

PFAS Contamination Litigation

October 14, 2021

Evidence demonstrates that certain water supplies throughout Massachusetts may be at risk for PFAS contamination. PFAS, chemicals which leach into the water from waste materials, create significant health concerns and result in extensive and expensive remediation measures. The monies needed to remediate such circumstances may be significant, further straining local budgets.

However, as we notified you previously, it is possible that third parties responsible for the production of these chemicals may instead be held responsible for the costs of remediation. There are a number of law firms that do work in this area, usually on a contingent fee basis, some of whom may already have contacted water staff and/or city or town managers and administrators. We are, of course, happy to review any contracts or other pleadings that will be filed on behalf of the Town in this matter.

Further, as we announced in August, KP Law has formed a strategic partnership with the law firm Napoli Shkolnik PLLC, a nationally known law firm representing communities on a contingent fee basis throughout the country. No monies are or will be needed to join the litigation. Instead, this contingent fee litigation will be pursued through multi-district litigation (for those of you involved in the Opioid Litigation, you may remember this term as “MDL”), and, if successful, legal fees would be derived from damages received or awarded.

Former State Representative Hank Naughton will be leading Napoli’s efforts in Massachusetts. Now Managing Partner of the Public Private Practice Group at Napoli, Hank has long been a leader in water quality protection issues and has a deep understanding of local government from his time at the Statehouse. Attached hereto please find additional information from Hank.

Please feel free to contact Hank directly if you are interested in talking to Hank about the litigation. If there is interest, but you would prefer to start with someone at KP Law, Mark R. Reich, Jonathan Silverstein or Lauren Goldberg can assist with coordinating an introduction.

From all the attorneys and staff of KP Law, take good care.

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PFAS COST RECOVERY PROGRAM

PFAS NOTIFICATION - TIME SENSITIVE

This is to notify all systems of the Napoli Shkolnik PFAS Cost Recovery Program and the opportunity to recover, at no cost, any current and future expenses your utility may incur for testing, treatment and/or remediation of PFAS contamination. As systems start to test and have/had PFAS detections at any level you should register your utility now to be eligible to recover any current or future expenses associated with PFAS testing, treatment and/or remediation.

Potential Contamination Sources

- ◆ Landfills
- ◆ Firefighting Facilities
- ◆ Airports
- ◆ Manufacturer



Now is the time to be proactive and register your utility onto the cost recovery rolls, and send a positive message to your customers that action has been taken to lessen any financial impact resulting from PFAS detections in the water supply.

As background, in 2019 the National Rural Water Association engaged the law firm of Napoli Shkolnik to file a cost recovery action to provide water and wastewater systems the opportunity to recover any current or future expenses for testing, treatment and remediation of PFAS contamination. Additional background information and the initial registration process is available at www.napolilaw.com/nrwa-pfas

The sole purpose of this action is to provide utilities the opportunity to recover their expenses, but the system must be registered onto the cost recovery rolls prior to a settlement being reached. Settlement talks are under way thus we strongly encourage your system to register onto the cost recovery rolls sooner than later to protect your utility and rate payers from an additional financial burden.

THERE ARE NO THRESHOLDS OR COSTS TO REGISTER.

- The action taken is cost recovery not punitive.
- It is filed against the global manufacturers of these forever compounds thus does not impact a local company who may have used them.
- There is no threshold to register, even if the system has not tested. Definitely, if there are detects at any level, the system should register onto the cost recovery rolls.
- There is no upfront cost to register onto the rolls and benefit from this action. The program can be described as an insurance policy without a premium.



HOW TO REGISTER?

Again, there is no threshold to register your utility & protect your utility and ratepayers from this financial burden.

There are 3 ways to register your utility:

- ◆ Register at www.napolilaw.com/nrwa-pfas. There is also additional information on PFAS, the cost recovery action and the law firm.
- ◆ Email **Hank Naughton**, Managing Partner of the litigation, at hnaughton@napolilaw.com
- ◆ Call **Hank Naughton** at (978) 852-3643



WE STRONGLY ENCOURAGE ALL SYSTEMS TO REGISTER NOW.

Formal presentations are also available to your utility and can be arranged by contacting **Hank Naughton** at hnaughton@napolilaw.com or (978) 852-3643.

CONTACT HANK NAUGHTON