

**BEFORE THE UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

FARDIN OLIAEI,)	
)	
Complainant,)	
)	
v.)	
)	
MINNESOTA POLLUTION CONTROL AGENCY;)	Case No. _____
)	
)	
SHERYL CORRIGAN; MIKE SANDUSKY; MARVIN HORA; DOUGLAS HALL; AND PAUL HOFF.)	
)	
)	
Respondents.)	

COMPLAINT

I. INTRODUCTION

This is a complaint by Dr. Fardin Oliaei against the Minnesota Pollution Control Agency (MPCA) and Sheryl Corrigan, Mike Sandusky, Marvin Hora, Doug Hall, and Paul Hoff (employees of the Minnesota Pollution Control Agency) for discrimination under several Federal environmental statutes. Dr. Oliaei requests an investigation of her complaint.

Specifically, Dr. Oliaei is being subjected to a campaign of harassment at MPCA because of her efforts - as required by her position as an MPCA research scientist focusing on emerging contaminants – to study, test and monitor various emerging contaminants in Minnesota, specifically including perfluorochemical compounds (PFCs) that had been manufactured by Minnesota Mining and Manufacturing (3M). Dr. Oliaei is responsible for bringing to the public’s attention important environmental issues impacting public health through disclosures to her managers, Minnesota Public Radio and other media, and to members of the Minnesota Legislature. The accumulation of the harassment Dr. Oliaei experienced has caused her significant physical illness, such as intense headaches, episodes of stress-induced sclerosis, temporary vision loss, extreme anxiety and depression, and is affecting her reputation and career. This harassment includes degrading and unfair e-mails from her supervisors, micro-management of her work, receipt of an unfounded disciplinary reprimand, discriminatory treatment, and threats of job loss.

II. JURISDICTION

This Complaint is brought pursuant to the employee protection provisions of the Resource, Conservation and Recovery Act (RCRA), 42 U.S.C. § 6971; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9610; the Clean Water Act (CWA), 33 U.S.C. § 1367; and the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300j-9. Complainant Fardin Oliaei works as a Research Scientist in the Minnesota Pollution Control Agency. Complainant raised several significant concerns about the impacts of contamination and dangerous pollutants with her managers, the public, members of the Minnesota Legislature, and the media. As a result of raising these concerns, the Complainant has been subjected to a reprimand and continuing harassment.

The elements of a valid claim under the employee protection provisions contained in the above-referenced Federal environmental statutes are:

1. That the employee engaged in protected activity;
2. That the employer knew that the employee engaged in protected activity;
3. That the employee was discharged or otherwise discriminated against with respect to compensation, terms, privileges, or conditions of employment; and
4. That the alleged discrimination arose because the employee was engaged in activity protected by the statute.

Deford v. Secretary of Labor, 700 F.2d 281, 286 (6th Cir. 1983); *Mackowiak v. University Nuclear Systems, Inc.*, 735 F.2d 1159, 1162 (9th Cir. 1984); 29 C.F.R. § 24.2.

The employee protection provisions of the environmental statutes are remedial in nature and are to be broadly construed by the Department of Labor and the courts. *Deford v. Secretary of Labor*, 700 F.2d 281, 286 (6th Cir. 1983); see also, *Kansas Gas & Electric Company v. Brock*, 780 F.2d 1505, 1511 (10th Cir. 1985). Regardless of which statutory language is applied, the courts and the Secretary of Labor have construed employee protection provisions very broadly.

Moreover, as the plain language of the Department's regulation (29 C.F.R. § 24.2) demonstrates, the Secretary has interpreted all employee protection provisions in a like manner:

Obligations and prohibited acts.

- (a) The several statutory employee protection provisions listed in § 24.1, provide that no employer subject to the provisions of the Federal statute of which these protective provisions are a part may discharge any employee or otherwise

discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee, or any person acting pursuant to the employee's request, engaged in any of the activities specified in paragraph (b) of this section.

(b) Any person is deemed to have violated the particular federal law and these regulations if such person intimidates, threatens, restrains, coerces, blacklists, discharges, or in any other manner discriminates against any employee who has:

(1) Commenced, or caused to be commenced, or is about to commence or cause to be commenced a proceeding under one of the Federal statutes listed in § 24.1 or a proceeding for the administration or enforcement of any requirement imposed under such Federal statute;

(2) Testified or is about to testify in any such proceeding; or

(3) Assisted or participated, or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of such Federal statute. [29 C.F.R. § 24.2]

Accordingly, Dr. Oliaei requests that her complaint be investigated and judged in conformance with the Department's liberal interpretation of the employee protection provisions and as required by their remedial intent.

As is discussed more fully herein, Dr. Oliaei meets all of the elements necessary to find that the requirements of the employee protection provisions of the Federal environmental statutes and the implementing regulations have been violated resulting in damage to her and her career. Complainant will gladly provide any additional information the investigator may need to evaluate Complainant's claims.

The litany of harassment against Dr. Oliaei relative to this complaint has continued from 2002 to the present, with the most recent incidents occurring between April 13, 2005, and May 11, 2005, being the proverbial straw that broke the camel's back. This Complaint was filed with the Department of Labor and the Occupational Safety and Health Administration in Eau Claire, Wisconsin on May 13, 2005. Therefore, this complaint has been filed in a timely fashion.

III. PARTIES

The respondents Corrigan, Sandusky, Hora, Hall, and Hoff are supervisors at MPCA that employed Complainant Oliaei from 1988 to the present as a Research Scientist. MPCA is responsible for, among other things, environmental compliance with CERCLA, RCRA, CWA, and SDWA and protection of the environment and ground waters in accordance with Minnesota Statutes and Rules. Dr. Oliaei can be contacted through the undersigned attorneys. Sheryl Corrigan, Mike Sandusky, Marvin Hora, Doug Hall, and Paul Hoff may be contacted at:

Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155-4194; Phone: 651-296-6300, 800-657-3864.

IV. BACKGROUND

Dr. Oliaei was hired as a Research Scientist in 1988 to work on MPCA programs related to persistent bioaccumulative toxic pollutants, and later to work in the emerging contaminant program of the MPCA, Dr. Oliaei's position is the MPCA emerging contaminant coordinator. As the emerging contaminant coordinator Dr. Oliaei is tasked with evaluating emerging contaminants that may cause negative impacts to the environment and public health in Minnesota. Emerging contaminants are generally pollutants such as synthetic chemical or their by products that have not previously been regulated and may not be thoroughly understood. However emerging contaminants have been shown to cause toxicity or other negative impacts, including cancer, to humans and other organisms. The lack of knowledge of the processes controlling contaminant transport and fate in the environment, and of the magnitude of exposure to ecological species and humans, has increased the need to study the presence of these contaminants in the environment in order to ensure protection of human health and the environment.

In about 2000 the MPCA became aware of new emerging contaminants that have been manufactured by Minnesota Mining and Manufacturing (3M). These new chemical contaminants were perfluorochemical compounds (PFCs) that had been manufactured by 3M for approximately 50 years to make products that resist heat, oil, stains, grease and water. 3M was the sole manufacturer of these PFCs chemicals. PFCs are characterized by chains of carbon atoms of varying lengths, to which fluorine atoms are strongly bonded, yielding very stable and persistent chemicals. PFCs have been used in Teflon, Stainmaster, Scotchgard and Gore-Tex to prevent food from sticking to pots and pans, repels stains on furniture and rugs, and makes the rain roll off raincoats. Industry makes use of the slippery, heat-stable properties of PFCs to manufacture everything from airplanes and computers to cosmetics and household cleaners.

The 3M PFC compounds were also sold to other companies which used the PFCs in other products, such as food wrappers, clothing, fire retardants, cookware, and hundreds of other uses and products. In about 1997, through inadvertent blood testing conducted on Red Cross human blood samples, 3M found that the human blood serum in these blood samples contained unexpectedly high levels of PFCs. Thereafter in 1999 3M commissioned a study through Michigan State University to determine the extent of PFC contamination in the environment. Through this study 3M found that PFC contamination was very wide spread, showing up at very high concentrations in animals and in the human population across the world. Subsequent studies commissioned by 3M found that the PFCs were extremely bioaccumulative in that concentrations increased significantly through the food chain. Further studies also determined

that specific fluorochemical compounds, notably PFOS (Perfluorooctane Sulfonate) and PFOA (perfluorooctanoic acid), caused toxicity to laboratory tested animals. Toxicity tests determined that these PFCs caused liver toxicity, endocrine (hormone) disruption, and cancer. The PFC compounds were found to be extremely persistent in that they do not degrade in the environment. In addition, certain PFC compounds, PFOS and PFOA, remain for relatively long periods in human blood serum.

3M operates a manufacturing plant at Cottage Grove, MN called the 3M Cottage Grove Center, formerly called the 3M Chemolite Plant. The 3M Cottage Grove Center and a 3M plant located in Decatur, Alabama plant were the only manufacturing facilities in the United States which made these PFC chemicals. In about 2001 3M informed the MPCA of the results of the numerous studies 3M had conducted regarding the PFC widespread contamination problem. 3M also noted that it had detected these PFC compounds in groundwater below the 3M Cottage Grove Center site at relatively high levels and also had found PFC concentrations at relatively high levels in 3M's wastewater plant discharge to the Mississippi River.

As emerging contaminant coordinator Dr. Oliaei reviewed the numerous studies 3M had commissioned to be conducted regarding these PFC compounds, including data on toxicity, bioaccumulation, environmental degradation, physical characteristics, and other studies including the carcinogenicity of PFC compounds. Based on the alarming information developed concerning the toxic effects of these compounds, the fact that the 3M Cottage Grove Center was one of the 2 facilities engaged in manufacture of these PFC compounds in the U.S., and the finding that certain PFC compounds had already been found to have contaminated the groundwater below the 3M Cottage Grove Center site, Dr. Oliaei became appropriately concerned of the importance of initiating further study to determine the extent of PFC contamination in Minnesota.

Pursuant to her role as emerging contaminant coordinator at the MPCA, and after reviewing the toxicity and related data for the PFC contamination, in 2001 Dr. Oliaei requested that a study be completed to examine the PFC compounds (PFOS) in fish collected at Voyageurs National Park. Analysis on these fish found that PFCs were detected in half of the fish samples. Based on this study finding the presence of these PFCs in a relatively remote area, Dr. Oliaei proposed to MPCA management that a more comprehensive study be conducted to evaluate the potential extent of PFC contamination resulting from 3M manufacturing and disposal practices in Minnesota. Dr. Oliaei proposed a study with a total analytical cost of about \$180,000 to examine PFCs as well as other related emerging contaminants. MPCA management responded to Dr. Oliaei and rejected her request. After her proposal was rejected, Dr. Oliaei went to MPCA management (Marvin Hora) and tried to convince Mr. Hora to support her study request. Mr. Hora requested that Dr. Oliaei lower her study cost and reduce the scope and extent of the study. Subsequently Dr. Oliaei reduced the study so that the cost was lowered to \$14,000. Unfortunately, even this very limited study proposal was rejected.

After Mr. Hora rejected Dr. Oliaei's PFC study request, and due to her belief that it was critical to begin evaluation of the extent of the PFC contamination in Minnesota, Dr. Oliaei met

with the MPCA Commissioner Sheryl Corrigan to ask that she consider and approve of Dr. Oliaei's PFC study proposal. At that meeting, which took place in 2003, Commissioner Corrigan (a former manager of 3M) told Dr. Oliaei that the MPCA was not a research institution and that if Dr. Oliaei has a passion for this kind of work, she strongly suggested that Dr. Oliaei look for another job. In addition, Commissioner Corrigan stated that the MPCA was not a place for Research Scientists.

The MPCA is charged with protection of the environment, which includes the protection of surface and groundwaters, air, land, and protection of environmental contaminant impacts on human health. Pursuant to discovery of the 3M PFC contamination problem, and nearly 2 years after Dr. Oliaei's initial requests to study the extent of PFC contamination in Minnesota, the MPCA and the Minnesota Department of Health (MDH) eventually determined that PFC contamination had occurred in groundwater at 2 former 3M disposal sites in Minnesota. These sites are the Washington County Landfill in Lake Elmo, MN and the Oakdale Dump site in Oakdale, MN. The Oakdale Dump is a site where 3M buried contaminated wastes and solvents, including PFC wastes, in the past and is a Superfund clean up site on the Federal National Priorities List under Superfund (*i.e.*, CERCLA). The Washington County Landfill is a site east of the Oakdale Dump near Lake Jane in Washington County where 3M had buried contaminated wastes including PFC wastes. Groundwater monitoring of homeowner wells located near the Washington County Landfill site later in 2004 and early 2005 determined that a number of wells were contaminated with PFC compounds (PFOS and PFOA). A number of these wells contained PFC (PFOS) contamination in excess of drinking water standards (health based values) developed by the Minnesota Department of Health for these compounds.

As a result of the rejection of Dr. Oliaei's initial request in 2003 to study the PFC contamination problem, a determination of the extent of the PFC contamination problem was significantly delayed. This resulted in an unnecessary extension of PFC contamination of residents' drinking water - contrary to state and Federal environmental protection mandates. As discussed below Dr. Oliaei was subjected to unfair treatment, harassment, and threatened with job loss for her continued diligence in performing her job duties and protecting the environment. Subsequently she suffered severe physical ailments due to the unfair treatment and harassment.

Dr. Fardin Oliaei's Position and Duties as a Research Scientist III and Emerging Contaminants Coordinator

Dr. Oliaei has been employed by the MPCA since 1988. Since December 2000, she has held the classification of Research Scientist III and has been designated as the MPCA's Coordinator of the Emerging Contaminants. The major duties of her position included, but were not limited to:

1. Direct and coordinate scientific research on the "emerging contaminants" with PBTs and endocrine disruptive characteristics (PBDEs and related compounds, Brominated D/F, pharmaceuticals, PFOS/PFOA and etc). As the Agency's technical expert, provide scientific and programmatic leadership on the issues related to the emerging

contaminants. Maintain abreast of the latest scientific information and regulatory development on emerging contaminants so that these are incorporated into the state planning processes.

2. Represent the Agency as a scientific expert, liaison, and critical state contact in the emerging contaminants activities of the USEPA, Great Lakes Binational Strategy (BNS) and in other related national and international programs.
3. Communicate research findings and bring the MPCA up to date on many of the issues involving “emerging Contaminants”. Updates include environmental presence, sources, transport and fate, toxicity, exposure, risk and health impacts of these contaminants to human, wildlife and aquatic life.
4. As the technical coordinator build partnership between PCA and other sister agencies (MDH, DNR, and Ag. dept.), EPA, and university researchers for ongoing discussions, sharing of information related to the emerging contaminants.
5. Assess the current regulations and programs already in place that may be addressing reduction of emerging contaminants of concern, identify unregulated emerging contaminants of greatest potential risk to human health and the MN environment, rationale of why these contaminants need to be regulated
6. Define where the Agency should go from here with respect to future directions in emerging contaminant research and policy.
 - Lead the development of a monitoring program to fill in data gaps in MN
 - Lead the development and implementation of a statewide strategy to evaluate chemicals of emerging concern in Minnesota
 - Coordinate and lead scientific investigations in order to address possible sources, environmental fate and toxicity of emerging contaminants.
 - Recommend tools for assessing, monitoring, and managing the risk associated with these pollutants.
7. Conceive and seek funding for research projects and submit proposals to appropriate funding bodies (i.e. GLNPO, EPA, LCMR)
8. Attend national and international conferences related to the emerging contaminants and maintain an active role in the scientific research community concern with issues related to emerging contaminants.

According to her position description, Dr. Oliaei’s clientele included the citizens of Minnesota,

anglers and environmental groups, all political subdivisions (including cities, counties, townships and sanitary districts), Federal government agencies including the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, etc. Minnesota State Agencies including the Department of Natural Resources, Department of Health, University and Governmental Research organizations and the Minnesota Pollution Control Agency staff.

V. CORRIGAN, SANDUSKY, HORA, HALL AND HOFF TOOK ADVERSE EMPLOYMENT ACTIONS AGAINST DR. OLIAEI

Dr. Oliaei experienced a number of adverse employment actions by MPCA supervisors and management including, but not limited to, the following:

In 2003 Dr. Oliaei was asked to attend a meeting by EPA Region V at EPA headquarters in Chicago to present her work regarding emerging contaminants. Dr. Oliaei's supervisor at that time, Doug Hall, rejected Dr. Oliaei's request to attend the EPA meeting and instead chose to send a newly hired and far less experienced staff member. When asked why she could not attend the EPA meeting to present her work, Mr. Hall stated to Dr. Oliaei that "I have the power to send whoever and you just better live with it". Dr. Oliaei stated that she had made arrangements for less costly travel expenses so that both she and the less experienced staff member could attend the meeting. Mr. Hall rejected this. However, Mr. Hall subsequently told the MPCA staff member scheduled to attend the meeting that she should have her husband travel with her to the EPA meeting and share the accommodations. This scenario allowing a far less experienced MPCA staff member to attend an EPA meeting to discuss Dr. Oliaei's own work is clearly an attempt to discredit Dr. Oliaei with her peers and cause harassment.

In 2003 Dr. Oliaei asked to present a paper on her work regarding emerging contaminants at a conference in Boston, Massachusetts. Her supervisor, Doug Hall, and manager, Marvin Hora, approved of her travel request to the conference but only approved to pay for the first 2 days and the fifth day of the conference, when she gave her presentation. Dr. Oliaei had to pay her own expenses to attend the scientific conference for the other days, even though she had already traveled to the conference location. This absurd requirement by her supervisor and manager was clearly discriminatory since other MPCA staff traveling to other conferences, especially when giving a presentation on work related to MPCA projects, are not required to separate out and pay for any portion of their expenses. This action was meant to discredit Dr. Oliaei and cause harassment. This type of incident was routine with Dr. Oliaei in that she often did not receive approval for expenses to attend conferences related to her MPCA work as emerging contaminants coordinator and her position as MPCA representative to the EPA Bi-national Toxic Strategy – Dioxin-like Compounds Workgroup.

At a meeting with manager Marvin Hora discussing Dr. Oliaei's request to conduct the study of the PFC contamination problem Mr. Hora stated that if Dr. Oliaei kept pushing the fluorochemical issue he would terminate the entire emerging contaminant program, further stating that "I have the power and I will terminate the program and you are the only one in this

program”. This statement by manager Hora was a clear threat of job loss and harassment.

In December 2003 Dr. Oliaei received an unfavorable performance review from her supervisor, Doug Hall. Mr. Hall stated that the poor performance rating was due to Dr. Oliaei’s persistence in pushing to study certain issues such as emerging contaminant problems, including the 3M PFC contamination problem. Mr. Hall further stated that Dr. Oliaei pushing on these issues was inconsistent with the MPCA’s priorities. A Division Manager, Mike Sandusky, also stated that people’s perception of Dr. Oliaei was that she was selfish and self centered. These statements by Mr. Sandusky did not reflect the opinions of Dr. Oliaei’s peers who view her as very professional and competent, easy to work with, and very hard working. In fact, Dr. Oliaei has an excellent reputation as a result of her hard work, professional conduct, and productivity, at the MPCA, the EPA and at other institutions and organizations - regionally, nationally, and to some extent internationally. Dr. Oliaei was merely pursuing study on emerging contaminants in accordance with her job duties and position description. The poor performance rating was clearly in retaliation for her efforts to study the 3M PFC contamination issue and protect public health.

In December 2003 Dr. Oliaei spoke with MPCA Human Resources Director, Denise Legato, while working at home to discuss her performance evaluation from Mr. Hall. Ms. Legato told Dr. Oliaei that Mr. Hall was very unfair in his performance review and believed that Mr. Hall had no interest in listening to Dr. Oliaei and that he had a different agenda. Ms. Legato stated that MPCA management was working to find a way to get rid of her, and that so far they could not find an excuse to fire her, so they keep trying to create a stressful environment for her to push her out the door.

In 2003 Dr. Oliaei met with MPCA Commissioner Corrigan to request that her 3M PFC study proposal, rejected by MPCA managers, be approved. Commissioner Corrigan, a former manager at 3M prior to accepting the MPCA Commissioner position, stated that Dr. Oliaei go somewhere else to do scientific work, rejecting her 3M PFC study proposal. This statement by the MPCA Commissioner was clearly a threat to Dr. Oliaei’s job and caused harassment.

In 2004 Dr. Oliaei requested travel to a conference in Berlin, Germany to attend and present at an international conference on Dioxins, related to her work as emerging contaminant coordinator. Her request for MPCA travel expenses was denied. Dr. Oliaei attended the conference at her own expense. In addition, Dr. Oliaei was required to use vacation leave to attend the conference, even though she paid her own expenses and the conference was very pertinent to her MPCA work. This action was clearly discriminatory since other MPCA staff have attended conferences but have not been required to use vacation time to attend conferences and/or training related to their MPCA work. Also in October 2004 Dr. Oliaei was asked by EPA to present work on emerging contaminants at an EPA meeting in Madison, Wisconsin. Dr. Oliaei requested expenses to attend the EPA meeting but was denied. Dr. Oliaei attended the EPA meeting, representing the MPCA, without any MPCA support.

Since 2002, due to public requests, Dr. Oliaei has been asked by the MPCA Public Information Officers (PIO) to prepare fact sheets on PFCs. Several times she spent 3-4 hours preparing such fact sheets and other related information, but it was never used or published. Later Dr. Oliaei found out that Mike Sandusky and Marvin Hora had told PIO not to even think about publishing her statements in regard to these chemicals in any of the MPCA publications. In fact, on one occasion a PIO officer came to Dr. Oliaei's office and, disappointedly, told her, "Fardin do not waste your time any more, we were ordered from above not to publish your information related to the PFCs."

In February 2005 Dr. Oliaei gave interviews with Minnesota Public Radio (MPR) for a one-hour program that MPR was producing, featuring the 3M PFC contamination problem. The interviews Dr. Oliaei gave were sanctioned by the MPCA, and in one instance an MPR interview with Dr. Oliaei was overseen by Dr. Oliaei's manager, Marvin Hora. During the interviews Dr. Oliaei gave straight-forward and factual information regarding the 3M PFC contamination problem.

On April 13, 2005, Dr. Oliaei was issued a written reprimand from her supervisor, Paul Hoff, stating that she had violated the MPCA media policy as a result of the interviews with MPR and a Town Life Magazine interview where Dr. Oliaei discussed the emerging contaminate issue. The written reprimand stated that Dr. Oliaei misstated the facts and Agency's positions and inserted personal opinions without "the required disclaimers." The written reprimand stated that Dr. Oliaei had dishonored the hard work of colleagues.

The written reprimand Dr. Oliaei received on April 13, 2005, was discriminatory in that other MPCA staff giving information to MPR for the one hour MPR feature and on other occasions did not receive any reprimand. The written reprimand to Dr. Oliaei was clearly meant to harass and discredit Dr. Oliaei. Contrary to Mr. Hoff's allegations, Dr. Oliaei's statements to MPR were factual and well founded, and her peers indicated that they were honored by her work and her courage to pursue this issue.

On April 29, 2005, Dr. Oliaei was asked by her supervisor, Paul Hoff, to give at least three (3) weeks notice of any pending talk, and in one case up to four (4) months before, that Dr. Oliaei would be giving while representing the MPCA. This request was pursuant to two (2) presentations Dr. Oliaei gave the weekend before. Prior to her presentations on Sunday, April 17, 2005 Dr. Oliaei had spent the entire prior night preparing her presentations. She requested 16 hours of compensatory time for the preparation time and time to attend the conference. The compensatory time was questioned by Mr. Hoff as to why so much time was needed to prepare. The requirement that Dr. Oliaei give at least three (3) weeks notice to Mr. Hoff for any presentation is discriminatory in that other MPCA staff do not have such requirements, and the questioning of her preparation time outside of normal works hours, using her valuable weekend time to do so, is also clear harassment.

Finally, on Wednesday, May 11, 2005, after a unit meeting, Dr. Oliaei's supervisor, Paul

Hoff came to her office and encouraged her leave the MPCA, stating, "Why are you here? If you really want to be effective, you better get a job somewhere else. You have created a stressful working environment for yourself and for the managers."

At this point, after years of using her best efforts to try and protect the citizens of Minnesota from the potentially harmful effects of newly emerging contaminants in the state (and specifically the PFCs put into the environment by 3M) and having those efforts consistently frustrated by MPCA management, Dr. Oliaei is on the verge of having no choice but to quit her job at the MPCA. She has already suffered great harm to her health, her reputation and her career and it is obvious, **from the continuous actions and comments** of her supervisors and managers, that MPCA management is trying to force her to quit.

VI. DR. OLIAEI ENGAGED IN ACTIVITIES PURSUANT TO THE JOB REQUIREMENTS AS EMERGING CONTAMINANT COORDINATOR OF THE MPCA IN ORDER TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT, IN ACCORDANCE WITH FEDERAL AND STATE LAWS, AND CORRIGAN, SANDUSKY, HORA, HALL, AND HOFF KNEW OF AND SUBVERTED THESE ACTIVITIES

The MPCA is charged with protection of the environment which includes protection of public health through administration of state and Federal laws related to environmental protection, including laws related to contamination of groundwater. The MPCA administers Federal laws for or in collaboration with the Environmental Protection Agency (EPA) including CERCLA, RCRA, CWA, and the SDWA.

In 2005, Dr. Oliaei was contacted by a Minnesota State Representative Karen Clark, who requested information regarding Dr. Oliaei's work concerning emerging contaminants and the 3M PFC contamination issue. Representative Clark asked why a study to determine the extent of contamination of PFCs in the environment had been delayed and repeatedly denied, and why Dr. Oliaei had repeatedly been denied the chance to investigate how far the toxic PFCs may have spread.

On Friday, April 22, 2005, Dr. Oliaei attended a meeting with a group of Minnesota legislators, including Senator Marty, Representative Clark, Representative Katie Sieben, Senator Becky Lorey, Senator Scott Dibble, and Senator Sharon Marko. The legislators asked why Dr. Oliaei had received a reprimand regarding her interviews with Minnesota Public Radio and also why she was being harassed by MPCA management for her activities. The legislators made it very clear that they and many other legislators strongly supported her work as emerging contaminants coordinator, and desired that she be able to continue her research investigations without any obstacles. The legislators asked how they could help and keep her position.

Prior to the meeting on April 22, 2005, Dr. Oliaei informed her supervisor Paul Hoff and her manager Marvin Hora of the meeting request. Mr. Hora then insisted on attending the meeting (even though he had not asked to attend). During the meeting the legislators asked Dr.

Oliaei about her work and the importance of specific emerging contaminants Dr. Oliaei was involved with, notably the 3M PFC contamination problem and polybrominated diphenyl ethers (PBDEs); and about the delays in performing work related to determining the extent of the 3M PFC contamination problem and how this may negatively affect public health. At the end of the meeting the legislators asked Dr. Oliaei to provide them with her proposed work plans for PFC and PBDE contaminants, and information on the PFC contamination problem.

Unfortunately, immediately after meeting with the legislators Mr. Hora specifically instructed Dr. Oliaei, despite their request, not to submit anything to the legislators or have any contact with the legislators on this issue. This conduct by Mr. Hora demonstrates a clear attempt by MPCA management to subvert information requested by the legislative representatives and progress in the protection of the public health.

MPCA Commissioner Corrigan was a manager at 3M prior to her appointment by Governor Tim Pawlenty in 2002. At 3M, Ms. Corrigan was involved with managing the PFC contamination issue. While working at 3M, Ms. Corrigan, on at least one occasion in a public meeting with Cottage Grove residents in 1998 regarding the problems of PFC contamination, stated that 3M's discharge into the Mississippi River is consistently clean – a statement that is contradictory to MPCA staff calculations which determined that 10,000 to 50,000 pounds of PFCs were discharged into the Mississippi River annually. When Dr. Oliaei met with Commissioner Corrigan in 2003 to ask her to immediately approve studies to determine the extent of the PFC contamination problem in Minnesota, Commissioner Corrigan told Dr. Oliaei, in effect, to find another job, stating, "Let me tell you---if you like to do scientific work, this agency is not a scientific institution. I strongly suggest you go somewhere else to do scientific work." Commissioner Corrigan's rejection of Dr. Oliaei's proposal to begin study of the 3M PFC contamination in 2003 and her statement that Dr. Oliaei find another job represent a clear subversion of Dr. Oliaei's attempt to protect public health and constitute retaliation against Dr. Oliaei for her efforts.

VII. CORRIGAN, HORA, HALL, AND HOFF HAD A MOTIVE TO RETALIATE AGAINST DR. OLIAEI AND HARASS DR. OLIAEI BECAUSE SHE CONTINUED TO RAISE PUBLIC HEATH CONCERNS THAT EXPOSED THE MPCA ACTIONS OF DELAYING IT'S RESPONSE TO A SIGNIFICANT PUBLIC HEALTH PROBLEM, AND THREATENED 3M'S CONTROL TO MINIMIZE PFC CONCERNS

There is substantial direct and circumstantial evidence that Corrigan, Hora, Hall, and Hoff took the adverse actions against Dr. Oliaei because Dr. Oliaei continued to attempt to perform her job duties as appropriate, and made disclosures of the PFC environmental contamination and public health problem to the Minnesota Legislature, the media and the public. There was close proximity in time between Dr. Oliaei's requests to pursue studies to determine the extent of PFC contamination and her discussion with the media and public to more fully disclose the importance of this issue and the actions taken against her. In addition, Corrigan, Sandusky, Hora, Hall, and Hoff were well aware that Dr. Oliaei had provided such information. These

circumstances are strong evidence of the retaliatory motive behind the adverse actions taken against Dr. Oliaei.

Dr. Oliaei has spoken honestly about a real threat to the environment and public health. Her intent was not to get MPCA employees in trouble, but to fix a flawed testing and monitoring program relative to PFCs that should be working to protect all residents of the State of Minnesota and beyond. Rather than publicly acknowledging Dr. Oliaei's concerns and suggestions on how to fix the testing and monitoring program, however, MPCA managers hid the truth from the public and blocked efforts to expose and investigate the potential problems created by 3M's discharge of PFC's into the environment. Although the MPCA now acknowledges that more testing and monitoring of PFC's in the groundwater needs to be done, they persist in using 3M – the polluter – to conduct the bulk of the testing and monitoring. In addition, rather than commending Dr. Oliaei for her work and efforts to bring attention to this potentially serious environmental problem, MPCA management has decided to take the politically easier way out: shoot the messenger. Dr. Oliaei's honesty and integrity has resulted in the *de facto* loss of her job. Dr. Oliaei is not permitted to undertake the projects necessary to perform her job, she has been gagged from revealing the truth, and she is being discredited, harassed, and undermined by individual who supporting her and working towards the same goals. But Dr. Oliaei's livelihood is not the only casualty. Public health has been compromised for politics and profit as a result of the cover-up of which Dr. Oliaei's harassment is only a part. This is exactly what the Federal environmental statutes' employee protection provisions were meant by Congress to prevent and remedy.

VIII. RELIEF REQUESTED

As a result of the unlawful retaliatory actions of MPCA, Corrigan, Sandusky, Hora, Hall, and Hoff against Dr. Oliaei, Dr. Oliaei has suffered substantial damages. Dr. Oliaei requests that OSHA and/or the adjudicating agencies issue and order and award the following relief:

- a. An Order declaring that each of the Respondents unlawfully retaliated against Dr. Oliaei in violation of the named Federal environmental statutes;
- b. An Order prohibiting any further retaliation or discrimination against Dr. Oliaei;
- c. An Order expunging Dr. Oliaei's employment record of any negative references or inferences that may have been caused or can be attributed to the unlawful retaliation;
- d. An Order awarding monetary relief to Dr. Oliaei and against the Respondents, jointly and severally, to compensate her the emotional distress, hostile work environment, and other unlawful discrimination of not less than \$250,000;

- e. An Order awarding monetary relief to Dr. Oliaei and against the Respondents, jointly and severally, to compensate her for damage to her reputation of not less than \$250,000;
- f. An Order awarding exemplary damages of not less than \$500,000 to Dr. Oliaei and against the Respondents, jointly and severally, for the wanton, willful, and malicious actions taken against her when she attempted to protect the public and the environment from harm;
- g. An Order awarding payment of all attorneys' fees and costs (including but not limited to transcripts, travel, and expert witness fees) to Dr. Oliaei and against the Respondents, jointly and severally;
- h. An Order providing such other relief as may be requested or determined by the agency to be just and appropriate.

Respectfully submitted,

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Dated: May 13, 2005