

## There's a Chill in the Air . . .

It's not due to the approach of winter, but the recent election results in Michigan. Progressives took a number of seats in the state, most notably the governor and attorney general by Gretchen Whitmer and Dana Nessel, respectively.

A few quotes from Governor-elect Whitmer's plans and interviews are sobering to say the least:

"The Flint Water Crisis was a direct result of what happens when you run government like a business and make decisions that put pennies ahead of people."

I'm committed to "transitioning our economy away from a reliance on fossil fuel electricity and toward advanced energy resources."

"My administration will rely on science and truly independent studies to . . . address the challenges of balancing our environmental impact, jobs, utility prices and the sanctity of our waterways."

"I pledge to . . . hold polluters accountable for their mistakes."

"I won't need the legislature to do it [i.e., address PFAS\* contamination] because as governor, I'm going to do it."

Whitmer's words are very telling. Government shouldn't be run like a business?! Sanctity of waterways?! Addressing a contaminant as complex and ubiquitous as PFAS without the Legislature?!

Despite her purported reliance on science and "truly independent studies," Gretchen Whitmer is a strong proponent of anthropogenic climate change. Whitmer is committed to Michigan joining the U.S. Climate Alliance, and plans to create an Office of Climate Change within a new Department of Great Lakes and Freshwater. This new department would contain a Water Ombudsman who will investigate any drinking water complaint from the public. This super agency would work with the Michigan Department of Environmental Quality (MDEQ) and another new agency, the State Infrastructure Council.

Make no bones about it: Gretchen Whitmer and her expansive administration will be downright hostile to Michigan industry. To only make matters worse the new Attorney General is a rabid activist.

Again, some enlightening quotes from Dana Nessel, the Attorney General-elect:

"While it's wonderful that this Lake Erie [algal] bloom will not kill anyone at the present time, this is a friendly reminder that deadly algae blooms are not some naturally

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\* Perfluoroalkyl and Polyfluoroalkyl Substances. These extremely stable compounds are used in non-stick cookware, water-repellent clothing, stain resistant fabrics, cosmetics, certain firefighting foams, microwave popcorn bags, and other products that require resistance to grease, water, and oil.

occurring phenomenon. They are caused by agricultural and industrial pollutants, and are completely preventable with the proper regulations and enforcement measures.”

“ . . . the sweetheart consent judgment entered into between Ford and the MDEQ is yet another example of the fox guarding the henhouse.”

“Swimming in a lake shouldn’t be deadly.”

I’m “committed to going after the chemical companies who have known their products disseminated toxins into our waterways for DECADES, hold them accountable, and then use the settlement funds to clean the sources of these hazards and to repair and replace our natural resources.”

“Michigan cannot afford to have AG's . . . who protect chemical companies over people.”

“I vow to use my time in office to vigorously enforce laws which curb greenhouse gas emissions and which stem the rise of global warming and climate change.”

Deadly lakes?! Sweetheart consent orders?! Aren’t chemical companies comprised of people?

Industry should look long and hard at what they are up against over the next four years. Managers need to take seriously what both women are saying, especially Attorney General-elect Nessel. E.g., don’t miss Nessel’s reference to repairing natural resources in the quote above. We predict that Nessel will use her office to aggressively pursue natural resource damages to an extent not seen in this state for decades. There’s indeed truth in the moniker “Dangerous Dana” coined by her opponent! Both she and Whitmer are bulldogs.

What can industry do? First and foremost, ensure that Michigan facilities are in compliance with state water regulations, especially NPDES permits, including storm water. Come January 1, a new MDEQ will focus more on enforcement than education. Chemical manufacturers in particular will be in the spotlight of the Attorney General’s Office. There will likely be regulatory action on PFAS in the coming months. It is advisable for facilities to review supply chains and processes in order to identify any potential sources of PFAS. Such evaluation should ideally be done under attorney-client privilege. It’s important to remember that there are over 6,000 types and isomers of PFAS in diverse products used by industry and the public, and that even very low concentrations of some can cause health concerns, yet there is no definitive regulatory standard for this class of contaminants.

For over 30 years MEC Environmental Consulting has helped facilities in all sectors of industry determine the applicability of environmental regulations to their operations. The professionals at MEC Environmental Consulting have conducted hundreds of audits in order to evaluate and document facility compliance with environmental requirements at the federal, state, and local level. Compliance with storm water permits has been a strong focus in recent years. The firm also specializes in strategy development for due diligence on emerging issues, such as PFAS, and for compliance with new regulations.

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