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PFAS lawsuits continue; Two in New Mexico allege harm to cows

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By Rich Peters | Jun 10, 2019



ALBUQUERQUE, N.M. (Legal Newsline) - As the federal government determines the toxicity level for humans exposed to chemicals known as PFAS, new lawsuits allege harm to cows.

Cases abound that allege PFAS - which are found in firefighting foam, waterproof clothing and nonstick cookware - have made their way into the bloodstreams of plaintiffs. It's not clear whether any lawsuit has actually alleged a resulting illness, though PFAS critics say there is a link to a handful of disorders.

Two of the most unusual requests for compensation come in new lawsuits by dairy farms against 3M and DuPont.

Plaintiffs Todd and Carolyn Teune of Day Star Dairy allege that they have been significantly damaged in their business and property because of PFAS chemicals from the manufacturer's products.



“As a direct and proximate result of the PFAS contamination caused by the defendants, Day Star has been forced to spend a substantial

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amount in excess of \$200,000 for a PFAS filtration system to be installed on the impacted water supply wells,” court documents state.

The complaint alleges links to kidney cancer, testicular cancer, ulcerative colitis, thyroid disease, pregnancy induced hypertension (including preeclampsia), and hypercholesterolemia.

Day Star Dairy is directly southeast of Cannon Air Force Base (CAFB). The farm has approximately 2,200 dairy cattle and 1,900 dairy heifers, including calves, and has been owned and operated for nearly 19 years, generating approximately \$9 million in annual revenues.

Its worry is the groundwater supply from which the plaintiffs draw water for domestic use, crops, livestock, dairy production and agricultural services has become tainted, affecting all of the aforementioned – specifically their cows' milk.

This and a similar case could be groundbreaking for farms around the country.

“It shows how pervasive these chemicals are that they’re in our food supply and in our milk and nobody’s really even looking at that issue until now,” Tate Kunkle, an associate with the plaintiffs’ attorneys of Napoli Shkolnik, said in an interview with *Legal Newline*.

Kunkle acknowledged future testing of dairy farms for PFAS is a big possibility.

“If the USDA requires people to start testing if you produce a certain amount of gallons on a larger farm they may institute some type of regulation for that,” Kunkle said. “I can see that in the future, how you can buy GMO-free corn and milk from cows raised without hormones, soon you’re going to be able to buy PFAS-free milk.”

More than 80 consumer complaint forms from Tucson, Arizona, water customers were filed against the Minnesota-based manufacturer 3M over chemicals that have been found in their water supply.

The office of Arizona Attorney General Mark Brnovich was handed the official complaints earlier this year that were driven by the citizens of Tucson. The documents stated, in part, “Lack of public information has led us to believe that the city of Tucson water customers, and homeowners living around the southside TARP Plume areas cannot file claims on a timely manner nor can they file intervention in lawsuits against the 3M, and other potential responsible parties for such PFAS groundwater contamination.”

However, some experts believe that there is no need for panic.

“(There are) the same dangers surrounding virtually every exposure related hysteria these days: the lack of any sober, unbiased risk/reward analysis that considers relative risk in some sort of useful context and weighs that risk against the societal benefits of the activities associated with materials and activities associated with said risk,” said Richard Trzuppek, a Chicago-area chemist who has worked as an environmental consultant for more than 25 years.

“My impression is that the courts have symbolically washed their hands of any obligation to weigh risk vs. reward discussions in these cases, replacing any obligation to learn about and think through complicated

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technical issues by the simple expedient of granting whatever government agency in play the power of infallibility."

In regards to "safe levels," Trzupsek told *Legal Newsline* that those levels may vary across the board, depending on the individual.

"There is no such thing as universally applicable safe levels with regards to PFAS or any other compound. It's never a bright line," he said.

"Drinking too much water can kill Person A and have virtually no effect on Person B. Some people can smoke two packs a day and salt their food in gross amounts and live happy lives well into their nineties. Others may avoid every excess we can identify and yet die early because of a previously undiagnosed genetic defect. 'Safe levels' of exposure are best judged by examining individual vulnerabilities, not by making sweeping generalizations."



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