Mon Jul 18 09:05:59 EDT 2016
Leavy.Jacqueline@epamail.epa.gov
FW: STATUS USS LEAD SUPERFUND
To: CMS.OEX@epamail.epa.gov

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**From:** Enedina Rodriguez [mailto:ERodriguez@eastchicago.com]
**Sent:** Friday, July 15, 2016 3:00 PM
**To:** Mccarthy, Gina <McCarthy.Gina@epa.gov>; Lynch.Loretta@doj.gov
**Subject:** STATUS USS LEAD SUPERFUND
**Importance:** High

Please see attached.

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July 14, 2016

Gina McCarthy
EPA Administrator
Environmental Protection Agency
USEPA William Jefferson Clinton Building North (WJC North)
1200 Pennsylvania Avenue N.W., 1101A
Washington, DC 20004

RE: Status of USS Lead Superfund / West Calumet Housing Complex

Dear Administrator McCarthy:

I have been informed that EPA Region 5 and the Department of Justice personnel assigned to the USS Lead OU1 clean up are regularly communicating with your office on the issue of the USS Lead Superfund site, and Zone 1, including the West Calumet Housing Complex, which are located in our city, an environmental justice community. I feel it is important to provide you with a timeline of events from the City's perspective. It is crucial for you as a leader to understand the City's concern over the public health crisis which exists in the West Calumet Housing Complex, and our alarm that Region 5 is on course to take actions in the very near term which will only exacerbate this public health crisis. While it appears that Region 5 wants to show that they are doing something to address the obvious danger to public health posed by the extraordinarily high levels of lead and arsenic in the soils in Zone 1, their actions to date amount to nothing more than band aid solutions. Instead of escalating their response following time critical removal actions in 2008 and 2011 or after receiving more evidence of extraordinarily high concentrations of lead in the soil in 2014; Region 5 failed to expedite the rate of soil testing, and failed to initiate blood lead testing of residents. Region 5 remained committed to a testing model consistent with aerial deposition of lead, even as their own historical knowledge of the site and soil testing data demonstrated that a much more appropriate and protective approach was necessary to protect residents' health.

Was a risk assessment performed after the high lead levels in soil were known? If such a risk assessment has been performed, Region 5 has not shared it with the City. Instead, Region 5 has continued to be committed to the cookie-cutter Remedial Action plan which was selected before the EPA had test results which show unprecedented high levels of lead in the soil in this residential neighborhood. Region 5 failed to acknowledge or adequately respond to the immediate danger to residents and thus failed in its duty to protect human health.



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When the City of East Chicago objected to the inadequacy of Region 5's preferred clean up and remedy, Region 5 responded by withholding data from the City. This contributed to a breach of trust between the City and Region 5 which continues to this date. I wrote the Acting Regional Administrator for Region 5 on June 16 expressing my dire concerns, and outlining the necessity of relocation of residents, yet Region 5's response continues to be tone deaf. While the City awaits a decision from Region 5 on relocation, Region 5 pressures the City, implements inadequate interim measures and asks the City to sign access agreements after the fact. Thus, Region 5 continues to breach the City's trust and its duty to the residents of West Calumet. Other examples of breaches of trust by Region 5 include:

- Upon becoming aware in 2011, of the environmental problems in the West Calumet Neighborhood, Operating Unit 1 ("OU1"), the City Administration began a series of meetings with the EPA Region 5 Office, during which we learned that the EPA and the DOJ were negotiating the terms of a Consent Decree with the PRPs. The City expressed its concerns in both public meetings and private conferences with Region 5 personnel and leadership regarding the inadequacy of the EPA's preferred Clean Up Plan (Alternative 4A) as being insufficient to protect human health and leaving the City with legacy costs that it could not bear. The City's concerns were entirely discounted and ignored.
- When the City expressed its concern over deficiencies in the Remedial Action Plan, Region 5 informed the City that a remediation plan was already decided.
- Region 5 personnel received soil sampling data in December 2014, showing that lead contamination within the West Calumet Housing Complex is extremely more pervasive, severe, and extensive than identified by the EPA's prior inadequate sampling, yet failed to share such data with the City until May 24, 2016.
- Region 5 personnel provided environmental data to the Northern Indiana Public Service Company (NIPSCO) so that NIPSCO could protect its workers performing utility maintenance work in the affected area, yet withheld the same data from the City, despite their knowledge of the presence of City operated utilities in the affected area.
- Region 5 personnel failed to provide ATSDR with adequate environmental and health data in 2010 and 2011, such that the ATSDR's January 27, 2011 Public Health Assessment cites a lack of environmental data; the assessment erroneously assumes that all contamination in residential areas was from airborne deposition of lead; it fails to mention the existence of the Anaconda Lead factory at all; it fails to factor in the pertinent information that the West Calumet Housing Complex was built directly on the footprint of the Anaconda facility; it failed to include the East Chicago Health Department in any discussion or knowledge sharing; and failed to consider data from blood-lead testing which the East Chicago Health Department collected between 1991 to 2011. As a result, the ATSDR Assessment was based on the small subset of available data which was most favorable to the EPA's preferred recommended alternative Clean-up Plan, 4A, and it does not accurately reflect known site conditions.
- Citing "privacy concerns", the EPA withheld soil testing data from the City, including soil testing data for parcels which the City and the East Chicago Housing Authority own in Zones 1, 2 and 3, from 2011 through May 24, 2016, when the City received data for Zone 1 only.



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- On March 31, 2016, the City was informed that the EPA's Remedial Action plan would only address contamination in green areas, which comprise only 40% of the land mass, leaving contaminated soil under the remaining 60% of the land mass, including all areas covered by concrete or other impervious material. Then, on May 24, 2015, EPA delivered its December 2014 to May 2015 Remedial Design data showing the widespread contamination across the entire West Calumet Housing Complex, and including the contamination under the 60% of the site not subject to the existing remedy. At the same time, EPA told the City that it would be held liable if any contaminated soils left in place by the inadequate clean up were disturbed by routine utility maintenance the City must perform in the neighborhood. The City was informed that the EPA intends to put an Order in place which would require the City to spend many millions of dollars – money our financially challenged community does not have – to perform utility maintenance work within the OU1 area going forward.
- When the City expressed its concern over deficiencies in the Remedial Action Plan, the City was threatened by Region 5 personnel that it would be treated as a "responsible party" and told that the City would be held liable if we did not cooperate with the EPA's Remedial Action Plan.
- The City was told, by Region 5 personnel on May 24, 2016 that the "grass provided a good protective cover", a proposition directly contradicted by Region 5's September 12, 2011 Action memorandum where it states that with demonstrated soil lead levels at 5,993 ppm, "Adults and children may be exposed to high levels of lead from normal foot traffic, yard work, and play."
- For many years Region 5 has persisted in the proposition that the grass in the West Calumet Complex provided a sufficiently protective barrier until the City shared photos during its June 14, 2016 meeting with the EPA, DOJ and ATSDR, which showed significant gaps in the grass cover, and children playing on the ground. Only after the City challenged EPA's proposition and I sent my June 16, 2016 letter to Region V did EPA begin to recognize that its flawed analysis has allowed our residents to be exposed to the potent and unsafe levels of lead and arsenic for many years.
- The City has been informed that simple mowing of lawns could cause residents to be exposed to lead contaminated dust, yet the EPA persists in its assertion that it is safe to leave residents in place during its proposed cleanup, which will disturb and move tons of soil throughout the community.
- Despite the EPA's knowledge for more than a decade of the unprecedented high levels of lead contamination in the soils, the EPA neither performed nor requested testing of residents' blood-levels. Instead, when the City became aware of the extremely high levels of lead in soil on May 24, 2016 it immediately commenced testing. Preliminary results reveal that 100's of children suffer from excessive levels of lead in their blood.

Further, you should know that although the City Health Department continues to perform blood-lead tests on children in West Calumet, there is already ample evidence of blood lead poisoning in children in this neighborhood. Existing evidence shows that children in the area test upwards of 33 ml/dl blood lead. We have hard evidence of lead poisoning among residents of the West Calumet Housing Complex. Real health impacts are already occurring. This is a public health disaster. How high do our children's blood levels have to be before the EPA takes action to stop their exposure?



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It is irresponsible for Region 5 to even consider doing emergency removals of tons of soil in light of the facts of our situation and the known soil and blood-lead levels we know exist in our community. We remind you that at 91,000 ppm, dust may contain 9-10% lead. This lead was processed in order to be used as an additive to paint and for other industrial applications, and is inhalable and ingestible particulate. Almost 70% of the West Calumet Housing Complex residents are young children and pregnant women, many of whom live on top of or within a few feet of the worst contamination measured (and even higher levels may exist that have not yet been detected)..

On June 16, 2016, I sent a letter to Acting Region 5 Administrator Bob Kaplan expressing my deep concerns about the inadequacies of the EPA's proposed Remedial Action Plan, and requesting relocation of residents. I reiterated my request for the immediate relocation of residents, and pointed out that new exposures occur every day that residents are allowed to remain in this toxic environment.

By this letter, I am requesting:

- That the EPA and HUD work together to fund the immediate temporary relocation of all residents of the West Calumet Housing Complex.
- That relocation of residents of the West Calumet Housing Complex occur before any Remedial Actions take place, including the emergency removal actions that the EPA intends to implement in coming weeks.
- That EPA and HUD identify or create immediately available sources of funds in order to accommodate displaced West Calumet residents and ensure the return of the residents to safe housing within twelve to twenty-four months.
- That the EPA and HUD work together to provide for demolition of the existing structures which facilitates a more expeditious redevelopment of the property.
- That EPA revise its grossly deficient Remedial Action Plan for OU1 and develop a more comprehensive and sensible remedial approach that will protect our residents and community.
- Soil-test results for Zones 2 and 3.

I find it compelling that the American people, in their compassion can send Flint bottled water, but it's unfortunate that they can't send the residents of West Calumet potted soil to protect them from the extremely high, unprecedented levels of lead contamination around their homes which the EPA has known about for a decade and longer, yet to date failed to honor its duty to protect them.

Our fear is that exposures to unacceptable levels of lead continue to occur as long as the EPA refuses to relocate residents from this toxic environment. One of my biggest fears is that the EPA's Remedial Action Plan, including the emergency removal of highly contaminated soils from dozens of yards will drastically increase residents' exposures to toxic levels of lead, and the damage to innocent children will be a fait accompli before additional "wipe tests" are performed or air samples are analyzed. How do you propose to move tons of highly contaminated soil without causing additional exposures, when you have told the City that even mowing grass causes unacceptable exposures? Additional permanent damage will be done to the approximately 670 children and pregnant women residing in the West Calumet Housing Complex by the EPA's woefully deficient emergency removal actions and Remedial Action Plan. Air sampling and dust wipes performed after toxic lead dust has become airborne will only provide further evidence of the EPA's continued failure to protect human health.



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Any action by the EPA short of immediate relocation of all West Calumet residents is completely irresponsible. To leave residents in harm's way after the EPA had knowledge of the highly poisoned environment, and knowledge that children en masse are already suffering from lead poisoning violates the very principles upon which the Environmental Protection Agency was established. Damage has already been done by Region 5's inaction.

Logic and recent events suggest that Region 5 has intentionally misrepresented or withheld critical data that would otherwise reveal the severity and extent of the health risk to the 1,000 citizens of the West Calumet Housing Complex, approximately 670 of whom are children. Region 5's motivation appears to be its stubborn defense of an ill advised and inadequate remedial action plan, the downplay or understatement of the known, predictable public health risks, and the suppression of informed local resistance to that plan.

I am requesting a face to face meeting as soon as practicable to discuss the immediate temporary relocation of all residents of West Calumet Housing Complex prior to the implementation of any remedial action, including emergency removal actions, and the restoration of these residents to safe permanent housing within the community. In the alternative, and to the extent that the federal government is unwilling to act, the City is exploring its ability to act under its zoning power, and other statutory authority.

I propose that we meet stat. Please confirm, or propose a meeting date.

Sincerely,

Anthony Copeland
Mayor

cc: Loretta E. Lynch, Attorney General
Robert Kaplan, EPA Region 5 Acting Administrator
John Hall, Field Office Director
Patricia Tyus, Field Office Administrator
Bruce Nzerem, HUD Public Housing Indianapolis
Congressman Peter Visclosky
Senator Joe Donnelly
Indiana State Senator Lonnie Randolph
Indiana State Representative Donna Harris
Barack Obama, President of the United States



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