



**Department of
Environmental
Conservation**

**Testimony of
Basil Seggos
Commissioner
New York State Department of Environmental Conservation**

**Joint—Senate Standing Committee on Health
Chair: Senator Kemp Hannon
and Senate Standing Committee on Environmental Conservation
Chair: Senator Thomas F. O'Mara**

Hearing:

Drinking Water Contamination

August 30, 2016

Good morning, Senator Hannon, Senator O'Mara, Senator Hoylman, Senator Marchione, Senator Valesky, members of the Senate Health and Environmental Conservation Committees, and residents of the Hoosick Falls area. My name is Basil Seggos, and I am the Commissioner of the New York State Department of Environmental Conservation (DEC). I'm here today with my colleagues **Martin Brand**, Deputy Commissioner for Remediation, **Jim Quinn**, Bureau Director in the Division of Environmental Remediation, **Sue Edwards**, engineer in Environmental Remediation, and **Eric Lahr**, who runs the Forest Rangers. Thank you for the opportunity to discuss the critical water quality issues facing New York State today, and in particular, PFOA contamination in the Hoosick Falls area.

One of DEC's critical missions is to keep pollution from harming New York's environment. When pollution gets into the environment, DEC's job is to investigate, remediate, and hold polluters accountable. We use the federal Clean Water Act and state Environmental Conservation Law to control water pollution. To force cleanups of polluted sites, we use the state Superfund law and the Brownfield cleanup program.

Our role is distinct from the New York State Department of Health (DOH), which is charged with regulating contaminants in drinking water, but DEC routinely works together with DOH when an identifiable pollution site impacts a drinking water supply, like Hoosick Falls. In this case, the U.S. Environmental Protection Agency (EPA) made the situation worse by failing to regulate PFOA for 15 years, changing their recommendation for how to handle PFOA contamination, and offering guidance from EPA Region 2 that conflicted with the guidance from EPA headquarters. For those reasons, today we are asking the EPA to reimburse the state for any costs related to our efforts -- which is already close to \$25 million and will grow significantly to at least \$75 million -- that we cannot recover from the polluters.

I am proud of the work that my dedicated DEC staff undertake each and every day around the state. And I am proud of what my staff have accomplished in the Hoosick Falls area in just a few short months. Since November 2015, DEC has undertaken the following actions:

- we became the first state in the nation to regulate PFOA as a hazardous substance;
- we declared the Saint-Gobain site a State Superfund site;
- we held Saint-Gobain and Honeywell accountable by placing them under consent orders to investigate and remediate their contamination; and
- we installed more than 830 individual treatment systems -- something that has never been done at this scale, this fast, anywhere.

Hundreds of DEC staff have been here in Hoosick Falls for months. Many of you know their faces and their names. We are not going anywhere until the job is done.

Perhaps no issue we face is as important as ensuring the water we drink is clean. Our country has a rich industrial legacy that is a source of pride. However, the aftermath of that legacy has put the country's public health and environment at risk. We often do not learn about the true impact of industrial chemicals until well after they are dumped into the environment.

EPA maintains primary authority for identifying hazardous materials and setting standards and limits to protect public health and the environment. There are currently more than 80,000

unregulated contaminants, like PFOA, but the EPA only chooses to regulate roughly 100 contaminants in drinking water.

In the absence of federal regulation to remediate PFOA, DEC has immediately and aggressively been using every tool in its arsenal to hold polluters accountable in Hoosick Falls.

Our first action was to refer the site for listing under the *federal* Superfund program. On January 14, 2016, we requested that EPA list the Saint-Gobain McCaffrey Street plant as a federal Superfund site. Federal Superfund is a powerful tool to compel cleanups and recover costs. However, the federal nomination process can take a year or more, and nomination is not certain.

So our second and most important action was to unlock the *state's* Superfund authority. In order for the state Superfund program to apply, contaminants must be listed as hazardous substances. Through an examination of available studies and data, we determined that it would be appropriate to list PFOA as a hazardous substance. Accordingly, on January 27, 2016, under my direction, DEC listed PFOA as a hazardous substance by emergency regulation. We were the first state in the country to take this action. In April 2016, we added several related chemicals to that list, including PFOS, in order to strengthen the state's overall response capabilities.

With the state's Superfund program now at our disposal, we listed the Saint-Gobain McCaffrey Street plant as a state Superfund site on January 29, 2016 – just two days later. This empowered DEC with the legal authority to investigate the nature and extent of the contamination in Hoosick Falls, as well as to take actions to protect the public. It enabled us to hold responsible parties liable for the full investigation and cleanup of PFOA contamination. And it allows the state to seek cost recovery from the companies for our actions.

After listing the Saint Gobain plant as a state Superfund site, DEC worked with DOH to expand the private well sampling effort. With that, we launched an ambitious installation of point of entry treatment (POET) systems. Hundreds of DEC employees volunteered to aid this critical undertaking, from our Forest Rangers to our engineers from around the state.

They worked seven days a week to ensure each of the 831 individuals and businesses who requested a POET was satisfied. Given the shifting and conflicting guidance by the EPA and the potential for future contamination, anyone who requested a POET received one, for free -- even for wells that tested non-detect for PFOA.

Through this unprecedented response, we, along with our counterparts in the Department of Health, have become a constant presence in the community. We have been to many of your homes. While I know our coming and going has been an inconvenience at times, it's important that we get this right. DEC staff are here to ensure every resident is satisfied. We are committed to supporting and maintaining these POET systems until the risk of PFOA contamination has been abated and treatment is no longer needed.

As a further precaution, even though multiple tests have shown no threat of PFOA levels in this school's water supply, DEC installed two water treatment systems in the school, one to remove PFOA and one to remove naturally occurring arsenic in the school's supply -- both at no cost to the school.

DEC also launched a comprehensive effort to identify alternate drinking water sources, including groundwater and surface water, and to provide connection to existing water supplies.

In January 2016, we began investigating all potential contamination sources. I thank the public for the many tips that poured in. This helped us identify several dumping sites. We also sampled the Hoosick River. Those results came back very low to near non-detect. We also took groundwater and leachate samples at the Hoosick Falls landfill. The samples indicate it is a source of PFOA contamination, and just yesterday we designated it as a potential state Superfund site.

In April 2016, DEC also tested soil in Hoosick Falls and Petersburg, including samples from residential yards and gardens, as well as agricultural lands for PFOA contamination. All PFOA levels were well below the applicable soil cleanup standards.

Since the state Superfund listing, we have been working to lock Saint-Gobain and Honeywell into binding commitments to address the mess they created. The consent order DEC executed with both companies on June 3, 2016 is the first step to hold the companies accountable. There will be additional, legally binding agreements that will cover further required actions the companies must undertake. DEC also continues to investigate whether there are other responsible parties. We have demanded information from previous operators of industrial plants in the Hoosick Falls area.

Once our investigation is complete, we will issue a binding decision that will establish a comprehensive remedy to clean-up the Hoosick Falls area. This will also require the responsible companies to fund long-term drinking water solutions, both for residents on the village water supply and those on private wells, among other things. The Superfund process will offer multiple opportunities for the community to weigh in on the cleanup. That public input will be invaluable.

The state has marshalled almost \$25 million to date to address pollution in Hoosick Falls. We expect to spend an additional \$50 million in the next ten years to finish the job. My goal is to ensure that polluters are on the hook for every last dime. But as I noted before, we expect EPA to bear the cost of any taxpayer dollars that we can't recover from the polluters.

Unfortunately, PFOA and PFOS contamination is not limited to Hoosick Falls. In February 2016, Governor Cuomo launched the Water Quality Rapid Response Team, which Dr. Zucker and I co-chair. This team is charged with tracking down and quickly responding to situations like those in Hoosick Falls. That effort has produced tangible results across the state and has allowed the state to work with other communities to address contamination issues.

In Petersburg, because of PFOA contamination, we listed Taconic Plastics as a state Superfund site on May 19, 2016. Taconic is now in the process of designing a treatment system for the town water supply, with DEC and DOH oversight. DEC and Rensselaer County are also undertaking a joint effort to sample private wells and install POET systems where people request them.

The Rapid Response Team has also undertaken a broader effort to analyze information gathered by the EPA as part of its Unregulated Contaminant Monitoring Rule program -- a program where

local governments report directly to the EPA. That analysis led to the state taking decisive action in the City of Newburgh, and Gabreski Air National Guard Base in Suffolk County, to address threats posed by the use of PFOS-containing firefighting foam. In both cases, the state has worked swiftly with our local partners to find and implement clean drinking water solutions in the absence of regulation by the EPA.

The Water Quality Rapid Response Team also sent surveys to 2,500 facilities statewide to entities that may have used PFOA and PFOS. This includes manufacturing plants, fire departments, airports, and chemical bulk storage facilities. We are currently compiling the results of these surveys and working with DOH and our local partners to cross-reference likely users with mapped water supplies in order to identify areas for investigation.

I want to leave you with this. DEC has accomplished an enormous amount since undertaking our efforts in Hoosick Falls. But our efforts are not yet complete. My staff and I will continue to be here working hard for the community and its environment until the job is done and the polluters who caused all of this are held fully accountable.

Thank you for the invitation to testify today. I am happy to answer your questions.