



THE WATER NEWS

Volume 60 | No. 4 | Winter 2024

SOURCE



**PA-AWWA AND PWEA
JOINT CONFERENCE**

Recap

www.paawwa.org



Pennsylvania AWWA
American Water Works Association

Address Service Requested PA-AWWA - 200 North Third St, 15th Fl, Harrisburg, PA 17101

Ethics or Consequences

Michael Klein

On September 30, 2024, I had the honor of giving a presentation at the 96th Annual Conference of the Water Works Operators Association of Pennsylvania. The presentation was on the legal aspects of "Ethics or Consequences" as they apply to the water sector. What makes this presentation particularly memorable to me is that I was invited to give it by Serena DiMagno, before her untimely passing. Serena was a legend in the drinking water sector, who generously devoted much time and energy to advocating for the water sector and the public it serves, ensuring that the water produced by Pennsylvania's water systems is safe and reliable. Serena set a very high standard for all of us to strive to meet, and we should honor her memory by working to uphold that standard.

Serena wanted me to discuss the grave consequences of ethical breaches to help guide us in the right direction so we never have to suffer those consequences. Whether you are employed by federal, state, or local governments, or by water systems owned by municipal authorities, municipalities, or investor-owned companies, it is very likely your employer has a written code of ethics or code of conduct. For many, the last time you may have read that document was when you were hired. Please ask your employer for a copy of the applicable code and read it. Should you have any questions, discuss them with the appropriate person at your place of employment. Typical concerns covered by these codes include, but are not limited to:

1. Bribery, kickbacks, or fraud
2. Theft of water system assets, information, or time
3. Discrimination, harassment, or retaliation
4. Potential and actual conflicts of interest
5. Inappropriate gifts or business entertainment
6. Failure to comply with the law

7. Destruction of water system property
8. Drug and alcohol impairment

To provide some context for these concerns, here are a few real-life examples of what happens when someone in the water sector falsely assumes it is acceptable to violate these codes because the employer will never find out – or if they do, there will be no consequences.

In a May 31, 2024, article by *Texas Public Media*, the former maintenance manager of Houston Public Works was charged with abuse of official capacity and four counts of bribery. This involved steering contractors working with her department into hiring her own company for consulting services. The contractors were also charged with bribery.

In a March 18, 2024, article by *LAW360*, it was reported that the former head of the San Francisco Public

Utilities Commission was sentenced to four years in prison. This individual provided confidential information to a bidder about bids submitted by rival contractors. In exchange, the former head received lavish vacations for himself and his family, plus jewelry.

Additional examples of ethics violations and their consequences include activities reported in a *Louisiana Illuminator* article dated November 7, 2023. The article detailed how a New Orleans Sewerage and Water Board plant worker was supposed to travel to five locations on a certain date in the city's west bank to collect and analyze drinking water samples. These samples, required under state law, measure the amount of chlorine in the water to ensure it is adequately disinfected to prevent the growth of harmful bacteria. However, the worker only made one of the five stops but submitted multiple samples, fabricating the water testing data. Such activity constitutes fraud because false data was submitted to the state.



If you're trusted to protect public health and the environment, we can help.

Hazen all things water®

hazenandsawyer.com

On February 23, 2022, the U.S. Department of Justice reported similar fraudulent activity, this time in Oklahoma. An employee at the El Reno Wastewater Treatment Plant pleaded guilty to knowingly falsifying, tampering with, and rendering inaccurate a monitoring device and method required under the *Clean Water Act*. The employee admitted to fraudulent testing and reporting procedures designed to deceive the EPA and the Oklahoma

Department of Environmental Quality. As a result, the employee was sentenced to probation and a \$10,000 fine.

There are many more examples, but I believe the point is clear, I will conclude with two more examples that highlight the extreme and bizarre lengths some individuals will go to – and the dire consequences they face.

The first case was reported in an Associated Press article dated May 28, 2024. The head of the Panoche

Water District in California pleaded guilty to orchestrating a heist to steal and sell water through a secret pipe. Federal prosecutors charged this individual with stealing millions of dollars' worth of water, siphoning it from a federal irrigation canal over two decades through a hidden pipe, and selling it to farmers and other water districts.

The final example involves an almost unbelievable and disgusting act. In an article dated May 23, 2023, *The Advocate* reported that a long-tenured Louisiana water treatment plant worker was arrested for urinating in a drinking water supply tank – at least twice. Security footage allegedly captured the employee leaving his office, adjusting a security camera to obscure his actions, and then urinating into the water supply. However, the camera still recorded the incident. To make this even more baffling, the water treatment plant had two bathrooms, including one on the second floor where the employee worked. After being fired, the employee was taken into custody and charged with two counts of contaminating water supplies and two counts of criminal damage to critical infrastructure. At the time of the article, the employee had not provided any explanation for his actions. The penalty for such acts could be up to 20 years in prison and a \$250,000 fine.

These examples demonstrate that many perpetrators do get caught, and when they do, the consequences can be severe. 📌

INDURON

PROTECTIVE COATINGS

REVOLUTIONARY CERAMIC EPOXIES

Fast Drying. Self-Healing. Easy to Apply.

STEVE FREED
REGIONAL SALES MANAGER
215-962-7913
SFREED@INDURON.COM



SCAN ME



About the Author

Michael D. Klein is Senior Counsel in the Harrisburg, PA, office of Cozen O'Connor, practicing in utility and environmental law.

He can be reached at mklein@cozen.com, or 717-703-5903.

This column is intended as a discussion of legal issues in the water industry. It is not intended to provide legal advice or establish an attorney-client relationship. Before making any legal decisions regarding the topics discussed in this column, you should consult with an attorney.