THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 01 2016

The Honorable Howard A. Zucker, M.D.
Commissioner, New York State Department of Health
Corning Tower, Empire State Plaza
Albany, New York 12237

The Honorable Basil Seggos
Commissioner, New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233-1010

Dear Commissioners Zucker and Seggos:

I wanted to promptly respond to your letter of August 30, 2016 regarding the contamination of the drinking water supply of the Village of Hoosick Falls, New York with perfluorooctanoic acid (PFOA).

As you know, the U.S. Environmental Protection Agency (EPA) has been working hand in hand with your agencies for many years to ensure that federal laws enacted to protect public health and the environment are effectively implemented in your state. In that time, EPA has found that the New York State Department of Health (NYSDOH) staff are quite familiar with their primacy responsibilities under the federal Safe Drinking Water Act and have worked hard to protect the public water supplies that are so critical to the health and wellbeing of the citizens of New York.

However, your letter raises significant concern that your agencies may not fully understand your state's implementation responsibilities. For these reasons, I have asked Regional Administrator Judith Enck, Region 2 staff and staff from EPA's Office of Water to stand ready to work with you to ensure that you understand and can effectively implement your responsibilities under the law.

Specifically, your letter raises two issues that I will address in turn. First, your letter contends that NYSDOH was somehow confused about how to implement its primacy responsibilities under the federal Safe Drinking Water Act regarding the PFOA drinking water contamination in Hoosick Falls. You further cite confusion over EPA's PFOA guidance as a primary cause of your confusion. Second, you suggest that EPA should be responsible for costs associated with your state's response to this contamination.

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With respect to any "confusion" related to EPA's PFOA guidance, we would remind you that there were extensive conversations between Region 2 and your state regarding our PFOA guidance relative to Hoosick Falls. Given these communications and the expertise within your agencies, it very difficult to understand how there was any confusion in the guidance provided to NYSDOH regarding the PFOA contamination in Hoosick Falls.

As you know, in 2009, EPA issued a health advisory guideline for PFOA in drinking water advising of the potential health risks of consuming water exceeding 400 parts per trillion (ppt) of PFOA over a short-term exposure period (weeks to months). As you also know, the levels of PFOA discovered in the Hoosick Falls drinking water supply were well in excess of that number, ranging up to 600 ppt and higher. Upon learning that the people of Hoosick Falls were consuming water with PFOA contamination at those levels, EPA's Region 2 office very clearly advised state and local officials of the health risks and recommended against continued consumption of this water until the contamination was addressed. That guidance and EPA's recommendations were clearly communicated to NYSDOH. If there was any confusion, it is difficult to understand why the state failed to seek clarification at the time. And it is extremely unfortunate that the state chose not to advise EPA of its apparent decision to not follow EPA's advice.

Further contending in your letter, as you do, that EPA contributed to your agencies' confusion by changing the level of the drinking water health advisories for PFOA is, frankly, even more difficult to understand. As noted above, the PFOA contamination in the Hoosick Falls drinking water supply exceeded the 2009 health advisory level of 400 ppt for *short-term* exposures. That situation and the need to address it was not in any way affected by EPA's subsequent decision in May 2016 decision to issue a lower PFOA health advisory level for *lifetime* exposure to 70 ppt. These health advisories do not conflict with one another, they complement one another. Together they provide a more comprehensive understanding of the risks based on updated science.

To address the second issue you raised, I was surprised to see the demand in your letter that EPA pay the state's costs for responding to the PFOA contamination in Hoosick Falls. Under both federal and state superfund laws that are grounded in a "polluter pays" principle, those costs are the responsibility of the companies that caused the contamination. There is no legal basis for shifting these costs to EPA and it seems ill advised to ask federal taxpayers to bear these costs when, as we understand it, the state is already pursuing appropriate enforcement action against the responsible parties and has, to our knowledge, actually reached some agreements under which the companies are assuming the responsibility and costs for addressing the PFOA contamination in the Hoosick Falls public water supply.

Since EPA learned that the residents of Hoosick Falls were drinking PFOA-contaminated water, EPA Region 2 has attempted at all times to work cooperatively with your departments and to provide advice based on the best available current science regarding how to address the PFOA contamination of the Hoosick Falls drinking water supply. I urge you to move beyond accusatory

letters and, rather, work cooperatively with EPA Region 2 and the residents of Hoosick Falls on the important work of cleaning up the contamination in the Village and protecting the public drinking water supply. The people of Hoosick Falls – and across New York State – expect and deserve our best, collective efforts to protect their health.

If you have further questions, please contact me or your staff may contact Mark Rupp in the EPA's Office of Congressional and Intergovernmental Relations at Rupp.Mark@epa.gov or (202) 564-7178.

Sincerely,

Gina McCarthy