

New PFOS lawsuit filed against Newburgh

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CITY OF NEWBURGH – A New York City law firm that unsuccessfully sued Newburgh this year over the toxic chemical found in the city’s primary water supply has filed another lawsuit on behalf of residents and workers exposed to the chemical through cooking and drinking water.

Napoli Shkolnik filed the petition Wednesday of behalf of people who have lived or worked in Newburgh, or have private wells contaminated with perfluorooctane sulfonate, or PFOS, from Newburgh’s Washington Lake.

Each plaintiff claims elevated levels of PFOS and associated health problems, including testicular cancer, ulcerative colitis and high cholesterol.

They allege that Newburgh negligently allowed the lake to become contaminated by the use of firefighting foams at Stewart Air National Guard Base and continued using the water after PFOS was discovered in it.

The firm is also seeking class-action status that would cover anyone who ingested PFOS through Newburgh’s water or owned property that has lost value because of the “stigma” of the chemical.

“Defendant owed a duty to its customers to protect its source of water and prevent its pollution,” said Napoli Shkolnik, which has filed a separate lawsuit against the Port Authority of New York and New Jersey and two manufacturers of PFOS.

State investigators concluded last year that Washington Lake’s contamination stemmed from the use of PFOS-containing firefighting foam specially created to extinguish aircraft fires and used at airports and military bases around the country.

An estimated 4,000 gallons of the foam was accidentally discharged from a hangar-based sprinkler system at Stewart Air Base in 1990, and the foam was used to extinguish a fire on a FedEx plane that made an emergency landing at Stewart International Airport in 1996.

Both the air base and airport also conducted training exercises using the foam.

It is believed that Washington Lake's contamination happened via a retention pond at the air base that discharges into Silver Stream, which has long been diverted to the lake.

Pushed by the U.S. Environmental Protection Agency, Newburgh and other municipalities began testing for PFOS and related chemicals in December 2013.

Results from Washington Lake water samples showed PFOS levels of between 140 and 170 parts per trillion.

At the time, those levels were below EPA health advisory guidelines of 200 ppt.

Newburgh announced that it stopped drawing water from Washington Lake on May 2, 2106, one week after the state issued a temporary rule declaring PFOS and PFOA to be hazardous substances and 17 days before the EPA announced a lower guideline of 70 ppt.

Newburgh has yet to be served with the complaint, Corporation Counsel Michelle Kelson said Monday.

Napoli Shkolnik made the same claims against Newburgh in a March petition seeking a judge's permission to file a late notice of claim against the city.

In her July 6 order dismissing the petition, Orange County Judge Catherine Bartlet said the city had no control over the use of firefighting foams at the air base or airport.

She also noted that the city stopped drawing water from Washington Lake when its PFOS levels were still below federal guidelines.



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