,000 for the Drinking Water SRF.
- **Washington, D.C.:** The district received¹⁰ \$158,000 in funding to test for lead in drinking water in schools. The district was allotted \$7,880,000 in FY 2020 for the Clean Water SRF and \$11,011,000 for the Drinking Water SRF.

We strongly urge you not to take any action that could result in the collective loss of more than a billion dollars of funding intended to clean up contamination and drinking

⁴ <https://www.epa.gov/newsreleases/epa-invites-portland-and-beaverton-apply-600-million-water-loans>

⁵ <https://www.epa.gov/newsreleases/epa-selects-nine-pacific-northwest-and-alaska-projects-receive-459-million-brownfields>

⁶ <https://www.epa.gov/newsreleases/epa-selects-nine-projects-oregon-and-washington-475-million-brownfields-funding>

⁷ <https://www.epa.gov/newsreleases/epa-announces-192-million-water-infrastructure-loan-reduce-sewer-overflows-seattle>

⁸ <https://www.epa.gov/newsreleases/epa-announces-900000-revolving-loan-funds-clean-and-reuse-brownfield-sites-city-camden>

⁹ <https://www.epa.gov/newsreleases/epa-award-73-million-clean-diesel-projects>

¹⁰ <https://www.epa.gov/newsreleases/epa-awards-dc-department-energy-and-environment-158000-test-lead-drinking-water-schools>

water in these American cities. To do so would be antithetical to EPA's mission of protecting human health and the environment. So that we can understand the process by which EPA is responding to the President's misguided September, 2020 directive, we ask that you provide copies of:

1. The report cataloguing EPA funding to these cities requested by OMB on September 21, 2020 and due to be submitted to OMB on October 5, 2020.
2. All documents (including but not limited to calendar items, emails, presentations, meeting minutes, and memos) obtained or created by EPA that are related to EPA's compliance with the President's September 2, 2020 directive.
3. Documents listing and fully describing all decisions to rescind, halt, deny or otherwise modify any type of EPA funding to any of the cities listed above.

Thank you for your consideration of this important matter. Please provide your initial response no later than Friday, October 9, with additional materials to be provided on an ongoing basis thereafter until EPA's implementation of the September directive is complete. If you have any questions or concerns, please have your staff contact Michal Freedhoff of the Senate Environment and Public Works Committee staff (michal_freedhoff@epw.senate.gov).

Sincerely,



Thomas R. Carper
Ranking Member
Environment and Public
Works Committee



Charles E. Schumer
Minority Leader



Kirsten Gillibrand
United States Senator



Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator



Patty Murray
United States Senator



Maria Cantwell
United States Senator