

## **Bridgeton's Polluted Waters: Confidential Information for Representative Roberts**

You represent a District with conservative views on most issues. There is no single major employer in the District, but considerable light industry, including an increasing number of high-tech startups, nearly all of whom supported you in the most recent election. Duffy's District, on the other hand, was heavily industrialized, but much of that industry has moved or closed. Both you and Duffy won by slim margins in your last elections, each of you winning with 51% of the vote.

You are not personally close to Duffy, but the two of you have a cordial working relationship, resulting from your being Chair, and Duffy being Ranking Member, of the House Water Resources and Environment Subcommittee of House Transportation and Infrastructure, as well as working with Duffy on the House Energy & Commerce Environment Subcommittee to which you have recently been appointed. You have been told by colleagues that Duffy has occasionally disclosed confidential information learned in negotiations, but this has not taken place in any of your past dealings. Still, the risk that Duffy will do so concerns you, and you will be cautious in sharing with him/her any information the disclosure of which could be harmful to you,

Based on a poll from your last campaign, your conservative constituents generally support the Republican caucus position that the costs of cleaning up the polluted water should be borne by the local community's residents. Still, it is important that you reach an agreement with Duffy. Duffy's support, and that of the Democratic members, will provide momentum in reporting the bill out of Committee, and will be necessary to pass the bill on the floor.

The Water Infrastructure Bill of 2025 (WIB) is a high-priority item for both you and the Republican caucus since its benefits extend to key infrastructure projects covering every Congressional district in the country. WIB currently is at the initial Republican caucus position on total maximum costs, without any water quality improvements for the Bridgeton Reservoir. Although both you and the caucus think that Duffy's demand for federal assistance in the water cleanup is unwarranted, the Republican leadership authorized you to propose up to \$140 million in the WIB for water quality improvements, if doing so is necessary to secure Duffy's agreement to vote for WIB.

You are not optimistic that \$140 million, which would pay for only two of the four water treatment plants Duffy has demanded, will be enough to satisfy Duffy. As preparation for WIB negotiations, you

---

*This confidential instruction was written by Stephen B. Goldberg (Northwestern University) and Thomas H. Sander (John F. Kennedy School of Government, Harvard University (HKS)), with Bettina Poirier (American University) and Ted Illston as part of the Harvard Kennedy School's "Teaching Legislative Negotiation Project." Funding for this simulation was provided by The William and Flora Hewlett Foundation. HKS simulations are developed solely as the basis for class discussion; they are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management. Special thanks to Randy Kutz for his early concrete suggestions.*

Copyright © 2019 President and Fellows of Harvard College.



This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivatives License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/>; or, (b) send a letter to Creative Commons, 171 2nd Street, Suite 300, San Francisco, California, 94105, USA.

asked your staff several months ago to see if they could find alternative water pollution cleanup techniques that were less costly than the proposed water treatment plants.

Your staff reported that there is a start-up in your District, Cleanzyme, which has perfected a high-tech photocatalytic<sup>f</sup> water filtration device that could filter and clean the existing pollutants in the Bridgeton Reservoir. Although the technology used in these filters is new, they have been successfully purchased and used in water-pollution clean-up efforts at three sites in as many states, plus one other country (Canada). Your staff has had the results of the use of Cleanzyme filters examined by four independent experts in water pollution cleanup and control. These experts unanimously confirmed the effectiveness of the filters. If Duffy, who is somewhat “old-school”, is opposed to the use of these filters in lieu of water treatment plants, you can refer to both the successful results of the Cleanzyme filters and the expert confirmation of those results.

Each Cleanzyme water filtration device can be purchased at \$2.5 million, and 10 devices, at \$25 million, effectively treats as much water as one water treatment plant. As a result, 40 devices, at a total cost of \$100 million, should be equally as effective in improving water quality as the 4 water treatment plants that Duffy seeks for \$280 million. These devices can be deployed at a site with minimal set-up and the filters run themselves through automated controls. Further, due to Cleanzyme’s desire to be the successful bidder on this project, any set-up and maintenance costs have been included in the \$2.5 million per unit purchase price. Cleanzyme will also provide 10-year warranties on all units at no additional cost.

The CEO of Cleanzyme, whom you know as a fellow member of your golf club, told you, in confidence a few weeks ago, that Cleanzyme has been studying the possibility of an equally revolutionary device to reduce air pollution. The experimental testing of this device has been sufficiently successful to garner the interest of venture capital firms headquartered in your District. The Cleanzyme CEO told you that she had a commitment from one of those firms, Tomahawk, Inc., that if she succeeded in landing a \$100 million contract to clean up the Bridgeton Reservoir water with 40 Cleanzyme water filtration devices, thus demonstrating Cleanzyme’s sales ability and technological expertise, Tomahawk would invest \$20 million for further research and development of Cleanzyme’s air pollution clean-up device.<sup>g</sup> Such an investment, the CEO told you, could not only be quite profitable for Cleanzyme and its investors, but could also improve air quality across the entire country. Indeed, she said, obtaining \$20M for air filter R&D, was crucial to the future of Cleanzyme. In response, you told the CEO that you support innovative technologies that save the government money, and that you would do all in your power to try to ensure this as Chair of the House Water Resources and Environment Subcommittee by making the Bridgeton Reservoir, and specifically the purchase of these photocatalytic water filtration devices eligible for that program. (You knew, but did not specify, that obtaining such authorization would require Duffy’s agreement to such a purchase.) Now, you fear that if Duffy will not agree to the purchase of 40 filters, with the result that Cleanzyme loses not only a substantial sale, but also Tomahawk’s promised R&D funding for Cleanzyme’s air pollution filter project, Cleanzyme and the

---

<sup>f</sup> The photocatalytic filters accelerate the chemical cleanup reaction using light.

<sup>g</sup> According to the Cleanzyme CEO, Tomahawk’s offer was an “all or nothing” deal. A \$100 million contract for 40 filters would lead to their \$20 million R&D investment in air filters. Anything less than 40 water filters would result in Tomahawk withdrawing the offer.

numerous other high-tech start-ups in your District will view you as ineffectual, and will not support you for reelection.

On the other hand, you are also concerned that if your support for Cleanzyme (especially its efforts to secure R&D funding for its air pollution filters from Tomahawk) were to be publicized, you would be accused of not acting to ensure clean water, but to maximize the profits of your golf-playing cronies. This could be almost equally harmful to you. As a result, as important as authorizing a program that would permit Cleanzyme to obtain the \$100 million contract that would provide it with \$20 million in R&D funding from Tomahawk, you need to consider quite carefully the risks to you in raising the R&D funding issue with Duffy in the negotiations.

In short, you want an agreement with Duffy in which Duffy agrees to support WIB in exchange for WIB funding of \$140 million (or less) to be used for cleaning the Bridgeton Reservoir by 40 photocatalytic water filtration devices. Such an agreement would lead to Tomahawk's promised investment of \$20 million in R&D funding for Cleanzyme's new air filtration technology. If you come away from this negotiation without these 3 goals being met – passing the WIB, staying within your \$140M authorization from Republican leadership, and enabling Cleanzyme to get the full \$20M of R&D funding it needs for the air filtration devices -- your advisors tell you that your chances of being re-elected 14 months from now will be sharply reduced. Accordingly, you should not enter into any agreement that does not achieve these goals.