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August 28, 2024

Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Regan,

The Biden-Harris administration recently declared, “every American should be able to turn on the tap and drink clean, safe water,” pledging “a whole of government effort to deploy resources and leverage every tool” to ensure clean drinking water.¹ The Environmental Protection Agency (EPA) says, “by leveraging the historic investment of \$15 billion made possible by the Bipartisan Infrastructure Law, we are moving one step closer to achieving President Biden’s vision of 100% lead-free water systems for all.”²

Yet, this government “cannot ensure water in its buildings is safe,” according to a series of shocking reviews conducted by the General Services Administration (GSA) Office of Inspector General (OIG).³

Even children in the government’s child care centers are being allowed to drink unsafe water containing dangerous amounts of contaminants.⁴

¹ “FACT SHEET: Biden-Harris Administration Announces \$3 Billion to Replace Toxic Lead Pipes and Deliver Clean Drinking Water to Communities Across the Country,” White House website, May 2, 2024; <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/02/fact-sheet-biden-harris-administration-announces-3-billion-to-replace-toxic-lead-pipes-and-deliver-clean-drinking-water-to-communities-across-the-country/>.

² Ash-har Quraishi and Cassandra Gauthier, “The EPA says lead in Flint’s water is at acceptable levels. Residents still have concerns about its safety.,” CBS News, April 25, 2024; <https://www.cbsnews.com/news/flint-water-crisis-10-years/>.

³ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

⁴ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

While GSA is responsible for ensuring “a safe and healthful work environment for Federal employees and the visiting public,”⁵ it’s safer to drink water out of the tap in Flint, Michigan today⁶ than from the faucets in many federal buildings.

Tests conducted just last month detected Legionella bacteria in the headquarters of the GSA itself, including in a children’s playroom and a toddler restroom, at levels exceeding the thresholds requiring remedial actions.⁷

Employees and visitors to government offices serving veterans, senior citizens, and the disabled were also allowed to be exposed to harmful levels of lead, copper, and bacteria for months before warnings were issued about the dangerous toxins that had been detected in the water.⁸

The conditions are a direct result of lead, copper, and Legionella accumulating in stagnant water in the buildings after being abandoned by bureaucrats at the onset of the COVID-19 pandemic. Four years later, the dangers persist because bureaucrats refuse to come back to work. Federal agencies around the Washington, D.C.-area are using just 25 percent *or less* of the space in most government buildings, according to the Government Accountability Office (GAO).⁹ The Public Buildings Reform Board (PBRB) estimates the buildings are averaging just 12 percent capacity.¹⁰

“The current reduced building occupancy levels can lead to water stagnation, which provides ideal conditions for the growth and spread of Legionella and increases the likelihood that other buildings may be contaminated,” according to an alert issued by the OIG.¹¹

Thus far, *one-fourth* of the locations in federal buildings tested “have shown the presence of Legionella bacteria in exceedance of established thresholds.”¹²

⁵ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

⁶ Ash-har Quraishi and Cassandra Gauthier, “The EPA says lead in Flint’s water is at acceptable levels. Residents still have concerns about its safety.” CBS News, April 25, 2024; <https://www.cbsnews.com/news/flint-water-crisis-10-years/>.

⁷ Jenna Portnoy, “Legionella found at FTC; employees can work at home as precaution,” Washington Post, August 14, 2024; <https://www.washingtonpost.com/dc-md-va/2024/08/14/legionella-bacteria-ftc-headquarters/>.

⁸ “GSA Did Not Respond to Water Contamination at the Patrick V. McNamara Federal Building in a Timely Manner, Placing Building Occupants at Risk,” General Services Administration Office of Inspector General, July 30, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A240049%20-%20Final%20Memorandum.pdf>.

⁹ “FEDERAL REAL PROPERTY: Preliminary Results Show Federal Buildings Remain Underutilized Due to Longstanding Challenges and Increased Telework,” Government Accountability Office, July 13, 2023; <https://www.gao.gov/assets/gao-23-106200.pdf>.

¹⁰ Public Buildings Reform Board Interim Report to Congress, March 21, 2024; <https://www.pbrb.gov/files/2024/03/3.21.24-FINAL-PBRB-Interim-Report.pdf>.

¹¹ “Alert Memorandum: PBS Must Take Immediate Action to Address the Risk of Legionella Contamination in GSA-Controlled Buildings,” General Services Administration Office of Inspector General, September 20, 2023; <https://www.gsaig.gov/sites/default/files/audit-reports/A230072-1%20Final%20Memorandum.pdf>.

¹² Jason Miller, “Legionella bacteria in your office’s water? Don’t be alarmed,” Federal News Network, August 12, 2024; <https://federalnewsnetwork.com/federal-report/2024/08/legionella-bacteria-in-your-offices-water-dont-be-alarmed/>.

At least one person who worked in the buildings has been diagnosed with Legionnaires' disease.¹³ While most healthy people exposed to the bacteria don't get sick, "there's no known safe level or type of Legionella," according to the Centers for Disease Control and Prevention (CDC).¹⁴

Lead exposure can be more dangerous. As you know, the "EPA has set the maximum contaminant level goal for lead in drinking water at zero because lead is a toxic metal that can be harmful to human health even at low exposure levels."¹⁵ Lead can cause damage to the brain, red blood cells, and kidneys. Even low levels of lead can cause low IQ, hearing impairment, reduced attention span, and poor classroom performance.¹⁶

Copper can cause stomach and intestinal distress and liver or kidney damage.

The EPA warns children are especially susceptible to lead and copper exposure. "Because children spend so much time in school and child care facilities and their bodies are developing rapidly," the EPA notes "it is important to provide safe drinking water to avoid health problems linked to lead or copper exposure."¹⁷

It's shocking GSA did not test the water *before* reopening child care centers¹⁸ and then waited months and even years to get around to checking for contaminants in the water after reopening.¹⁹ When tests were finally done, 22 percent had water outlets with lead or copper above levels the EPA recommends action be taken. Yet, weeks passed before GSA provided the test results to most of the child care centers. "During these delays, the water outlets in the child care centers remained operational," the OIG notes.²⁰

¹³ "Audit of GSA's Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities," General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

¹⁴ "Routine Legionella Testing in Buildings Without Cases," Centers for Disease Control and Prevention, March 15, 2024; <https://www.cdc.gov/control-legionella/about/routine-legionella-testing-in-buildings-without-cases.html#:~:text=There's%20no%20known%20safe%20level,people%20will%20get%20Legionnaires'%20disease>

¹⁵ "Basic Information about Lead in Drinking Water," U.S. Environmental Protection Agency website, as updated July 23, 2024, accessed August 15, 2024; <https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water>.

¹⁶ "Lead and Copper Rule: A Quick Reference Guide for Schools and Child Care Facilities that are Regulated Under the Safe Drinking Water Act," U.S. Environmental Protection Agency website, accessed August 15, 2024; <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10058C5.txt>.

¹⁷ "Lead and Copper Rule: A Quick Reference Guide for Schools and Child Care Facilities that are Regulated Under the Safe Drinking Water Act," U.S. Environmental Protection Agency website, accessed August 15, 2024; <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10058C5.txt>.

¹⁸ "Alert Memorandum: PBS Did Not Test Water Prior to Reopening GSA Child Care Centers Closed During the COVID-19 Pandemic," General Services Administration Office of Inspector General, September 6, 2022; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-8%20Alert%20Memorandum%20-%20Water%20Testing%20in%20GSA%20Child%20Care%20Centers.pdf>.

¹⁹ "Audit of GSA's Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities," General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

²⁰ "Audit of GSA's Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities," General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

The lead in a sink at a child care center in Seattle, Washington was almost 14 times higher than the EPA action level, yet remained operational for more than two years after the center was re-opened, and for two months after samples were collected.²¹

The EPA even has offices in one of the buildings²² where [high levels of lead were discovered in a child care center](#) when testing was finally conducted six months after its re-opening.²³

Underutilized buildings causing hazardous water are creating a vicious cycle as workers are being evacuated once again.

Employees of the Federal Trade Commission were only required to show up to the office “about once a week,” but now the agency’s 600 workers are being told to stay home due to the Legionella in the agency’s headquarters.²⁴

Similarly, the Centers for Medicare and Medicaid Services (CMS) complex was closed in June 2024 after Legionella bacteria was discovered, sending the agency’s 3,500 employees and contractors home “until the situation is resolved.”²⁵ The agency declined to comment when asked about its telework policies, so “it is not clear how many CMS workers have been on campus in recent months after staff largely shifted to remote work during the coronavirus pandemic.”²⁶

While the bacteria were found in the Patrick V. McNamara Federal Building in Michigan last August, some employees stationed in that building only learned of the contamination while watching a local television news report in December.²⁷ Uncontrolled levels of Legionella were still being detected in the building’s drinking fountains and sinks several months ago.²⁸

²¹ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

²² The EPA is one of the primary tenants in the Sam Nunn Atlanta Federal Center. “Sam Nunn Atlanta Federal Center,” U.S. General Services Administration website, accessed August 26, 2024; <https://www.gsa.gov/about-us/gsa-regions/region-4-southeast-sunbelt/buildings-and-facilities/georgia/sam-nunn-atlanta-federal-center>.

²³ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

²⁴ Jenna Portnoy, “Legionella found at FTC; employees can work at home as precaution,” Washington Post, August 14, 2024; <https://www.washingtonpost.com/dc-md-va/2024/08/14/legionella-bacteria-ftc-headquarters/>.

²⁵ Barry Simms, “Social Security, Medicare\Medicaid employees concerned over bacteria found in water at their offices,” WBAL-TV 11 News, July 26, 2024; <https://www.wbaltv.com/article/bacteria-water-social-security-medicare-medicare-woodlawn/61712471>.

²⁶ Dan Diamond, “Medicare shutters headquarters after Legionella bacteria detected,” Washington Post, June 13, 2024; <https://www.washingtonpost.com/health/2024/06/13/cms-headquarters-legionnaires-bacteria/>.

²⁷ Whitney Burney and Brian Schwartz, “Federal building employees push for temporary closure over Legionella concerns,” WXYZ Detroit ABC 7 Action News, January 5, 2024; <https://www.wxyz.com/news/region/wayne-county/federal-building-employees-push-for-temporary-closure-over-legionella-concerns>.

²⁸ Memo from GSA Michigan Service Director to Patrick V. McNamara Federal Building Tenant Agencies, January 3, 2024; https://www.scribd.com/document/696934176/Jan-2024-Report-December-Testing#fullscreen&from_embed.

Meanwhile, the GSA just announced it would be “investing over \$34 million into the Patrick V. McNamara Federal Building to help make this building safer, more resilient, and better equipped to support the people it serves,” including spending \$7 million “to repair the building’s façade.”²⁹ Focusing on the outside appearance of the building while ignoring the dangerous health threats inside encapsulates the upside-down priorities of both the agency and this administration.

Since 2022, the GSA OIG has issued three separate notifications warning about the continued threat of unsafe water in government buildings, including an alert to “take immediate action” a year ago.³⁰

Yet, GSA’s Public Buildings Service complains following its own water safety guidance is “a large task ... very unpopular from the get-go,” and costly,³¹ despite the administration’s commitment to leverage every government tool to guarantee safe drinking water.

Not following its own guidelines isn’t even the worst part. According to the OIG, GSA’s safety guidance itself is flawed! GSA failed to fully incorporate EPA and CDC recommendations for maintaining water quality and testing for contaminants during periods of reduced occupancy into its standards. An operations and maintenance GSA contract also set the temperatures for building water lower than the level recommended by the CDC to prevent the growth of Legionella.³²

Simply opening the spigot and pouring out taxpayer dollars doesn’t solve the problems caused by mismanagement. Leadership is required to ensure the right rules are put in place and are being followed, dollars are being spent effectively, and the wellbeing of those working at or visiting government buildings—especially children and vulnerable populations—is being safeguarded. Sadly, the leadership at GSA is AWOL.³³

In the aftermath of the Flint water scandal, the EPA OIG concluded the agency “had information that systems designed to protect Flint drinking water from lead contamination were not in place,

²⁹ “GSA celebrates major climate investments in Michigan as part of President Biden’s Investing in America agenda,” General Services Administration, August 06, 2024; <https://www.gsa.gov/about-us/newsroom/news-releases/gsa-celebrates-major-climate-investments-in-michigan-08062024>.

³⁰ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

“Alert Memorandum: PBS Must Take Immediate Action to Address the Risk of Legionella Contamination in GSA-Controlled Buildings,” General Services Administration Office of Inspector General, September 20, 2023; <https://www.gsaig.gov/sites/default/files/audit-reports/A230072-1%20Final%20Memorandum.pdf>.

“Alert Memorandum: PBS Did Not Test Water Prior to Reopening GSA Child Care Centers Closed During the COVID-19 Pandemic,” General Services Administration Office of Inspector General, September 6, 2022; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-8%20Alert%20Memorandum%20-%20Water%20Testing%20in%20GSA%20Child%20Care%20Centers.pdf>.

³¹ “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

³² “Audit of GSA’s Response to COVID-19: PBS Faces Challenges to Ensure Water Quality in GSA-Controlled Facilities,” General Services Administration Office of Inspector General, July 22, 2024; <https://www.gsaig.gov/sites/default/files/audit-reports/A201018-7%20Final%20Report.pdf>.

³³ Alex Thompson, “Scoop: Biden agency head works mostly from Missouri, not D.C.,” Axios, October 20, 2023; <https://www.axios.com/2023/10/20/biden-agency-head-works-remote-missouri-dc>.

residents had reported multiple abnormalities in the water, and test results from some homes showed lead levels above the federal action level” and had “the authority and sufficient information to issue a Safe Drinking Water Act (SDWA) Section 1431 emergency order to protect Flint residents from lead contaminated water as early as June 2015,” but did not issue an emergency order until January 2016.³⁴

We cannot allow another Flint water crisis to occur inside federal buildings.

Because the GSA is failing to ensure the safety of the water in government buildings, I urge the EPA to issue emergency orders protecting civil servants and other visitors to these buildings, especially the children in the day care centers.

Because “childhood lead exposure has devastating lifelong consequences, as even low-level exposure stunts intelligence and leads to delinquent behavior,”³⁵ I would strongly encourage the EPA to notify the parents and guardians of every child who may have been exposed to unsafe water in a government building over the past three years so they can receive proper medical attention for their children.

Furthermore, the EPA should review the GSA’s flawed guidelines to provide guidance for ensuring the drinking water in federal buildings is once again safe to drink.

If the EPA felt so strongly about attempting to regulate the water in ditches in Iowa that the agency took its case all the way to the U.S. Supreme Court, where it was rejected 9-0,³⁶ then the EPA should show some of the same fervor about monitoring the safety of drinking water within the government’s own buildings.

To inform my continuing oversight efforts, please also provide responses to the following:

1. Did the EPA test for lead, copper, Legionella, or other contaminants in the water of all fountains, sinks, and other outlets and structures *prior* to calling the agency’s employees back to the office following the period of maximum telework initiated at the onset of the COVID-19 pandemic? If so, when was the testing conducted and what were the findings?
2. Unsafe water remains a concern in federal buildings due to stagnation resulting from underutilization. The EPA is requiring most employees to show up to work just one day

³⁴ “Management Alert: Drinking Water Contamination in Flint, Michigan, Demonstrates a Need to Clarify EPA Authority to Issue Emergency Orders to Protect the Public,” Environmental Protection Agency Office of Inspector General, October 20, 2016; https://www.epa.gov/sites/default/files/2016-10/documents/epa_oig_20161020-17-p-0004.pdf.

³⁵ Ted Schwaba, Wiebke Bleidorn, Christopher J. Hopwood, Jochen E. Gebauer, P. Jason Rentfrow, Jeff Potter, and Samuel D. Gosling, “The impact of childhood lead exposure on adult personality: Evidence from the United States, Europe, and a large-scale natural experiment,” Proceedings of the National Academy of Sciences (PNAS), volume 118, number 29, July 12, 2021; <https://doi.org/10.1073/pnas.202010411> or <https://www.pnas.org/doi/full/10.1073/pnas.2020104118#:~:text=Childhood%20lead%20exposure%20has%20devaluing,affected%20normal%20intelligence%20and%20personality%20traits>.

³⁶ “Sackett v. Environmental Protection Agency,” U.S. Supreme Court, 598 U.S. 651, docket no 21-454, argued October 2022, decided May 25, 2023; https://www.supremecourt.gov/opinions/22pdf/21-454_4g15.pdf.

per week.³⁷ GAO estimates the EPA is utilizing just 17 percent of the space in its headquarters,³⁸ while the PBRB finds the EPA's daily occupancy is a mere 8 percent.³⁹ What is the average daily occupancy and space utilization at the EPA headquarters? What actions is the agency taking to fully utilize the agency's office space, either by reducing office space and agency workforce or returning employees to the office on a more frequent basis?

3. While the administration continues wasting billions of dollars pushing the Green New Deal agenda with very few tangible results, a simple solution for reducing energy use, carbon emissions, *and* unnecessary government spending is being largely ignored. The PBRB notes, "in addition to high costs, other problems with low utilization rates include environmental and health impacts. The per person carbon emissions from heating and cooling nearly empty buildings, not to mention energy costs, are indefensible." Is the EPA tracking the carbon emissions from the thousands of buildings owned and leased by the federal government? Will the EPA calculate and provide the total amount of emissions resulting from maintaining underutilized areas in the EPA's own headquarters and other owned or leased office spaces?

Thank you for your attention to this request. I would appreciate a response no later than November 1, 2024. Please do not hesitate to contact me if you have any questions.

Sincerely,



Joni K. Ernst
United States Senator

³⁷ Erich Wagner, "EPA union ratifies contract to protect employees' scientific integrity," Government Executive, June 4, 2024; <https://www.govexec.com/workforce/2024/06/epa-union-ratifies-contract-protect-employees-scientific-integrity/397100/>.

³⁸ "Federal Space Utilization: Agency Headquarters Three-Month Average Space Utilization Statistics," Government Accountability Office, 2023; https://www.ernst.senate.gov/imo/media/doc/fy23_all_staff-1150574-v1-qfr_pdf_federal_space_utilization_fouo.pdf.

³⁹ Public Buildings Reform Board Interim Report to Congress, March 21, 2024; <https://www.pbrb.gov/files/2024/03/3.21.24-FINAL-PBRB-Interim-Report.pdf>.