



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (IDEM)
TITLE: IDEM EMPLOYEE ETHICS VIOLATION
CASE ID: 2020-05-0143
DATE: December 21, 2022

Inspector General Senior Staff Attorney Mark Mader, after an investigation by Inspector General Special Agent Michael Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code § 4-2-7-2(b). The OIG also investigates criminal activity and ethics violations by state workers. Ind. Code § 4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

I. Complaint and Background

On May 15, 2020, the OIG received a complaint regarding Bridget Suzanne Murphy (Murphy), a former Section Chief for the Indiana Department of Environmental Management (IDEM) Wastewater Facilities Inspection Section within the Compliance Branch of IDEM's Office of Water Quality. The complaint alleged both criminal and civil violations.

The Indiana State Personnel Department (SPD) records reported that Murphy was hired by IDEM on November 29, 2004. IDEM promoted Murphy to Section Chief on October 13, 2014. Murphy's workstation was in the Indiana Government Center North building in Indianapolis. IDEM reported Murphy supervised approximately fifteen inspectors that traveled the State inspecting wastewater facilities. Murphy served as Section Chief until IDEM terminated her

employment on February 28, 2020, following a SPD investigation into unrelated allegations regarding her work behavior. The OIG investigated this case for possible post-employment violations of the Code of Ethics (Code).¹

II. OIG Investigation

Special Agent Lepper investigated this matter for the OIG. Special Agent Lepper's investigation included review of documents, including records of the SPD investigation; Murphy's PST files; Murphy's employment and termination records; Murphy's emails; Murphy's IDEM inspection reports; IDEM noncompliance notices and regulatory decisions; a video of a Cloverdale Town Council Meeting where Murphy spoke; Murphy's garage and office credential swipes; Murphy's attendance records; Murphy's calendars; and Murphy's payroll records. Special Agent Lepper interviewed numerous witnesses and took recorded statements. Special Agent Lepper also conducted a non-custodial interview of Murphy.

Special Agent Lepper interviewed IDEM's Ethics Officer who reported that Murphy spoke to her on February 21, 2020, regarding a post-employment opportunity in the drinking water private sector to determine if any post-employment restrictions might apply. The Ethics Officer reported she advised Murphy on the Code. She also stated that she gave Murphy the information needed to apply for a post-employment waiver on two separate occasions. The Ethics Officer reported Murphy never provided the necessary information to obtain the waiver. In an interview with Special Agent Lepper, Murphy denied that the Ethics Officer told her to seek a post-employment waiver prior to or after her termination from IDEM. The OIG found no record that Murphy submitted a post-employment waiver or a request for a formal advisory opinion with the Commission.

¹ The OIG also investigated allegations of Criminal Code violations; however, the OIG is maintaining the confidentiality of the criminal investigation report pursuant to Ind. Code § 4-2-7-8 as no criminal charges were filed.

IDEM's Human Resources Director and other IDEM employees told the Ethics Officer that Murphy contacted them after IDEM terminated her employment and told them she had begun her new job as a consultant for Utility Management and Construction LLC (UMAC) on April 20, 2020. In an email to one of her former subordinates, Murphy wrote that Cloverdale *has hired myself and my manager at UMAC to come up with a plan to return them to compliance*. When Special Agent Lepper interviewed Murphy, she denied ever being employed by UMAC officially but admitted doing contract work for them, specifically for Cloverdale.

Special Agent Lepper interviewed Murphy's UMAC supervisor who confirmed that UMAC hired Murphy as a consultant to assist Cloverdale and the Town of Waynetown (Waynetown) with compliance issues regarding IDEM's wastewater inspections. UMAC paid Murphy a total of \$15,120.00 for invoices Murphy submitted to UMAC between May of 2020 and January 15, 2021. Of the total amount UMAC paid Murphy, \$4,130.00 was for work Murphy completed for Cloverdale and Waynetown.

Special Agent Lepper learned that as Section Chief, Murphy reviewed and approved the reports her inspectors submitted for Cloverdale's wastewater treatment plant violations in 2019 and 2020. He also learned that in 2016, Murphy reviewed and approved her inspector's report regarding Waynetown's 2013 Sewer Ban Early Warning (SBEW) Notice. Her inspector's 2016 inspection report determined that the conditions that resulted in IDEM's issuance of Waynetown's 2013 SBEW Notice still existed and required Waynetown to make a detailed written response describing a plan for resolving its chronic hydraulic loading issue within thirty days.

Murphy's Branch Chief and her supervisor told Special Agent Lepper that Murphy was the first-line reviewer of compliance evaluation inspection reports. She had the authority to reject or approve her inspectors' reports. Her approval of Cloverdale's and Waynetown's inspections set in

motion possible formal enforcement actions requiring Cloverdale's and Waynetown's responses and corrective actions.

A. Cloverdale

On February 26, 2019, Murphy reviewed and approved an inspection report issued by one of her inspectors. As a result, IDEM sent Cloverdale an Inspection Summary/Noncompliance Letter (2019 Noncompliance Letter) signed by Murphy as Section Chief requiring Cloverdale's detailed written response documenting correction of the concerns listed in the inspection report within thirty days. Cloverdale did not respond to IDEM's 2019 Noncompliance Letter.

On February 28, 2020, Murphy reviewed and approved another Cloverdale inspection report issued by one of her inspectors. As a result, on March 3, 2020, IDEM sent Cloverdale a noncompliance letter (2020 Noncompliance Letter) detailing the results of its inspection under the signature of Murphy's Branch Chief, due to Murphy's termination on February 28, 2020. As noted in the 2019 Noncompliance Letter, the 2020 Noncompliance Letter also required Cloverdale to submit a detailed written response documenting correction of the violations listed in the inspection report within thirty days. On April 9, 2020, IDEM sent Cloverdale a follow-up letter informing Cloverdale it had not received Cloverdale's written response as required and notified Cloverdale that unless the required response was received by IDEM within fourteen days, IDEM would refer the matter to the Office of Water Quality Enforcement Section.

On May 11, 2020, Murphy emailed an IDEM inspector she previously supervised and requested a fourteen (14) day extension for Cloverdale to respond to IDEM's 2020 Noncompliance Letter and the April 9 follow-up letter. The IDEM inspector granted the extension.

Special Agent Lepper was able to confirm by invoices Murphy submitted to UMAC for payment of services she rendered to Cloverdale, that Murphy assisted Cloverdale and continued to assist Cloverdale with 2020 noncompliance issues from May 7, 2020, to August 25, 2020.

Murphy received payments from UMAC totaling \$1,890.00 for representing and assisting Cloverdale in an enforcement proceeding in which she personally and substantially participated as an IDEM employee. As an IDEM employee, Murphy issued Cloverdale's February 2019 Noncompliance Letter and approved Cloverdale's March 2020 Noncompliance Letter for Cloverdale's failed wastewater inspections. After leaving IDEM, Murphy assisted Cloverdale as a UMAC consultant with coming into compliance with the violations noted in the Cloverdale Inspection Reports she had approved as a state employee.

B. Waynetown

On August 2, 2013, IDEM issued a Sewer Ban Early Warning (SBEW) Notice to Waynetown. IDEM issues SBEW Notices when wastewater treatment plants' discharge records for hydraulic overflows reach or approach ninety percent of their hydraulic or organic design. IDEM inspectors evaluate and review reported effluent flow from wastewater treatment plants for whom IDEM has issued SBEW Notices. If the reported effluent overflow condition continues to exist, IDEM sends the municipality owning the wastewater treatment plant a SBEW Reminder Letter and the SBEW Notice remains in effect. IDEM's Branch Manager explained to Special Agent Lepper that once a SBEW Notice is issued, it remains in effect until an IDEM review and inspection of the condition for which the SBEW Notice was issued has been remedied. SBEW Reminder Letters require the municipality to provide a detailed written response describing a plan for resolving this hydraulic loading issue within thirty days.

Special Agent Lepper's investigation found that Murphy issued Waynetown a SBEW Reminder Letter on September 27, 2016, based on her review of her inspector's report of Waynetown's 2015 effluent flow, which indicated the reason for IDEM's issuance of the 2013 SBEW Notice remained uncorrected. On April 15, 2020, IDEM issued a second SBEW Reminder Letter, which indicated the reason for IDEM's issuance of the 2013 SBEW Notice remained uncorrected. Both the 2016 SBEW Reminder Letter issued by Murphy as IDEM Section Chief and the 2020 SBEW Reminder Letter concerned the 2013 SBEW Notice that Waynetown had not corrected and accordingly, remained in place.

On June 3, 2020, Murphy, as a representative of UMAC, met with Waynetown officials and agreed to draft the required response to IDEM's 2020 SBEW Reminder Letter. Both Reminder Letters determined that the reported effluent overflow condition continued to exist as determined in the 2013 SBEW Notice. The 2020 Reminder Letter required Waynetown's detailed written response within thirty days. Murphy agreed to draft Waynetown's response. On June 9, 2020, Waynetown submitted Murphy's draft in an official response to IDEM's 2020 SBEW Reminder Letter. As Section Chief responsible for review and approval of wastewater inspection reports, Murphy personally and substantially participated in these matters for IDEM. UMAC paid Murphy \$2,240.00 for compliance work on Waynetown's SBEW noncompliance issues.

III. Conclusion

As the IDEM Section Chief, Murphy supervised inspectors who traveled the State inspecting wastewater treatment facilities. Inspecting wastewater treatment facilities and issuing inspection reports that list violations are enforcement proceedings. State employees are prohibited from representing or assisting new employers or any other person in enforcement proceedings in which they personally and substantially participated as a state employee. Cloverdale's 2019 and

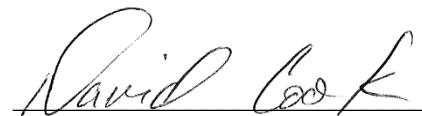
2020 noncompliance issues and Waynetown's 2013 SBEW Notice and 2016 Reminder Letter are enforcement matters in which Murphy personally and substantially participated as a state employee. Accordingly, Murphy is prohibited from representing or assisting UMAC or any other person in those same enforcement proceedings for the life of those enforcement proceedings. Murphy violated IC 4-2-6-11(c) when she represented and assisted Cloverdale and Waynetown in those same enforcement matters after leaving state employment.

On September 8, 2022, the OIG presented this case to the Indiana State Ethics Commission (Commission) in an executive session and sought probable cause from the Commission to file an ethics complaint. The Commission found probable cause to file an ethics complaint alleging that Murphy violated the Code's post-employment rule's particular matter provision on two occasions. The Inspector General subsequently filed an ethics complaint with the Commission on September 15, 2022.

The Inspector General and Murphy signed an Agreed Settlement in which Murphy admitted to violating the Code's post-employment rule's particular matter provision on two separate occasions. As part of the Agreed Settlement, Murphy is barred from state employment for life and must pay a fine of five thousand dollars. The Commission approved the Agreed Settlement on December 8, 2022. Accordingly, this investigation is closed.

Dated: December 21, 2022

APPROVED BY:


David Cook, Inspector General