CITY OF NEWBURGH

Office of the City Manager

83 Broadway, Newburgh, New York 12550

(845) 569-7301/Fax (845) 569-7370

www.cityofnewburgh-ny.gov

Michael G. Ciaravino, City Manager

September 7, 2016

Judith A. Enck
Regional Administrator, Region 2
U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007-1866

Re: City of Newburgh Perfluorooctane Sulfonate (PFOS) Contamination

Dear Ms. Enck:

I last wrote to you on May 2, 2016, to advise you of the PFOS contamination in the City of Newburgh water system, and you were kind enough to respond by letter of May 19, 2016, to advise the City of the new EPA Health Advisory level of 70 ppt and to offer your assistance.

I write now to with two requests:

1) that you take the necessary steps to list PFOS and its sister compounds as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and

2) that you begin the process to add the Stewart Airport Air National Guard (ANG) Base to the National Priorities List (NPL) so you can use the authorities of CERCLA and Superfund to ensure that the ANG Base is fully remediated, that the damage done to the City of Newburgh's reservoir and watershed is fully rectified, and that the health concerns of the residents and workers of the City of Newburgh are fully addressed.

Much has transpired since our last correspondence. As you know, On April 25, 2016, the Department of Environmental Conservation (DEC) added PFOA and PFOS to its list of hazardous substances in an emergency rule and proposed rule amendments to 6 NYCRR Part 597. Subsequently, on August 12, 2016, DEC declared the ANG Base a State Superfund site after finding the U.S. Department of Defense potentially responsible for contaminating the City of Newburgh's water supply with PFOS.

DEC is installing a temporary Granulated Activated Carbon (GAC) system to allow the City pump water out of Washington Lake in order to reduce the water levels in the Lake and avoid overtopping the dam.

The DEC is also funding, designing and installing a permanent GAC system to filter the water from Lake Washington so the City can once again begin to withdraw source water from the reservoir in time for the shutdown of the Catskill Aqueduct, which is scheduled to occur in October 2017. For the rest of this year and next year, DEC is providing reimbursement to the City for the purchase of raw water from the Catskill Aqueduct while the permanent GAC system is being constructed.

Although DEC and the Department of Health (DOH) have been very responsive, we are concerned that the Department of Defense (DOD), as the identified responsible party, has not been equally visible. The interests of the residents and workers of the City of Newburgh will require a long term commitment to a remediation program funded and implemented either DEC or DOD, or both. As the responsible party, DOD will likely be the agency responsible for carrying out the long term program beyond the emergency measures being taken now by the State.

DEC and DOH have done a fine job collecting sampling information from various discharge points around the ANG Base, which have identified levels as high as 5,900 ppt PFOS in the discharge. In addition, DEC has advised that as early as 1990 a spill of 4,000 gallons of PFOS material was reported at the ANG Base which likely ended up in Washington Lake to some degree.

It is true, as you noted in your letter to me of May 19, that the immediate emergency has passed with the hookup to the Catskill Aqueduct and reimbursement from DEC. However, we are concerned that DEC may have a relatively short term statutory focus which may end around October, 2017, when the permanent GAC system will go into operation and the connection to the Catskill Aqueduct shut down. At that time the City will presumably have the ability to resume taking water from Washington Lake free of PFOS and return to its former water supply system.

This will not be a complete remedy, however. The City needs to know that the integrity of Washington Lake has been assured for the long term. This assurance requires thorough testing of the Lake bottom for PFOS and its sister compounds to be sure PFOS will not become a break-through treatment problem, and restoration of the Lake bottom if needed. It also requires that the ANG Base itself is fully remediated so that there will be no continuing discharge of PFOS and its sister compounds into the Lake Washington watershed. And finally this assurance requires that a full watershed protection study be performed to assure that PFOS and its sister compounds are no longer present in the watershed itself and seeping out over time.

The final component of a full response is to deliver to the residents and workers of the City of Newburgh a comprehensive biological monitoring and health assessment program. Only when we are assured that the health of our water consumers has not been impaired will we be able to say that remediation is complete. Although DOH will hopefully decide to become active in Newburgh as they have been in Hoosick Falls, we look for your support in this effort.

Returning to our specific requests, it is time to determine that PFOS and its sister compounds are hazardous substances. EPA's Health Advisory leaves no doubt on the issues. As you know, these compounds went unnoticed for many years because PFOS and its sister compounds were not regulated compounds. Only because of the Third Unregulated Contaminant Monitoring Rule, was Newburgh water sampled for PFOS. DEC and DOH conducted sampling of Newburgh's water system and confirmed the presence of PFOS in March of 2016.

We ask that EPA add not only PFOS and PFOA to its list of hazardous substances, but also that it include its sister compounds to the extent information is available. We have been advised that in the sampling for PFOS, sister degradation compounds from PFOS regularly appear. All of these possible contaminants should be listed.

With regard to NPL designation, there is no question in our mind that the ANG Base should qualify. It has been demonstrated by DEC and DOH sampling that the site has in fact released hazardous substances into the environment and that it has the potential to continue doing so until fully remediated. The characteristics of the waste are highly toxic, as detailed in your announcement of the Health Advisory. Seventy parts per trillion is an extremely low advisory level for any compound, which speaks to the high degree of toxicity. Finally, the release to the City drinking water system could hardly involve a more sensitive population, including pregnant women, babies, children, seniors and long term residents and workers.

Finally, the identified responsible party is a federal agency. As a practical matter, DEC's authority may be somewhat limited by the jurisdictional standing of the parties. EPA and DEC have demonstrated at many sites that they can work cooperatively under contemporaneous federal and state Superfund designations. Having the additional CERCLA authorities available to EPA will, in our opinion, help ensure that DOD completes its long term responsibilities, whether performed by the state agencies or DOD. Moreover, EPA is the source of the Health Advisory under which all parties are operating. Having identified the problem, for which we thank you, it is appropriate that EPA keep oversight over the remediation through the hazardous substance designation and listing on the NPL.

On September 7, 2016, EPA announced that Sant-Gobain Performance Plastics in the Village of Hoosick Falls has been proposed for addition to the NPL. It is difficult for us to understand why the source of the Hoosick Falls PFOA contamination would be listed and the Air National Guard Base not listed. The only significant difference would appear to be that the Air National Guard Base is a federal facility. Although sites on the Federal Facilities Section of the NPL are generally addressed by other federal agencies, under Executive Order 12580 EPA is still responsible for preparing a Hazard Ranking Score (HRS) and determining whether the facility should be placed on the NPL. Again we urge EPA to begin the process of preparing an HRS to list the Air National Guard base on the NPL. We also ask that you involve the City of Newburgh in your review.

I thank you for all your assistance and support in this effort. We look forward to your participation in the second public meeting on PFOS to be held Monday, September 19 at 6 p.m. at Mount St. Mary College, 330 Powell Avenue, Newburgh. Perhaps at that meeting you will be able to announce you are moving forward on both the hazardous substance designation and the NPL listing in response to this request.

Sincerely,

Michael G. Ciaravino
City Manager
City of Newburgh

cc: Fire Chief Terry Ahlers, City of Newburgh
Captain Paul Pullar, City of Newburgh
Captain William Horton, City of Newburgh
Police Chief Daniel Cameron, City of Newburgh
Thomas Scaglione, Governor's Office
Basil Seggos, Commissioner, NYSDEC
Martin Brand, Deputy Commissioner, NYSDEC
Kenneth Lynch, Executive Deputy, NYSDEC
Kelly Turturro, Acting Director, Region 3
Dr. Nathan Graber, Director of the Center of Environmental Health, NYSDOH
Catherine McCabe, Regional Administrator, USEPA
Pat Evangelista, Region 2, USEPA
Mark Maddaloni, Region 2, USEPA
Paul Simon, Region 2, USEPA
Angela Carpenter, Region 2, USEPA
John Martin, Region 2, USEPA
Cecilia Echols, Region 2, USEPA
Robert Schick, Division Director of Environmental Remediation, NYSDEC
George Heitzman, Director, Environmental Remediation Region 3& 6, NYSDEC
James Tierney, Division of Water, NYSDEC
Jeffrey R. Conway, Region 3, NYSDEC
Dr. Howard Zucker, Commissioner, NYS Department of Health, (NYSDOH)
William Gilday, Bureau of Water Supply Protection, NYSDOH
Dr. Eli N. Avila, Commissioner, Orange County Department of Health, OCDOH
Keith Miller, Orange County Department of Health, OCDOH
Daniel Shapley, Water Quality Program Manager, Riverkeeper
Judy Kennedy, Mayor, City of Newburgh
City Council, City of Newburgh