

STATE OF NEW YORK

5477

2019-2020 Regular Sessions

IN ASSEMBLY

February 12, 2019

Introduced by M. of A. THIELE, STERN, LiPETRI, ENGLEBRIGHT, LAVINE,
D'URSO, MONTESANO, MIKULIN, RAIA, RA -- 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 and wholesale water
suppliers to commence an action for injury to property

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

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

3 § 214-g. Action to recover damages for injury to property by public
4 water supplier. 1. In this section:

5 (a) "Contaminant" means any physical, chemical, microbiological or
6 radiological substance or matter in water and includes but is not limit-
7 ed to an emerging contaminant listed pursuant to section eleven hundred
8 twelve of the public health law.

9 (b) "Person" means an individual, corporation, public corporation,
10 company, association, partnership, or entity of the state or federal
11 government.

12 (c) "Public water supplier" means a person that owns, manages or oper-
13 ates a community, noncommunity or nontransient noncommunity water system
14 that provides water to the public for human consumption through pipes or
15 other constructed conveyances, if such system has at least five service
16 connections or regularly serves an average of at least twenty-five indi-
17 viduals daily at least sixty days out of the year.

18 (d) "Wholesale water supplier" means a person that owns, manages or
19 operates a public water system that treats a source of water supply as
20 necessary to produce finished water and then delivers some or all of
21 that finished water to a public water supplier.

22 (e) "Source of water supply" means any groundwater aquifer or waterc-
23 ourse from which water is taken either periodically or continuously for

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

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1 drinking, culinary or food-processing purposes, or which has been desig-
2 nated for present or future use as a source of water supply for domestic
3 or municipal purposes.

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

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

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

11 2. Notwithstanding the provisions of section two hundred fourteen or
12 two hundred fourteen-c of this article, or any other provision of law to
13 the contrary, an action to recover damages for injury to property owned,
14 managed or operated by a public water supplier or a wholesale water
15 supplier resulting from the presence of a contaminant in a source of
16 water supply shall be commenced within three years of the latest of any
17 of the following:

18 (a) the detection of a contaminant in the raw water of each well or
19 plant intake sampling point in excess of any notification level, action
20 level, maximum contaminant level, or maximum contaminant level goal
21 established by the commissioner of health, the department of health or
22 the United States Environmental Protection Agency for that contaminant;

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

26 (c) the date the contaminant is last detected in the raw water of each
27 well or plant intake sampling point in excess of any notification level,
28 action level, maximum contaminant level, or maximum contaminant level
29 goal established by the commissioner of health, the department of health
30 or the United States Environmental Protection Agency for that contam-
31 inant.

32 3. This three-year period shall apply to each well and each plant
33 intake for each contaminant separately, and the expiration of the three-
34 year period at one well or plant intake shall not affect the three-year
35 period for another well or plant intake.

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

40 § 2. This act shall take effect immediately.