

Case #5. Peshtigo's Water and Johnson Controls

Residents of tiny Peshtigo, Wisconsin Township consider joining nearby city to fix water supply, which is polluted with chemicals known as PFAS



Use of firefighting foam at a fire-technology company near Peshtigo, Wis., has led to problems with drinking water. Kris Maher/The Wall Street Journal

This case is based on “A Wisconsin Town With Contaminated Drinking Water Must Decide Its Future” by [Kris Maher kris.maher@wsj.com](mailto:kris.maher@wsj.com) Wall Street Journal, Apr. 24, 2022

PESHTIGO, Wis.—For decades, **Ansul, a fire-technology company** next to the township of Peshtigo on the shore of Green Bay set steel structures and other props ablaze and trained firefighters from around the world to put them out with a special foam. (Peshtigo Township, population 3,800 is on the shore of Green Bay, an arm of Lake Michigan, includes the city of Peshtigo, which makes up 3,500 of the total township population.)

Today, chemicals from that foam are found the private water wells in the rural (population 300) part of Peshtigo Township several miles away and in creeks that flow into the bay. Leaders of the **Peshtigo Township** are in a bitter fight with the company about how to get safe drinking water to residents.

Cindy Boyle, chairwoman of the **Peshtigo Town Board** , said it was infuriating that her family has had to drink and cook with bottled water for the past four years and that she wakes up in the middle of the night thinking about the contamination under her town. “If we could just get permanent safe water at least that part could stop,” said Ms. Boyle, 50 years old

The fight echoes many others playing out across the country, as chemicals from firefighting foam used on hundreds of military bases and at airports and by fire departments have been found to contaminate drinking water. The foam contained per- and polyfluoroalkyl substances, or PFAS, which create a film that smothers even the hottest fires.



Cindy Boyle, a Peshtigo Town Board leader Peshtigo, Wis., and her family have been drinking and cooking with bottled water since 2018. Photo: Kris Maher/The Wall Street Journal

PFAS also are used in consumer products—from fast-food wrappers to carpeting and cosmetics—and have been linked to health problems including kidney and testicular cancers, thyroid disease and high cholesterol. Known to scientists and others as “forever chemicals,” they persist in people and the environment.

The **U.S. Environmental Protection Agency** has said it would propose designating the two most widely studied compounds, PFOA and PFOS, as hazardous substances this spring. In the fall, the agency plans to propose the first federal drinking water limit on the two compounds in public drinking water systems. It previously set an advisory level of 70 parts per trillion (ppt) for PFOA and PFOS combined.

Officials with **Johnson Controls International**, a multinational company based in Ireland, say legacy operations caused a pear-shaped plume of PFAS in the ground under its firefighter-training site in the city of Marinette (population 10,000), which draws its drinking water from the bay, and part of the neighboring city of Peshtigo (population 2,000), where residents get drinking water from private wells on their property. PFAS were found at levels of 400,000 ppt on company property, and as high as 2,100 ppt in a family’s well in Peshtigo.

“We take full responsibility for any PFAS from our operations,” said Katie McGinty, chief sustainability officer with Johnson Controls. “It’s our job and our intention to fix it.”

In Peshtigo, year-round homes and summer cabins sit on sandy soil under white pines near the bay’s shoreline. The area has been home to shipbuilders and paper mills. One of the biggest employers for years was the Ansul Company, which was acquired by Tyco International in 1990. In 2016, Tyco merged with Johnson Controls.

The Navy first tested aqueous film-forming foam, or AFFF, there in 1962 as it searched for a way to put out fires involving jet fuel.





Katie McGinty, chief sustainability officer with Johnson Controls, said the company had mapped the PFAS plume with 10,000-plus data points, though some in Peshtigo, Wis., dispute the plume's size. To address the plume, a system is being built that includes tanks to filter out PFAS from groundwater and put clean water into a creek. Photos: Kris Maher/The Wall Street Journal(2)

On a recent day, Ms. McGinty toured a \$25 million system being built to extract groundwater from the heart of the contamination plume. In one building, giant blue tanks will filter out PFAS and put clean water into a creek that runs past Marinette High School to the bay. Currently, a contractor hired by the company scoops up foam with PFAS in it that gathers in the creek near the bay.

Ms. McGinty, who was an environmental adviser in the Clinton administration and later the top environmental regulator in Pennsylvania, said the company has mapped the entire plume with 10,000-plus data points.

But the size of the plume is at the center of the fight between Peshtigo town leaders like Ms. Boyle and Johnson Controls, and it has drawn in **Wisconsin State Department of Natural Resources**, the state's environmental regulator, and **Wisconsin's Attorney General**.

Johnson Controls wants to provide drinking water to 169 household wells that it says could have been contaminated by the company. Ms. Boyle and the **Wisconsin State Department of Natural Resources** say the full extent of the plume hasn't yet been determined, and they want water provided to several hundred more homes.

Testing by the state has found PFAS in nearly 300 additional Peshtigo wells.

In March, Josh Kaul, the **Wisconsin State Attorney General**, sued Johnson Controls, alleging that the company has failed to fully investigate and clean up the contamination. He also alleges that the company violated state law when it found PFAS in groundwater in 2013 but didn't file a report notifying the state until early 2018.



Doug Oitzinger, of Marinette., Wis., which has its own water system, says some people still worry about PFAS contamination coming into their basements. Photo: Kris Maher/The Wall Street Journal

A company spokeswoman declined to comment on the lawsuit. “We stand behind the years of work and considerable resources we have invested in investigating and remediating PFAS related to historic operations at our Fire Technology Center in Marinette,” she said in a written statement.

Last year, **Johnson Controls** settled a class-action lawsuit filed by Peshtigo residents and will pay \$15 million to several hundred people whose property might have been affected by PFAS or who might have drunk water containing the chemicals.

One of the company's solutions is to have some or all of the 169 households in its affected area annex their properties into Marinette to tap into the city's water system. Another option is digging wells into a deeper aquifer. If everyone chose annexation, Ms. McGinty said it would cost about \$20 million to build the needed infrastructure.

That option has sparked anger from Ms. Boyle and others. She said annexation would rob the town of property-tax revenue from homes along the bay, potentially including her own family's. Moreover, it wouldn't help the other hundreds of homes in Peshtigo that have PFAS in their wells, she said.

"Resist the propaganda," she told about 30 Peshtigo residents at a recent water committee meeting held in the town's municipal building.

One of the town's proposals is to build its own water system to use water from the bay at a cost of roughly \$92 million. Ms. Boyle said she would seek funding from Johnson Controls and a grant from the federal infrastructure law passed last year.

Ms. McGinty said the town's options are less feasible than those being offered by the company. "Standing up a brand new municipal authority is a big undertaking for an entire town," she said.



Ms. Boyle wants Peshtigo to build its own town water system, using water from nearby Green Bay. Photo: Kris Maher/The Wall Street Journal

The looming decision—whether to annex or build a pipeline to another city or a brand new water infrastructure—is dividing Peshtigo.

Jennifer Friday, a nurse practitioner who lives in Peshtigo, said she is part of a faction that has met with company officials and feels like the town itself isn't fully informing residents about their options. She said she is considering joining the city of Marinette, partly because it would be quicker.

“We want to get on with our lives,” said her boyfriend, Scott Beatty. “It’s unproductive to attack and bash Tyco. They did what they did, and let’s move on.”

Like many other residents, both Ms. Boyle and Ms. Friday say they will continue to drink bottled water provided by Johnson Controls until there is a permanent water solution.

Area residents like Kayla Furton say they worry about potential health impacts from PFAS exposure. She said she was diagnosed with thyroid disease in 2018 and learned that her home’s well, which provided the water she drank growing up, tested at 63 ppt of PFAS last year.

“We had no idea that our very home was exposing our children,” said Ms. Furton, a town-board member who opposes annexation.

Meanwhile, Doug Oitzinger, a Marinette resident whose home sits amid a pine grove near the Boyle’s, said some people with drinking water from the bay still worry about PFAS contamination coming into their basements and about children playing in the creeks.

“It’s a hard, hard truth for those of us who live here, myself included,” he said. “It’s a forever chemical. None of us will live long enough to see it go away.”

ACTORS IN THE CASE

Johnson Controls International which acquired TICO International, which previously acquired Ansul.

Peshtigo Township Board

Citizens of rural Peshtigo Township

Citizens of the city of Peshtigo

U.S. Environmental Protection Agency

Wisconsin State Department of Natural Resources

Wisconsin State Attorney General

1. (3) What property rights conflicts are raised by this case?

[NOTE: in this and future cases, there may be more than one actor asserting one or more rights on either side of the rights conflict]

Show conflicts in this form:

_____ right to _____ [state very specific to the case] _____

versus

_____ right to _____ [state very specific to the case] _____

NOTE: At least one conflict should have the business firm in the case as one of the entities asserting its right to...

(maximum length 100 words)

NOTE: The rights of government agencies and NGOs are not at issue in the cases in this course! However, as actors, government agencies, media and NGOs do advocate on behalf of the *rights of others who for a variety of reasons cannot act for themselves* in many cases.

2. (3) How would the following actors describe the view of the social contract of Johnson Controls?
- Johnson Controls International
 - Citizens of rural Peshtigo Township
 - State of Wisconsin

(Each answer should be in the form of "The social contract of _____ should be _____ maximum length 75 words)

3. (2) What do you think is the likelihood that Johnson Controls will be able to fend off the challenge from the Citizens of rural Peshtigo Township and avoid paying additional millions so residents of the township will have a safe water source? Explain your answer. **(maximum length 75 words)**