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Fitzpatrick, Skemp & Butler, LLC

ATTORNEYS AT LAW
1123 Riders Club Road, Onalaska, WI 54650

William G. Skemp*
David J. Fitzpatrick*
Scott M. Butler*
Timothy S. Jacobson*
James W. Richgels
Gregory J. Egan*§
Of-Counsel
Tom M. Fitzpatrick*§
Emeritus
Thomas E. Lister
Emeritus

*Also Licensed in Minnesota
§Certified Civil Trial Specialist by
National Board of Trial Advocacy

NEWS RELEASE

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Contact: Attorney Tim Jacobson - Fitzpatrick, Skemp & Butler, LLC
608-784-4370 tim@fitzpatrickskemp.com

FRENCH ISLAND PFAS CLAIMS OF \$42.4 MILLION ASSERTED AGAINST CITY OF LA CROSSE

LA CROSSE, WIS. – On June 9th, Fitzpatrick, Skemp & Butler, LLC, a law firm representing many hundreds of residents of French Island relating to PFAS groundwater contamination, served notices of claim on the City of La Crosse totaling \$42.4 million, seeking compensation for diminished property value and other harms.

Under Wisconsin Statute §893.80(1g), the City of La Crosse has 120 days to either pay or deny the claims that have been served. The claimants are prohibited by statute from suing the city until after the 120-day period elapses.

As of June 2021, 538 private wells on French Island tested positive for PFAS contamination, according to earlier news reports. In 165 of the private wells sampled with results received, contaminant concentrations above the then-proposed enforcement standards were detected. PFAS compounds were detected in all but 12 well samples. Many wells have gone untested. The widespread contamination led Wisconsin DHS to declare an emergency water advisory for the area in March 2021. Reportedly, about 2,000 residents of French Island rely on bottled water from the Wisconsin Department of Natural Resources or the city for drinking and cooking.

The City owns and operates the La Crosse Regional Airport. For decades, the La Crosse Airport routinely used aqueous film-foaming foam ("AFFF") that contains per- and polyfluoroalkyl substances ("PFAS") such as perfluorooctanoic acid ("PFOA") and/or perfluorooctanesulfonic acid ("PFOS"), which is used to control and extinguish flammable liquid fires.

In addition to using AFFF to fight aircraft fires, the city created test burn pits on airport grounds. Firefighting training using AFFF was conducted at test burn pits at the airport from the 1970s through approximately 1988. Also, the city annually conducted nozzle testing using AFFF in a test area northwest of the airport fire station over a period of approximately 20 years. As recently as December 1, 2020, a solution of AFFF was released by the airport on or around the terminal apron from emergency response equipment.

Mailing Address
1123 Riders Club Road
Onalaska, WI 54650
Phone: (877) 784-1230
Fax: (608) 784-4908

Onalaska Office
1123 Riders Club Road
Onalaska, WI 54650
Phone: (877) 784-1230
Fax: (608) 784-4908

La Crosse Office
223 3rd Street N
La Crosse, WI 54601
Phone: (608) 784-4370
Fax: (608) 784-4908

Eau Claire Office
505 S Dewey St., Suite 202
Eau Claire, WI 54701
Phone: (715) 318-8811
Fax: (608) 784-4908

PFOS and PFOA were detected above recommended levels in the U.S. EPA's Unregulated Contaminant Monitoring Rule (UCMR3) water samples collected for La Crosse Well 23H during 2014 and 2016. However, the city did not inform residents of French Island using private drinking water wells that groundwater on the island was contaminated with PFAS chemicals.

On April 18, 2019, the Remediation and Redevelopment program of the Wisconsin DNR was made aware that PFAS routinely had been detected in municipal well 23, located on the east side of French Island. WDNR determined that contamination on or from the above-described site poses a threat to public health, safety, welfare or the environment.

WDNR determined, by letter dated May 10, 2019 to the City of La Crosse, that as owner of the property where the residual contamination is found, and the entity that caused the discharge of the hazardous substance, the City of La Crosse is responsible for restoring the environment at the above-described site under s. 292.11, Wis. Stats., known as the hazardous substances spills law.

At that time, the city did not disclose this information to private drinking water well users on French Island, nor did the city advise them that more widespread PFAS contamination of the aquifer might exist such that private drinking water wells and private property might be impacted. In or about mid-October 2020, the city, apparently for the first time, took steps to announce that there was a risk that some private drinking water wells in specific areas on French Island may be contaminated with elevated levels of PFAS.

Through testing of wells by the DNR, private individuals, and the city, PFAS contamination of groundwater has been detected across much of the island.

There are a variety of standards and proposed standards for PFAS in drinking water.

In January 2020, Wisconsin's Department of Natural Resources was authorized to proceed with establishing environmental standards for PFOA and PFOS in groundwater, surface water, and public drinking water. WDNR has recommended a PFOS and PFOA enforcement standard (ES) of 20 parts per trillion (ppt) and a preventive action limit (PAL) of 2 ppt. In February 2022, the Wisconsin Natural Resources Board approved a drinking water standard of 70 ppt for PFOA and PFOS individually and combined, but the NR Board declined to impose a groundwater standard.

In June 2022, the USEPA announced new drinking water health advisories for PFAS, greatly lowering the health advisories for PFOA (0.004 ppt), PFOS (0.02 ppt), GenX chemicals (10 ppt), and PFBS (2,000 ppt). On March 14, 2023, the USEPA issued a proposal to tighten limits on toxic "forever chemicals" in drinking water nationwide, proposing maximum contaminant levels (MCLs) of 4 ppt for PFOA and PFOS. The proposal also regulates any mixture of one or more of four other PFAS — PFNA, PFHxS, PFBS, and GenX Chemicals. States like Wisconsin, where PFAS limits are less stringent than the proposed federal standards, would have to revise them to match or surpass the federal standard.

Private wells on French Island have been found to have PFAS levels as high as 3,000 ppt.

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