

SCWA Pursues Legal Action Against Companies Responsible for PFOS, PFOA and 1,4-Dioxane Contamination

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Complaints Filed in Eastern District Seek Recovery of Costs Of Removing Contaminants from Public Water Supply

The Suffolk County Water Authority today filed civil complaints in federal district court against companies that manufactured, distributed and sold products containing three contaminants that have polluted public supply wells in the Authority's service territory.

The two separate complaints—one pertaining to the synthetic industrial chemical 1,4-dioxane and the other to the organic fluorinated alkanes perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)—were filed in the Eastern District Court of New York and seek to recover the costs of treating contaminated water to remove the chemicals, all shown to be potentially carcinogenic in studies, from SCWA wells.

"The ratepayers of the Suffolk County Water Authority should not have to pay for the reckless behavior of companies who knew or should have known about these dangers," said SCWA Chairman James F. Gaughran. "And we're going to do everything we can to make sure they won't."

The PFOA/PFOS complaint charges that the 3M Company; Buckeye Fire Equipment Company; Chemguard Inc.; Tyco Fire Products LP; and National Foam, Inc. knew or should have known that the firefighting foam they made, distributed or sold is dangerous to human health and contains unique characteristics that cause extensive and persistent environmental contamination. The 1,4-dioxane complaint includes the same claims against Dow Chemical Company, Ferro Corporation, Vulcan Materials Corporation, Proctor & Gamble and Shell Oil Company in regard to their products—primarily industrial degreasers, laundry detergents and other household products.

All three chemicals have the potential to cause cancer. In addition, PFOA and PFOS are particularly dangerous to pregnant women and children, while 1,4-dioxane causes liver and kidney damage.

How PFOA/PFOS Entered Suffolk Groundwater

The complaint notes that airports and bases operated by the U.S. Air Force and other branches of the military have used aqueous firefighting foams containing PFOA and PFOS for nearly 50 years to conduct firefighting and explosion drills. These sites have been linked to the widespread contamination of groundwater not just in Suffolk, but throughout the country. The production of PFOA and PFOS was phased out under pressure from the U.S. Environmental Protection Agency by 2002, but the mobility and persistence of these contaminants mean that additional treatment will be needed for potentially decades to come.

In July of 2016, the New York State Department of Environmental Conservation gathered groundwater samples at Gabreski Airport and the Air National Guard base in Westhampton Beach, where firefighting foam had been used since the 1970s. As a result, PFOA and PFOS were detected in public and private supply wells. One year later, the New York State Clean Water Infrastructure Act required all New York-based water systems to test for PFOS and PFOA. Governor Andrew Cuomo subsequently created a Drinking Water Quality Council and gave the group as one of its top priorities the recommendation of maximum contaminant levels for PFOA and PFOS.

In response to the threat in communities near the air base, SCWA worked with the Suffolk County Department of Health Services to connect affected customers using private wells to public water. SCWA also utilizes granular activated carbon treatment to remove PFOA and PFOS from the water supply before delivering water to customers.

How 1,4-Dioxane Entered Suffolk Groundwater

Present in a wide variety of industrial and household products, 1,4-dioxane has been detected in more than 50% of supply wells on Long Island.

The synthetic chemical has been primarily used in industrial settings as a stabilizer for chlorinated solvents used to dissolve greasy substances from machines. Its most widespread commercial use is in laundry detergents and other household products such as soaps, deodorants and shampoos.

SCWA is currently conducting testing on a landmark treatment system to remove 1,4-dioxane from groundwater using Advanced Oxidation Process. The removal of 1,4-dioxane from public supply wells on Long Island could cost in the hundreds of millions of dollars.

The Suffolk County Water Authority is an independent public-benefit corporation operating in accordance with the Public Authorities Law of the State of New York. Serving approximately 1.2 million Suffolk County residents, the Authority operates without taxing power on a not-for-profit basis.

Following a lengthy RFP process, SCWA retained Sher Edling, LLP, Hausfeld LLP and Meltzer, Lippe, Goldstein & Breitstone, LLP to prosecute the PFOA/PFOS action and Sher Edling, LLP and Hausfeld LLP to prosecute the 1,4-dioxane action.