

Veolia and the Environment: A Bad Fit For Novato

Prepared By

Novato Friends of Locally Operated wastewater

The Novato Sanitary District, after more than 80 years of serving the needs of the residents of Novato, has entered into a 5 year contract, (6 years additionally if either party chooses) with Veolia Water West for operations, maintenance and management services of the new, \$90 million wastewater treatment facility.

Under the terms of the contract, NSD will no longer operate, maintain or manage its wastewater treatment facilities. In fact, the contract specifies that the District "cannot and will not control the means or manner of the Company's (Veolia) performance" of the services rendered under the contract. These facilities are responsible for processing potentially harmful wastewater, and are surrounded by sensitive environmental resources. The operational changes brought about by this contract will very likely result in significant impacts to the environment.

Overview of NSD Operations and Potential for Environmental Impacts

- All the sensitive resources identified below will be adversely impacted by sanitary sewer overflows within the District (e.g. CA clapper rail, CA black rail, steelhead, tidewater goby and salt marsh harvest mouse), several CA listed threatened or species of special concern (e.g., burrowing owl, western pond turtle, salt marsh common yellow throat, San Pablo song sparrow), and nesting and breeding birds and raptors including the fully protected white-tailed kite. If not properly maintained or operated, the NSD wastewater treatment facility can malfunction; discharging untreated or partially treated effluent into the environment and causing significant, adverse environmental impacts.

Sensitive Environmental Resources Near NSD's Facilities

- San Pablo Bay
- San Francisco Bay
- Novato Creek - comprises one of Marin's largest watersheds in Marin County & located within the Pacific Flyway & has been identified as a habitat for threatened steelhead trout, Chinook salmon and other State and Federally protected and endangered species.
- Freshwater wetlands
- Migratory birds of the Pacific Flyway, estuarine and anadromous fish and other wildlife that use the San Pablo Bay rely on a healthy ecosystem for their survival.

Nearly 55% of threatened and endangered species and up to 90% of commercial and recreational fish species in San Pablo Bay depend on wetland and riparian habitat for their survival.

- Numerous sensitive wildlife species exist in the immediate NSD facility vicinity including several federally listed endangered or threatened species.

THE FOLLOWING ITEMS COULD LEAD TO NEW, SIGNIFICANT ENVIRONMENTAL IMPACTS IN NOVATO:

- **Cost-cutting and lack of proper oversight**

- Private entities are intrinsically motivated by profit - results in reducing overall staffing levels, replaced experienced staff with unskilled maintenance crews and deferral of maintenance. This then reduces the service levels and creates a potential for equipment malfunctions, delayed emergency response and adverse environmental consequences.
- Failure to adequately provide oversight of Veolia's compliance with the contract. Senior management staff has not demonstrated they have the technical expertise and understanding of their new role in supervising a private contractor for the transition & operation of the new facility. They also did not take the precaution taken by other agencies and hire an outside consultant to assist in overseeing contract operations.

Without adequate oversight, Veolia will be left to pursue its private interests at the expense of the environment and the public interest.

- **Staffing changes resulting from contract**

- Substantial & significant shift in duties that will result in semi-skilled or unskilled employees operating or repairing critical facilities and equipment. e.g., Pump station maintenance – responsibility being shifted to the Collections Crew
- Inadequate staffing could result in inadequate response to emergencies and a greater risk of the release of untreated wastewater into the environment. e.g., Crisis situations such as Marin County storm events
- Employee turnover higher at privatized facilities because private contractors pay lower wages, which in turn fails to attract experienced wastewater treatment staff. e.g., Petaluma had 160 operators come & go during the private operation (20 years). Up until 2009 NSD has not had more than 25 operators come & go in the last 20 years.

- **Contract fee schedule encourages Veolia to defer maintenance and use substandard equipment in repairs while discouraging water conservation efforts**
 - Contract provisions create incentives that could have significant, adverse impacts on the environment.
 - ✓ \$15 million cap over 5 years to Veolia in contract may not provide sufficient rate of return on investment since no track record of new facility. There is no history of costs and expenses on which to base the cost estimates. If return is not great enough, then Veolia will likely seek to reduce its expenses by reducing staff or deferring maintenance and could result in potential environmental harm.
 - ✓ Contract provides that Veolia shall have the responsibility to provide general repairs and maintenance costs up to \$10,000 per event and is liable for instrumentation and control maintenance costs also up to \$10,000 per event. In an effort to reduce operations costs and maximize profits, Veolia may seek to cut costs by undertaking substandard repairs or using substandard replacement parts. Equipment could have shorter lifespan or may be more difficult to service. Alternately, since the District is responsible for repairs and maintenance over \$10,000 Veolia would have an incentive to delay relatively minor repairs that could ultimately end up with a major malfunction clearly exceeding the \$10,000 cap.
 - ✓ Take & Pay Contract - Structure of the contract provides disincentive for the District and Veolia to encourage water conservation because the District and its ratepayers are required to pay for a minimum amount of wastewater treatment, whether or not ratepayers use that capacity or not. This helps to stabilize the revenue for Veolia even if there are economic, rate or conservation-based causes for reductions in the facility flow – due to current severely constrained water supplies to the Novato residents and businesses this contract with the District will create a huge impediment to water conservation efforts and will do nothing to lessen the region’s contributions to green house gas emissions or potable water consumption.

- **Contract’s failure to ensure acceptable emergency response**

When emergencies occur, minutes lost can turn into an environmental disaster. For example, in the event of pump station failure, a backup in the sewer system can occur, leading to the discharge of untreated wastewater into the environment.

 - NSD Personnel Rules & Regulations require employees to live within 30 minutes by automobile of the NSD Treatment Plant – need to be able to respond expeditiously to emergency incidents
 - Contract proposes that employees “arrange their schedule of personal activities” so that they can be on “stand-by duty” to respond to emergencies
 - Veolia would most likely use a “regional response” to emergencies – use of personnel from other Veolia facilities (Richmond, Burlingame or Rio Vista)
 - ✓ Regional response poses particular risks for NSD since the NSD facility is located in a Federal Emergency Management Agency flood hazard zone. Flooding has historically influenced the area and Novato Creek in particular

with pump stations that can quickly become inundated under flooding conditions causing overflows to storm drains which flow into nearby waterways. The discharge of untreated or even partially treated sewage into nearby water bodies pose ecological consequences, particularly to species that rely on wetlands and creeks as habitat are sensitive to even nominal variations in water quality.

- **Liability Assignment Provisions of the Contract**

- Contract does not assign liability for regulatory compliance to Veolia under all circumstances
 - ✓ Not liable in the first 90 days of the contract
 - ✓ Not liable if there exist "uncontrollable circumstances" – e.g., floods, landslides and acts of God
 - ✓ Assignment of liability to Veolia cannot prevent SSO's (sanitary sewage overflows) and other potential environmental hazards.

In conclusion, the contract with Veolia subjects the residents of Novato to several levels of environmental concerns outlined above. Further, Veolia's abysmal environmental track record proves they are not the solution, but part of the problem. (See enclosed "Veolia Environment: A Corporate Profile", Water For All Campaign, Public Citizen, February, 2005 -excerpts only)

VEOLIA MISMANAGED OPERATIONS AND VIOLATIONS

CALIFORNIA Burlingame

Became the country's first privately managed sewer treatment plant in 1972, when a contract was awarded to U.S. Filter (bought by Vivendi/Veolia in 1999).

San Francisco Baykeeper brought a suit against Burlingame in 2008, accusing Veolia of dumping more than 10 million gallons of wastewater and untreated sewage over a 5 year period into the San Francisco Bay. Although the city and Veolia had begun a \$120 million improvement project, Baykeeper alleged the improvements were inadequate and the city settled out of court by agreeing to further upgrade treatment capacity. ("Money Down the Drain" p 16, Food and Water Watch, 2/09)

Richmond

In 2006, Veolia and Richmond were sued by San Francisco Baykeeper for "dumping more than 17 million gallons of sewage into tributaries...over the preceding three years". "Similar to Burlingame, Richmond had already initiated a capital improvement project at the time of the lawsuit. In 1999, years before the suit was filed, Richmond voters approved a \$20 million bond to pay for sewer repairs. Instead of immediately beginning the project, the city delayed and spent near three years privatizing its sewers."

"In 2002, the city gave the 20-year, \$70 million contract to Veolia, which promised to cut costs...An outside consultant concluded the sewers needed \$18 million worth of upgrades - nearly three times the \$6.4 million included in Veolia's plan".

Richmond settled out of court and agreed to pay millions in improvements to reduce sewer spills. "This suit was not the only costly consequence of Veolia's poor operation. For years, Richmond taxpayers had to shell out \$500,000 annually to compensate other residents and businesses for property damage by the sewer system."

Despite infrastructure improvements, in early 2008 the plant had 22 spills of more than 2 million gallons of sewage. ("Money Down the Drain", pg 16, Food and Water Watch, 2/09)

Petaluma

In 2007 Petaluma voted to take back management of its sewer system from Veolia (2 months before Fairfield - Suisun made the decision to take back its sewer operations from United Water for similar reasons).

"The city opted not to privatize the new plant after a cost analysis determined that public operation would be 'more efficient and effective than operation by a private contractor. Petaluma expects to save \$1.6 million over the first three years. That's an astonishing 18 percent on the total cost of operating the [water] recycling plant". ("Money Down the Drain, pg 26, Food and Water Watch, 2/09)

PROBLEMS WITH VEOLIA CONTRACTS ACROSS THE COUNTRY

Lynn, Massachusetts - In 1999 Lynn city council, led by a pro-privatization mayor, voted to approve an expensive 20 year, \$48 million dollar contract with U.S. Filter (Veolia) to upgrade its problematic and aging sewer system. The city signed a weak contract that left it liable for expenses due to sewer overflows and flooding as a result of poor design or workmanship in the quality of system upgrades by U.S. Filter.

In 2004 the city was forced to end the contract, and resume plant operations "after discovering that the water corporation's required \$15 million letter of credit expired in 2001." ("Money Down the Drain", pg 13, Food and Water Watch, 2/09)

The company had "failed to stay adequately bonded". (Veolia Environment: A Corporate Profile, pg 7, Public Citizen, 2/05)

The city lost \$22 million in the flawed privatization deal and Massachusetts's Inspector General found that "Lynn's leaders failed to protect 'the taxpayers from a bad deal'". He also found that the city's contract with U.S. Filter, which allowed the company to downsize staffing by 20%, would reap greater profits without lowering rates for Lynn's residents. The inspector general also concluded that the city's own staff study used to promote U.S. Filter was highly flawed and "a smokescreen to divert attention from the unreasonably high price for U.S. Filter's proposed work". ("Money Down the Drain", pg 13, Food and Water Watch, 2/09)

Rockland, Massachusetts - "Rockland terminated Veolia's contract to run the town's sewer plant in February 2004, amid embezzlement charges involving a sewer department official and a local company executive. The men were charged with embezzling more than US\$300,000 from the Rockland Sewer Department. The termination came on the heels of a forensic audit that suggested the bidding process by which Veolia was selected to run the plant was rigged, as well as an investigation by the Massachusetts Office of the Inspector General into whether the

original bidding process was rigged in Veolia's favor." ("Money Down the Drain", pg 13, Food and Water Watch, 2/09)

Lee, Massachusetts - In 2004, Lee town representatives voted down a Veolia proposal to run the city's water and wastewater systems. The contract was "riddled with holes and omissions. The city would have been saddled with any number of costs, ranging from excavation to testing to administrative tasks. The company reserved for itself the right to set rates for treatment of 'trucked-in waste from outside of town', reflecting a scheme to turn Lee's wastewater treatment facilities into a regional waste plant/Veolia profit stream". (Veolia Environment: A Corporate Profile, pg 8, Public Citizen, 2/05)

Danbury, Connecticut - "Danbury, Conn. Wanted an easy way to balance its municipal budget, so in 1997, the city leased its sewers to U.S. Filter, in exchange for a \$10 million upfront payment." "The corporation planned to recover the cash advance over 20-year term through annual management fees of \$3.1 million from the city."

"In effect, the city will end up paying \$22 million for the \$10 million windfall. A concession fee is like an expensive loan that the city repays off the back of its residents."

"Charles Conway of EPA criticized Danbury's decision as shortsighted". "Many municipal officials are using these concession fees for short term gain at the expense of the long term viability of their wastewater infrastructure". ("Money Down the Drain", pg 21, Food and Water Watch, 2/09)

Wilmington, Delaware - "In 1997, Wilmington entered into a 20-year, \$164 million lease agreement with U.S. Filter. The company paid the city \$1 million for administrative costs and promised to make \$13 million in capitol improvements."

But, U.S. Filter "failed to make necessary upgrades and repairs", leading to years of sewage spills, environmental violations and state fines. Horrendously foul odors continue to be a problem and as do "sewage overflow outlets [that] send more than a billion gallons of contaminated wastewater into area waterways every year".

The city has also become embroiled in contract disputes with Veolia and county officials who challenged a 55% rate hike that the city tried to impose on county wastewater. ("Money Down the Drain", pg 22, Food and Water Watch, 2/09)

Houston, Texas - "scandal and incompetence marred the city's water privatization experience. In 1996 a federal investigation began on alleged questionable financial transactions involving consultants hired by PSG a subsidiary of Veolia (then Vivendi). The company hired high-profile consultants to lobby city officials around two big-ticket deals, both of which came to naught. It unsuccessfully rebid for a contract to operate the city's Southeast Water Purification Plant and tried, unsuccessfully, to get the city to privatize its Public Utilities Division."

United Water won the water treatment plant contract, to be supplanted in 2001 by Enron's Azurix (now American Water).

"After a legal fight [with American Water] in 2007, the city gave the boot to American Water, too, deciding once-and-for-all to bring the operation in-house. The city expects to save an impressive 17 percent, or \$2 million, operating the plant with public employees." ("Money Down the Drain", pg 24, Food and Water Watch, 2/09)

Angleton, Texas - "Angleton terminated a contract with Veolia for non-performance, and took the company to court, charging [that] it breached its contract by failing to maintain adequate staffing levels, not submitting capital project reports and charging improper expenses to the maintenance and repair tab picked up by the city". ("Veolia Environment: A Corporate Profile", pg 7, Public Citizen, 2/05)

New Orleans, Louisiana - "The ill fated consideration [of privatizing its sewer and water operations] ran up a price tag of roughly US\$5 million over more than five years and a pair of mayors". "the bid submitted by Veolia Water ...was so laden with uncertainties, inadequacies, omissions and other problems that New Orleans officials could not credibly assess the much promised savings." ("Veolia Environment: A Corporate Profile, pg 6, Public Citizen, 2/05)

New Orleans was also the city of Veolia's (then Vivendi) biggest U.S. sewage spill. In 2001 raw sewage backed up into the East Bank Sewage Treatment Plant, after an electrical fire disrupted operations, and was "diverted into the Mississippi River for two hours before the plant returned to operation. A city councilmember stated he was told that U.S. Filter knew of a serious equipment problem for weeks but "took no action". Broken incinerators had also caused problems with sludge processing in the preceding months. ("Money Down the Drain", pg 5, Food and Water Watch, 2/09)

Woonsocket, Rhode Island - The city decided to privatize in 1999, granting U.S. Filter a 20 year, \$75 million contract. The company agreed to upgrade the city's sewer facilities.

Years of serious sewage spills, violations and fines followed in 2001, 2002, 2005, 2007 and 2008. "By 2008, the plant had been out of compliance with the Clean Water Act for at least three years. In total, over the preceding five years, the state Department of Environmental Management issued seven informal enforcement actions and five formal actions against the treatment plant."

The plant's manager was ordered to attend a remedial training program, sponsored by the state, "called Wastewater Management Boot Camp". ("Veolia Environment: A Corporate Profile, pg 23, Public Citizen, 2/05)

Indianapolis, Indiana - "In 2002 Veolia signed a 20 year, \$1.1 billion contract to privatize water service to more than a million people."

Since then, residents have brought lawsuits against Veolia twice, once for breaking state contract law, and once for overcharging 250,000 residents. Non-union employees have had pension, health care and benefits cut "costing them \$50 million over the 20-year contract".

The city has the second worst drinking water in the country. A grand jury has subpoenaed four Veolia employees for allegations of falsifying water reports. The grand jury investigated accusations by city and county officials that Veolia was skimping on staffing, water testing, maintenance and chemicals.

("A Closer Look: Veolia", Food and Water Watch Fact Sheet, 7/08)

RECENT VIOLATIONS AND ACCIDENTS

West Carrollton, Ohio

"On May 4th, 2009, a Veolia Environmental Service's plant in West Carrollton, Ohio exploded. The blast leveled two buildings on the property, which were a laboratory and a building that had

several 200,000-gallon chemical tanks. This particular plant handles fuel blending among other services. Two workers at the plant were injured in the blast. The explosion caused \$50 million in damage to the plant itself. More than a dozen homes up to a mile radius from the blast were also damaged due to the explosion."

(Wikipedia, the free encyclopedia, www.wikipedia.org)

Meadville, Pennsylvania

March 14, 2009 - "The Department of Environmental Protection has fined Veolia ES Solid Waste of Pennsylvania Inc. \$160,278 for a number of violations in northwest Pennsylvania related to vehicle licensing and failing to abide by the terms of its permit.

(Pennsylvania Department of Environmental Protection, www.depweb.state.pa.us/news)

May, 2009 - "The Pennsylvania Department of Environmental Protections (DEP) has fined Veolia ES Solid Waste of PA Inc. more than \$11,200 for residual and municipal waste violations last fall in Cameron and Centre counties.

DEP inspectors responded to a complaint at GKN Sinter Metals in Emporium, Pennsylvania in November 2008. A few days earlier, the driver of a Veolia truck with a roll-off dumpster was observed draining an estimated 100 gallons of dilute coolant and rust preventative into a storm drain at the garbage dock.

The drain led directly to a DEP-permitted outfall that empties into the Driftwood Branch of Sinnemahoning Creek."

(www.americanrecycler.com) ("DEP Fines Veolia for Residential, Municipal Waste Violations in Centre, Cameron Counties", www.gantdaily.com, 4/1/09)

Port Arthur, Texas

June 19, 2008 - "Now, if a French-owned waste management company has its way, the Port Arthur area will be the final destination for 40 million pounds of toxins from Mexico".

"Despite a federal ban on importing PCBs or polychlorinated biphenyls, the company, Veolia Environmental Services, has asked the Environmental Protection Agency for an exemption to move the chemicals by truck from Mexico and to burn them at its incinerator just outside Port Arthur. The incinerator has been disposing of the United States' PCB waste since 1992.

In March, the E.P.A. gave tentative approval."

("Tons of PCBs May Come Calling at a Down-at-the-Heels Texas City", by Adam B. Ellick, New York Times, 6/19/08)

Veolia Environment Company Overview and History

A special report by Public Citizen's
Water for All program.
February 2005

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This document can be viewed or downloaded www.wateractivist.org

U.S. Subsidiary: Veolia North America

Major subsidiaries: Veolia Water, Veolia Water Solutions and Technologies, Veolia Environmental Services (waste management), Veolia Energy and Veolia Transport (Wikipedia: Veolia Environment, July, 2009)

Veolia (then Vivendi) purchased U.S. Filter in 1999.

Size:

Veolia is the largest water and wastewater corporation in the world. Veolia North America is the largest private operator of U.S. municipal water and wastewater systems." ("Money Down the Drain - How Private Control of Water Wastes Public Resources", Food and Water Watch, February, 2009)

"As of 2003, Veolia Environment operated in 84 countries with roughly 300,000 employees worldwide and revenues of US \$37.58 billion - more than half from outside France, primarily in Asia, Australia, North America and elsewhere in Europe. Net income in 2003 was US \$2.3

billion." ("Veolia Environment: A Corporate Profile", pg 2, Water For All Campaign, Public Citizen, February, 2005)

"Currently about 70% of the international privatized water business is dominated by just two companies, Veolia and Suez.... With that kind of market control, the two companies find that collaboration can really pay off. They have created joint subsidiary companies in a number of cities and regions, so that they are sharing their profits instead of competing against each other." ("Veolia Environment: A Corporate Profile", pg 3, Water For All Campaign, Public Citizen, February, 2005)

U.S. Wastewater and Water Contracts

Veolia has government operating contracts with 42 wastewater facilities and 26 water facilities. Reported \$380 million in wastewater/water contracts in the U.S. in 2003. ("Veolia Environment: A Corporate Profile", pg 5, Water For All Campaign, Public Citizen, February, 2005)

California wastewater contracts

Richmond (2002) - sewer

Burlingame (1972) - sewer

Rialto (2003) - sewer

Palm Springs (1999) - sewer

Discovery Bay (2009) - sewer

Lathrop (2003) - sewer

Diablo Grande (Patterson) (2003) - sewer

Atwater (1991) - sewer

Arvin (1998) - sewer

International Boundary and Water Commission Wastewater Treatment Facility (1996) sewer

Parent Company - Vivendi's history - mismanagement, embezzlement, bribery

Veolia was created in 2002 when parent company, Vivendi Universal, sold off a majority stake in its water subsidiary, Vivendi Environment and renamed it Veolia. Vivendi had engaged in a decade long merger spree that resulted in "serious legal, financial and debt problems" and was seeking to jettison its debt load.

"Vivendi's credit rating was reduced to 'junk' status and the company's board forced the resignation of former CEO, Jean-Marie Messier". Messier was convicted and fined a million dollars for fraud by the U.S. Securities Exchange Commission, and denied a \$25 million severance package. "In 2003, the U.S. Securities Exchange Commission settled a civil fraud action against Vivendi, and Vivendi's shareholders sued the company for \$54 million dollars to cover the U.S. civil fine and legal costs. Messier was also fined and convicted in France. ("Veolia Environment: A Corporate Profile", pg 1, Water For All Campaign, Public Citizen, February, 2005)

Vivendi started out as the French water company Compagnie Generale des Eaux in 1853. "Over the past century and a half, General des Eaux/Vivendi gained water concessions all over France. As part of their contracts Vivendi set aside a portion of revenues to be saved for maintenance and repair of the water system. A recent book by former Vivendi employee, Jean-Luc Touly, and investigative journalist Roger Lenglet, reveals that by 1996 Vivendi's "capital improvement" account added up to 27 billion Francs which were then invested in a reinsurance company, General Re Financial Products. Lenglet and Touly claim that these funds were then used to finance Vivendi's ill fated end of the century buying spree....leaving Vivendi with a multi-billion

dollar debt and the citizens of France with aging pipes in desperate need of rehabilitation." ("Veolia Environment: A Corporate Profile", pg. 1-2, Water For All Campaign, Public Citizen, February, 2005)

"In mid-1996, 5 out of the 13 directors on the main board of Vivendi/Generale des Eaux were under investigation for corruption (mostly in connection with their jobs in other companies)."

Some of the major U.S./European convictions are:

Strasbourg, France, 1991 - Resignation of mayor and councilmember over paybacks from Vivendi, Saur and Suez.

St. Denis/Isle de la Reunion, France, 1996 - Two Vivendi executives convicted of bribing the mayor in order to obtain a contract.

Angouleme, France, 1996 - Mayor convicted of accepting a bribe from Vivendi in exchange for a contract.

Milan, Italy, 2001 - Vivendi water manager convicted of bribery, received prison sentence. City councilmember convicted of receiving \$2 million bribe received 3 year prison sentence.

New Orleans, Louisiana, 2001 - PSG (a Vivendi/U.S. Filter subsidiary) executive convicted of bribery in seeking wastewater contract extension. Fined \$3 million.

Bridgeport, Connecticut, 2002 - Mayor convicted on 16 counts including taking kick backs, bribes and extortion, along with 8 other defendants over a PSG (Vivendi) contract proposal. ("Veolia Environment: A Corporate Profile", pg 3, Water For All Campaign, Public Citizen, February, 2005)

Rockland, Massachusetts, 2004 - "Rockland terminated Veolia's contract to run the town's sewer plant in February 2004, amid embezzlement charges involving a sewer department official and a local company executive. The men were charged with embezzling more than US\$300,000 from the Rockland Sewer Department." ("Veolia Environnement: A Corporate Profile", pg 7, Water For All Campaign, Public Citizen, February, 2005)