



STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
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EARL RAY TOMBLIN  
GOVERNOR

March 11, 2014

Ms. Elizabeth A. Zimmerman  
Deputy Associate Administrator  
Office of Response and Recovery  
Federal Emergency Management Agency  
U.S. Department of Homeland Security  
500 C Street, SE  
Washington, D. C. 20472

Through: Ms. MaryAnn Tierney  
Regional Administrator  
FEMA Region III  
One Independence Mall, Sixth Floor  
615 Chestnut Street  
Philadelphia, PA, 19106-0444

Dear Ms. Zimmerman:

I write to appeal your February 10, 2014 denial of my request that the emergency declaration FEMA-3366-EM be modified to provide federal assistance for emergency protective measures for the nine counties affected by the January 9, 2014 chemical spill. Respectfully, I disagree with the determination that the event was not of such severity and magnitude to warrant further public assistance for the reasons expressed herein. The chemical spill which affected the water supply of 300,000 customers was unprecedented, and received national and international attention. The threats to health and safety were immediate, and the impact of the spill has been continuous.

The President of the United States recognized the significance of this event when he granted my request for an emergency declaration. Federal Emergency Management Agency (FEMA) officials designated the type of assistance granted to us as Public Assistance Category B, "Emergency Protective Measures," limited to direct federal assistance. No one could foresee the far reaching impact of this event that first night when I requested, in consultation with FEMA officials, supplemental assistance to combat the crisis.

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In the days and weeks following this event of national significance, we responded in true partnership. At my request, FEMA supplied water and food to be distributed and delivered to citizens in need by state and local agencies, as well as volunteers. Communities came together, especially the Voluntary Organizations Active in Disasters, to quickly and generously respond with donations of water, food, other resources, and time.

As the urgency of the situation eased, it became clear certain ongoing aspects of the emergency would continue to demand public assistance. The state and local agencies, including the affected counties and the West Virginia Department of Environmental Protection continue to incur costs. The Centers for Disease Control (CDC) issued statements regarding safe levels of the chemicals involved in the spill, and tests were necessary to ensure the water was meeting those standards. Even after flushing procedures were implemented, there were surges in chemical presence in various areas, requiring more testing. Because of the strong odor of the chemical, the water was objectionable long after the spill was contained. Accordingly, testing continued, and still continues, at significant expense to the state and local agencies. This testing was necessary to lessen the immediate threats to public health and safety posed by the mass exposure to a relatively unknown chemical. Additionally, I approved the engagement of independent environmental consultants to confirm the health screening standards of the chemical, and to develop a home testing protocol to account for adverse variables in homes that could increase harmful effects of the chemical. The CDC provided useful guidance on the safe levels of the chemical, and the public requires assurance that these levels are being met. Thorough information about the consequences of the spill in home water systems is essential to addressing this threat. Finally, I ordered the demolition of the facility that stored the chemicals involved in the spill, which is necessary to reduce the likelihood of the chemical leaching into the river. This is an expensive and precise process in light of the environmental concerns associated with hazardous sites.

I strongly urge you to reconsider your denial of the continuance of West Virginia's partnership with FEMA on this disaster. The expenses incurred by the state and local agencies after federal assistance ended were necessary and responsible. Since the attack of September 11, 2001, the protection of our country's water supply has been an issue of targeted concern and national discussion. Our ongoing response to the spill, continuous studies, and test results will serve as future guidance not only for exposure to the specific chemicals involved in the spill, but for any water system contamination in the nation. The work we are funding will fill a void in the scientific and public health knowledge base with much-needed information. West Virginia and its subdivisions lack the resources to cover 100 percent of the costs expended to eliminate the threats to public safety caused by the chemical spill. Collecting costs from the company responsible for the spill is unlikely, considering the company's bankruptcy posture.

The results of our evaluation of the direct and indirect costs of this event are attached. These costs are documented, and we have attempted to be conservative in our estimates regarding eligible reimbursement costs under Category B of the Public Assistance program. At this time, estimated losses to the economy of the affected counties are estimated at \$61,000,000. The total economic impact will likely be greater.

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- The sectors of the economy primarily affected included restaurant and hotel businesses that were forced to close until alternate sources of potable water could be provided. Many employees of these businesses earn low wages, and, in the case of restaurant servers, depend on tips to make a living wage. In an effort to support those who lost income due to this event, the United Way collected and distributed over \$112,000 in assistance to more than 600 families to help them pay utility bills they could not otherwise pay.
- Businesses that temporarily closed due to the lack of potable water showed remarkable determination to reopen as soon as possible, and incurred additional costs in order to meet the standards set by health officials to reopen using alternate sources of water. To this day many businesses, especially those serving food, are incurring additional costs to provide assurance to their customers that no tap water is being used in the food preparation or cleansing of the silverware, plates or glasses. The losses were severe enough to warrant a Small Business Administration Economic Injury Disaster Loan Program for the affected area, but this support traditionally covers only a small portion of the total business losses in a disaster.
- Hospitals and medical facilities had to cancel elective and non-emergency services. Nursing homes and other long-term care facilities had to develop alternatives to caring for their patients, and local health departments were faced with a considerable increase in responsibilities and workload.
- The education community was also impacted by the water outage. While this unusually harsh winter caused students to miss several instructional days, this event has caused schools in the affected areas to close for no less than a week, and in some cases, longer. Kanawha County and Putnam County estimate they have lost over \$5,500,000 in instructional time because of the water outage.

The response to this disaster was a community effort. With your supplemental assistance we responded, and continue to respond to each new aspect of the event as it arises.

The attached "EM-3366 - Category B Assessment - as of 3/7/14" was developed with guidance from experienced FEMA Public Assistance staff who scrutinized the data provided by state and local agencies to determine costs eligible for Stafford Act Public Assistance. Their conclusions are based on a much more careful analysis of the provided information than is normally done during the Preliminary Damage Assessment process, and the figures may be exceeded when actual Project Worksheets are developed. Their estimate of more than \$1,500,000 in probable eligible Public Assistance costs plus the over \$5,000,000 cost of the direct federal assistance means that the Category B expenditures in our joint response to this Event of National Significance were over \$6,500,000. This is more than double our Public Assistance impact indicator for a Major Disaster Declaration of \$2,575,661.66.

The financial impact of this event is significant and widespread. The estimated \$61,000,000 economic loss noted above added to the total impact noted on the attachment exceeds \$72,000,000. This figure does not include our ongoing study, on which we will spend over \$700,000, and the continued response

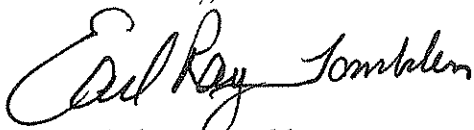
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to this event. It also does not include the donations to United Way noted above which add another \$112,000 to the total. The total estimated costs and losses are equal to a \$240 per capita impact on the 300,000 people directly affected by the crisis.

I understand your agency's original decision to limit the Public Assistance Category B to direct federal assistance. However, as subsequent events have demonstrated, this was a true emergency that demanded the best efforts of the entire community to protect public health and safety. The key role of state and local agencies in our response is essentially ignored unless they are able to be reimbursed for their part in responding to this crisis.

Thank you for your consideration and your attention to this matter. Any questions regarding this appeal or requests for additional documentation should be directed to Mr. James J. Gianato whom I have appointed as State Coordinating Officer for this disaster recovery operation.

Sincerely,

A handwritten signature in cursive script that reads "Earl Ray Tomblin". The signature is written in black ink and is positioned above the printed name and title.

Earl Ray Tomblin  
Governor

Enclosures

**EM-3366 - Category B Assessment - as of 3/7/14**

COUNTY BREAKDOWN	Estimation Received from Subgrantees			AMOUNTS REVIEWED FOR PA ELIGIBILITY	COMMENTS
	Possible Public Assistance (PA)	Additional Impact (AI)	TOTAL		
<b>BOONE COUNTY</b>					
- County Commission	\$ -	\$ -	\$ -	\$ -	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ -	\$ -	\$ -	\$ -	
- Education	\$ 12,922.93	\$ 800,335.63	\$ 813,258.56	\$ 12,922.93	
- State Agencies	\$ 6,796.39	\$ -	\$ 6,796.39	\$ 6,796.39	
<b>BOONE TOTALS</b>	<b>\$ 19,719.32</b>	<b>\$ 800,335.63</b>	<b>\$ 820,054.95</b>	<b>\$ 19,719.32</b>	
<b>CABELL COUNTY</b>					
- County Commission	\$ 4,078.32	\$ -	\$ 4,078.32	\$ 4,078.32	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ 2,020.98	\$ -	\$ 2,020.98	\$ -	
- Education	\$ 1,288.71	\$ 13,696.41	\$ 14,985.12	\$ 1,288.71	
- State Agencies	\$ 3,152.90	\$ -	\$ 3,152.90	\$ 3,152.90	
<b>CABELL TOTALS</b>	<b>\$ 10,540.91</b>	<b>\$ 13,696.41</b>	<b>\$ 24,237.32</b>	<b>\$ 8,519.93</b>	
<b>CLAY COUNTY</b>					
- County Commission	\$ -	\$ -	\$ -	\$ -	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ -	\$ -	\$ -	\$ -	
- Education	\$ -	\$ -	\$ -	\$ -	
- State Agencies	\$ 2,500.44	\$ -	\$ 2,500.44	\$ 2,500.44	
<b>CLAY TOTALS</b>	<b>\$ 2,500.44</b>	<b>\$ -</b>	<b>\$ 2,500.44</b>	<b>\$ 2,500.44</b>	
<b>JACKSON COUNTY</b>					
- County Commission	\$ -	\$ -	\$ -	\$ -	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ -	\$ -	\$ -	\$ -	
- Education	\$ -	\$ 337,304.63	\$ 337,304.63	\$ -	
- State Agencies	\$ 288.83	\$ 372.39	\$ 661.22	\$ 288.83	
<b>JACKSON TOTALS</b>	<b>\$ 288.83</b>	<b>\$ 337,677.02</b>	<b>\$ 337,965.85</b>	<b>\$ 288.83</b>	
<b>KANAWHA COUNTY</b>					
- County Commission	\$ 194,354.08	\$ 44,572.50	\$ 238,926.58	\$ 194,354.08	
- Volunteer Fire Departments	\$ 28,441.68	\$ 3,416.39	\$ 31,858.07	\$ 28,441.68	
- Other Subgrantees	\$ 146,582.23	\$ 121,506.91	\$ 268,089.14	\$ 24,281.59	
- Education	\$ 80,692.81	\$ 4,651,651.79	\$ 4,732,344.60	\$ 140.83	
- State Agencies	\$ 1,193,632.75	\$ 879,611.36	\$ 2,073,244.11	\$ 1,186,614.75	
<b>KANAWHA TOTALS</b>	<b>\$ 1,643,703.55</b>	<b>\$ 5,700,758.95</b>	<b>\$ 7,344,462.50</b>	<b>\$ 1,433,832.93</b>	
<b>LINCOLN COUNTY</b>					
- County Commission	\$ 23,990.68	\$ 7,473.95	\$ 31,464.63	\$ 21,772.41	
- Volunteer Fire Departments	\$ 1,300.00	\$ 3,500.00	\$ 4,800.00	\$ 1,300.00	

COUNTY BREAKDOWN	Estimation Received from Subgrantees			AMOUNTS REVIEWED FOR PA ELIGIBILITY	COMMENTS
	Possible Public Assistance (PA)	Additional Impact (AI)	TOTAL		
- Other Subgrantees	\$ 7,597.88	\$ 22,055.94	\$ 29,653.82	\$ 7,597.88	
- Education	\$ 1,346.42	\$ 386,049.27	\$ 387,395.69	\$ 1,346.42	
- State Agencies	\$ 1,119.47	\$ 1,050.00	\$ 2,169.47	\$ 1,119.47	
<b>LINCOLN TOTALS</b>	<b>\$ 35,354.45</b>	<b>\$ 420,129.16</b>	<b>\$ 455,483.61</b>	<b>\$ 33,136.18</b>	
<b>LOGAN COUNTY</b>					
- County Commission	\$ -	\$ -	\$ -	\$ -	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ -	\$ -	\$ -	\$ -	
- Education	\$ -	\$ -	\$ -	\$ -	
- State Agencies	\$ 1,768.82	\$ -	\$ 1,768.82	\$ 1,768.82	
<b>LOGAN TOTALS</b>	<b>\$ 1,768.82</b>	<b>\$ -</b>	<b>\$ 1,768.82</b>	<b>\$ 1,768.82</b>	
<b>PUTNAM COUNTY</b>					
- County Commission	\$ 2,500.00	\$ -	\$ 2,500.00	\$ 2,500.00	
- Volunteer Fire Departments	\$ 9,025.55	\$ -	\$ 9,025.55	\$ 536.55	
- Other Subgrantees	\$ 19,161.82	\$ -	\$ 19,161.82	\$ -	
- Education	\$ 7,451.17	\$ 1,169,713.61	\$ 1,177,164.78	\$ 7,451.17	
- State Agencies	\$ 21,821.83	\$ 2,022.21	\$ 23,844.04	\$ 21,821.83	
<b>PUTNAM TOTALS</b>	<b>\$ 59,960.37</b>	<b>\$ 1,171,735.82</b>	<b>\$ 1,231,696.19</b>	<b>\$ 32,309.55</b>	
<b>ROANE COUNTY</b>					
- County Commission	\$ -	\$ -	\$ -	\$ -	
- Volunteer Fire Departments	\$ -	\$ -	\$ -	\$ -	
- Other Subgrantees	\$ -	\$ -	\$ -	\$ -	
- Education	\$ -	\$ -	\$ -	\$ -	
- State Agencies	\$ 274.73	\$ -	\$ 274.73	\$ 274.73	
<b>ROANE TOTALS</b>	<b>\$ 274.73</b>	<b>\$ -</b>	<b>\$ 274.73</b>	<b>\$ 274.73</b>	
<b>STATEWIDE</b>	<b>\$ 17,075.58</b>	<b>\$ -</b>	<b>\$ 17,075.58</b>	<b>\$ -</b>	
<b>ESTIMATED TOTALS</b>	<b>\$ 1,791,187.00</b>	<b>\$ 8,444,332.99</b>	<b>\$ 10,235,519.99</b>	<b>\$ 1,532,350.73</b>	

<b>DR-3366 - Costs under original declaration:</b>					<i>PA numbers from Direct Federal Assistance (DFA) not included in appeal amount from above</i>
- DR-3366: 25% Direct Federal Assistance	\$ 501,384.55	\$ 824,119.35	\$ 1,325,503.90	\$ 501,384.55	PA - Donated Resources for DFA; AI - Portion of 25% share not covered under Donated Resources