

STATE OF NEW YORK

S. 8449

A. 10586

SENATE - ASSEMBLY

May 8, 2018

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. THIELE, ENGLEBRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the statute of limitations for public water suppliers to commence an action for injury to property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil practice law and rules is amended by adding a new section 214-g to read as follows:

§ 214-g. Action to recover damages for injury to property by public water supplier. 1. In this section:

(a) "Contaminant" means any physical, chemical, microbiological or radiological substance or matter in water.

(b) "Public water supplier" means a community, noncommunity or nontransient noncommunity water system that provides water to the public for human consumption through pipes or other constructed conveyances, if such system has at least five service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year.

(c) "Source of water supply" means any groundwater aquifer or watercourse from which water is taken either periodically or continuously for drinking, culinary or food-processing purposes, or which has been designated for present or future use as a source of water supply for domestic or municipal purposes.

(d) "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source of water supply into the treatment plant by a public water supplier.

(e) "Well" means any excavation used for obtaining water by a public water supplier.

(f) "Raw water" means water immediately before the first or only point of disinfection or other treatment.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 2. Notwithstanding the provisions of section two hundred fourteen or
2 two hundred fourteen-c of this article, or any other provision of law to
3 the contrary, an action to recover damages for injury to property of a
4 public water supplier resulting from the presence of a contaminant in a
5 source of water supply shall be commenced within three years of the
6 latest of any of the following:

7 (a) the detection of a contaminant in the raw water of each well or
8 plant intake sampling point in excess of any action level, maximum
9 contaminant level, or maximum contaminant level goal established by the
10 department of health or the United States Environmental Protection Agen-
11 cy for that contaminant;

12 (b) the last wrongful act by any person whose conduct substantially
13 contributed to the presence of a contaminant in a source of water supply
14 or the raw water of each well or plant intake sampling point; or

15 (c) the date the contaminant is no longer detected in the raw water of
16 each well or plant intake sampling point in excess of any action level,
17 maximum contaminant level, or maximum contaminant level goal established
18 by the department of health or the United States Environmental
19 Protection Agency for that contaminant.

20 3. This three-year period shall apply to each well and each plant
21 intake for each contaminant separately, and the expiration of the three-
22 year period at one well or plant intake shall not affect the three-year
23 period for another well or plant intake.

24 4. Nothing in this section shall abridge or limit a public water
25 supplier's right to bring an action to abate an imminent threat of
26 contamination of any well or plant intake or to recover as damages the
27 costs of such abatement.

28 5. Any action that is barred or has been barred as of the effective
29 date of this section because the applicable period of limitation has
30 expired is hereby revived, and such action thereon may be commenced and
31 prosecuted provided such action is commenced within two years of the
32 effective date of this section.

33 § 2. This at shall take effect immediately.