

August 16, 1999

Albany Survey Of Toxic Sites Is Unpublished

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New York State environmental officials last year compiled an internal list of more than 1,500 places where soil or water had been contaminated with M.T.B.E., a gasoline additive that makes water taste like turpentine and is a possible cause of cancer and other health problems.

The tally of M.T.B.E. sites is more than three times the number reported publicly in the state's toxic-spills database, which real estate buyers and suppliers of drinking water use to spot contamination problems.

Officials at the State Department of Environmental Conservation said its 1998 count of sites had not been added to the public list because it resulted from an informal survey of field offices, not a methodical study.

But a lawyer who was preparing to file a lawsuit today against oil companies over M.T.B.E. spills in the state said the data should have been made public right away, particularly given increasing concerns about the chemical.

Last month, the administrator of the Federal Environmental Protection Agency, Carol M. Browner, said her agency planned sharp restrictions on the use of the additive, which helps reduce air pollution when gasoline is burned but has shown up in 5 to 10 percent of drinking water wells in areas across the country where it is used in fuel. The harm to the water outweighs the benefits to the air, Ms. Browner said.

The lawyer, Lewis J. Saul of Washington, said his staff came upon New York's internal list of sites contaminated by M.T.B.E., or methyl tertiary butyl ether, while researching the lawsuit. The suit names one plaintiff, Mary Ellen Kane of East Hampton, N.Y., but he plans to make it a class-action suit on behalf of all New Yorkers who own private wells that might be contaminated.

Mr. Saul is involved in similar lawsuits filed in the last year in Maine and North Carolina. Other such lawsuits have been filed in California. All the suits seek to force oil companies to test private wells for the additive, clean up any contamination and compensate property owners.

"The scope of the spills across New York is just staggering," Mr. Saul said. "It's simply unconscionable that the D.E.C. identified so many spills and has not told the public."

Mr. Saul provided a copy of the state M.T.B.E. data to The New York Times.

Jennifer Post, a spokeswoman for the state environmental agency, said there was no significant gap in the public data. She added that the public spills database describes toxic sites mainly in general terms, indicating, for example, whether a spill was of gasoline or diesel fuel or home heating oil but not identifying chemicals in the fuels.

Over all, she said, the state was progressing with its cleanup of about 7,000 identified spills of gasoline, including the 1,500 where the additive has been detected.

The additive "does have some characteristics that require a slightly more aggressive cleanup," Ms. Post said. "But essentially the work is the same and the cleanup is the same."

Erin M. Crotty, the state agency's Deputy Commissioner for water quality, said her staff was reviewing the need to add more detail to the public spills list.

Managers of public water supplies expressed concern when they were told about the unpublished state data on the additive. They said the effect of the chemical on water was significant enough for the state to emphasize it.

"This is very troubling because D.E.C. and the regulatory watchdogs are supposed to be our guardians," said Paul J. Granger, the superintendent of the Plainview Water District, which supplies water through 11 wells to 35,000 Long Islanders.

"They're supposed to serve as our binoculars to see what's out there so we can spend taxpayers' money wisely to keep the water clean," said Mr. Granger, who is also chairman of the Long Island Water Conference, a private group representing 52 water suppliers serving three million people.

He said the equipment needed to remove the additive from drinking water cost 50 percent more than conventional filtration systems and could raise operating costs 25 percent or more.

The chemical has been added to gasoline in many states since the 1970's, first in low concentrations to boost the octane rating, then added in higher concentrations in the 1990's to make the fuel burn more cleanly.

In 1996, the Federal Environmental Protection Agency made using the additive or similar chemicals mandatory at least part of the year in many polluted areas across the country where air quality did not meet Federal standards. These areas included New York, New Jersey and Connecticut.

But since then the chemical has been found in thousands of private and municipal wells across the country, particularly those near gas stations with leaking underground storage tanks.

The health effects of M.T.B.E. are far less certain than those of other ingredients of gasoline, like benzene, which the Federal agency has designated a known cause of human cancer. The agency lists M.T.B.E. as a possible human carcinogen.

But unlike other components of gasoline, which evaporate and do not mix with water, the additive readily dissolves in water, spreading quickly underground and resisting filters that remove other pollution. It also resists soil bacteria that readily digest other ingredients of gasoline.

In March, Gov. Gray Davis of California ordered that the additive be completely eliminated from gasoline in that state by 2002.

Some legislators in New York have called for a similar ban. Richard L. Brodsky, a Westchester Democrat and chairman of the Assembly Environmental Conservation Committee, said a bill banning the additive was high on the agenda for the next session.

He also criticized the state environmental agency for withholding the updated list of spills and said the delay appeared to be part of Gov. George E. Pataki's effort to limit the cleanup costs facing the oil industry in New York. "Hiding this data is a continuation of an intentional policy of noninspection, nondiscussion and nondisclosure when it comes to toxic spills," Mr. Brodsky said.

Ms. Post, at the state agency, said, "That charge is simply ridiculous." She added that Mr. Pataki had proposed legislation that would intensify the oil cleanup program, but that the Legislature had chosen to ignore it so far.

The public list maintained by the New York environmental agency is a popular tool with prospective buyers of real estate, who use it to identify contamination that might require a costly cleanup or otherwise depress the value of a house or tract.

"When the D.E.C. is not forthcoming with all the information they have, that can be disastrous," said Walter Hang, the president of Toxics Targeting, a private company, in Ithaca, N.Y., that sifts government data for clients seeking the locations of toxic spills. Mr. Hang analyzed the data for Mr. Saul, who has posted it on the Internet at a Web site (www.mtbecontamination.com).

Over all, only about 10 percent of the M.T.B.E. sites listed in the state's 1998 survey meet the state's cleanup standards for the chemical, Mr. Hang said.

According to the state's internal list, M.T.B.E. sites exist in all 62 counties. Those with the most contaminated sites are Nassau (198), Suffolk (183) and Westchester (96).

In New York City, there are 101 sites on the list, including one that has contaminated two wells in Queens that are part of the New York City water supply. Those wells were turned off last year when the contamination was discovered, said Cathy DelliCarpini, a spokeswoman for the City Department of Environmental Protection.

Mr. Saul's lawsuits in Maine, North Carolina and now New York are all based on the premise that oil companies knew that the additive could penetrate underground water supplies, even as they were lobbying the Federal agency to require its use to clean the air and were advertising gasolines with the additive as beneficial to the environment.

"The industry knew that this would mix with water and would cause a serious, serious contamination problem," Mr. Saul said.

Representatives of oil companies and two trade groups named in the suits declined to comment, citing the various court cases.

On Thursday, the Oxygenated Fuels Association, one of the trade groups, is scheduled to argue in court in Maine to have that lawsuit dismissed, said Jeffrey Thaler, a lawyer for the group.

On its Web site, the organization points out that studies on potential health effects of the chemical have been inconclusive, and that most state standards are based on the taste and odor problems from contamination, not on any health threat.