Message

From: Hirsh, Steven [Hirsh.Steven@epa.gov]
Sent: 5/11/2018 2:14:00 PM
To: Goldblum, Deborah [Goldblum.Deborah@epa.gov]; rogers, rick [rogers.rick@epa.gov]; Bennett, James [bennett.james@epa.gov]
Subject: Fwd: Martinsburg Journal (5-11) City to pursue lawsuit against federal government

FYI

Steve
Steven Hirsh, Associate Director
Federal Facilities Remediation and Site Assessment
Hazardous Site Cleanup Division
US EPA Region III
Desk: (215) 814-3352 Cell: (215) 514-9015
hirsh.steven@epa.gov

Begin forwarded message:

From: "Seneca, Roy" <Seneca.Roy@epa.gov>
Date: May 11, 2018 at 7:23:26 AM EDT
To: "Ferrell, Mark" <Ferrell.Mark@epa.gov>, "Sternberg, David" <Sternberg.David@epa.gov>, "schafer, joan" <schafer.joan@epa.gov>, "Melvin, Karen" <Melvin.Karen@epa.gov>, "White, Terri-A" <White.Terri-A@epa.gov>, "Hirsh, Steven" <Hirsh.Steven@epa.gov>, "Koffi, LaRonda" <Koffi.LaRonda@epa.gov>, "damm, thomas" <Damm.Thomas@epa.gov>
Subject: Martinsburg Journal (5-11) City to pursue lawsuit against federal government

http://www.journal-news.net/news/local-news/2018/05/city-to-pursue-lawsuit-against-federal-government/

City to pursue lawsuit against federal government

May 11, 2018

By Jim McConville
Staff writer
jmcconville@journal-news.net

MARTINSBURG — The Martinsburg Council authorized city attorney Kin Sayre at its meeting Thursday night to file a claim against the federal government for the alleged chemical contamination of the city's Big Springs Water Filtration Plant by the Air National Guard in 2016.

The filing comes close to the two-year mark of when the city was forced to shut down the plant on May 19, 2016 due to high levels of the chemicals PFOA and PFOS became detectable in the city's water supply. PROF and PROS are fluoridate organic chemicals used to make carpets, clothing, fabrics, and also fire fighting foam.

"The two year time frame is soon approaching," said Mark Baldwin, business manager fro Martinsburg. "According to Mr. Sayre, filing a claim at least protects our rights moving forward as we continue that discussion with the Air Force, Department of Defense, National Guard Bureau. This discussion will continue. Hopefully, at the end of the day, something good will come out of it."

The Big Springs Water Filtration Plant reopened in December. The total cost is estimated at $4.5 million, according to Steve Knipe, director of water and sewer for Martinsburg.

The federal government had originally promised to pay Martinsburg up to an estimated $10 million to re-mediate contamination at the plant. In January 2017 Richard P. McCoy, P.E. — branch chief, environmental restoration branch, National Guard, at Joint Base Andrews in Maryland — told the council that the National Guard Base in Berkeley County is responsible for the PFOA seeping into the Big Spring plant water supply.

PFOA is used in fire fighting foam used by Air Force and National Guard airplanes to put out plane fires, McCoy said.

"So we are responding, now that new information is out there," McCoy said. "We will be working with the Air Force and the Department of Defense to get the funding and oversee payments regarding the installation of carbon filtration at the plant."

However, the Air Force's commitment changed two months later, when federal officials said payment was placed on "pause." Then in May that same year, the city was informed that any costs to rebuild the plant would not be immediately reimbursed by the federal government.

"Pause means basically that we do not have fiscal authority to reimburse the city under a cooperative agreement," said Dennis Pinigis, senior program manager for the Air National Guard Environmental Restoration. "We are not authorized and will not reimburse costs you incur for treatment of the contaminated water."

Pinigis said the Air Force will eventually make a decision on how it will proceed with the proposed agreement with the city.

"The best case scenario is, that by mid-summer, a decision will be made and there will be a revenue stream identified, and then we can proceed forward with a cooperative agreement," Pinigis said. "If we enter into a cooperative agreement and sign an agreement for treatment of the water, yes, you definitely will get reimbursed."

Martinsburg so far hasn't received any federal compensation.

Sayre told city officials back in May 2017 that they could decide to sue the Air Force to force it to pay the city.

"There is a process to where the city could file a claim against the Air Force as form of an administrative claim," Sayre said. "It could go through that process and may or may not get reimbursed for those expenditures. But that would be a lot of additional work for the city to go through that process."

Staff writer Jim McConville can be reached at 304-263-8931, ext. 215, or Twitter@jmcconvilleJN.