

March 12, 2020

To The Oak Bluffs Planning Board and Martha's Vineyard Commission:

I am a part-time resident of Tisbury and an attorney with experience in mass tort litigation — i.e., tobacco, asbestos, and pharmaceuticals. Three years ago, I wrote a letter to Matthew D'Andrea, Superintendent of Martha's Vineyard Public Schools, urging the school not to install a synthetic turf field on the high school campus and warning of potential legal exposure if they did. At that time, I indicated that the school (as a premise owner) may be subjected to future litigation if individuals develop illnesses associated with synthetic turf and/or property interests are impacted as a result of environmental damage.

As I outlined in my previous letter, the health concerns associated with synthetic turf fields are numerous. Over the last few years, more research has emerged – regarding concussion risks, lower extremity injury risks, toxicity, high heat risks, disposal, greenhouse gas emissions and more – casting more doubt on the purported safety of these widely marketed products. In light of this, it is disappointing to see that the Martha's Vineyard Regional High School (MVRHS) is again seeking permits from the Oak Bluffs Planning Board and Martha's Vineyard Commission for a synthetic field.

As you are likely aware, PFAS chemicals were recently identified in a number of samples of both new and used synthetic turf carpets – in both the plastic grass blades and backing. While there is still additional testing to be done, The Boston Globe reports that these findings were confirmed by a spokesperson for Shaw Industries, one of the leading synthetic turf brands, who said these chemicals are commonly used by synthetic turf manufacturers. Recently, Portsmouth, NH received test results submitted by RTI Laboratories, Inc. on behalf of Sprinturf reporting total fluorine levels of 430ppm in the plastic grass blades, as well as 80ppm total fluorine in the backing. Total fluorine is the indicator of the presence of PFAS (which is important when looking for the 4,000+ PFAS chemicals). ACT Global, one of the brands being recommended for use at MVRHS, discloses the use of “fluoroelastomer process aid” in the Safety Data Sheet for their product. And review of patents and industry information reveals indicators of Polytetrafluoroethylene (PTFE, also known as Teflon) and Polyvinylidene fluoride in both infill coatings and plastic grass blades.

PFAS is a term given to a group of man-made perfluorinated chemicals that were used in common industrial and household products, including firefighting foam (AFFF), Teflon and Scotchgard. Included in PFAS, are the toxic chemicals perfluorooctane sulfonate (PFOS) and/or perfluorooctanoic acid (PFOA), and certain other perfluorinated compounds (PFCs) that degrade into PFOS and PFOA. The carbon-fluorine bond is one of the strongest chemical bonds man has ever created. Because these chemicals are so stable, they have the property to repel most other substances, including water, oil and grease.

PFAS chemicals are so problematic to human beings and the environment that they are measured in parts per trillion (ppt). Most chemicals are measured in parts per million or less. It is important to note that in December 2019, the Massachusetts Department of Environmental Protection adopted a final groundwater enforcement standard of 20 ppt. A synthetic turf field, alone, may cause PFAS readings to exceed this level.

PFAS chemicals can remain in the environment, particularly in water, for many decades and can move through air, soil, and into groundwater. PFAS also bio-accumulate in plants, animals and humans. These contaminants are readily absorbed by the body and may persist in the body for long periods of time. Thus, PFAS chemicals are often referred to as “forever chemicals.” One of the most often cited studies was conducted by the C8 Science Panel, which was formed as the result of a settlement in a class action lawsuit against DuPont. The C8 Science Panel found a link between PFOA and the following six (6) diseases:

- Kidney Cancer
- Testicular Cancer
- Ulcerative Colitis
- Thyroid Disease
- Pregnancy Induced Hypertension (including preeclampsia)
- Hypercholesterolemia

Even if PFOA is no longer being used in synthetic turf manufacturing, emerging research indicates that other PFAS chemicals and possibly PTFE likely pose similar risks. It is important to note that many of the PFAS manufacturers are directly linked to synthetic turf manufacturers through chemical supply.

While much of the PFAS research has focused on ingestion, several more recent studies have demonstrated that dermal exposure to PFAS poses serious health risks as well. This means athletes themselves could be vulnerable to direct toxic exposure through their skin and/or hand to mouth contact. This exposure risk increases given how common turf burns are on synthetic turf fields. I would be happy to provide additional medical and scientific information on PFAS so that you can be fully informed for your deliberations.

Since 2016, there has been a flurry of litigation surrounding PFAS. In late 2018, the Judicial Panel for Multidistrict Litigation (JPML) ordered that all AFFF (firefighting foam containing PFAS) cases from all over the country be consolidated before Judge Richard Gergel in the District of South Carolina in the matter of In Re: Aqueous Film-Forming Foams Products Liability Litigation (MDL No. 2:18-mn-2873-RMG) (AFFF MDL). My law firm, The Ferraro Law, is heavily involved in this litigation and has been appointed a member of the Plaintiffs’ Executive Committee. We currently represent hundreds of individuals that have suffered one or more of the abovementioned injuries as a result of exposure to PFAS and municipalities that have been tasked with cleaning up PFAS contamination.

In fact, last month, the Martha’s Vineyard Airport Commission voted unanimously to retain my law firm, The Ferraro Law, to represent them in the multi-district AFFF litigation. As you may be aware, over the past year and a half, Martha’s Vineyard has been dealing with the environmental effects of PFAS. Unbeknownst to the Martha’s Vineyard Airport, the historic use of AFFF caused PFAS to leach into dozens of residential drinking water wells south of the airport. As a result of this contamination, the Airport has expended vast sums of money to test more than 190 residential wells, provide bottled water to effected residents, and install specialized filtration systems on the effected wells. These efforts are ongoing and the Airport continues to spend money to combat this issue. For more information regarding the Airport’s PFAS clean up efforts, you can refer to Tetra Tech’s Immediate Response Action Status Report #7, which is posted on the Airport’s website.

Based upon the foregoing, knowingly installing a product that is intended for long term, regular use by minors, that sits atop a Zone II Wellhead Protection Area, and is likely to contain PFAS would be beyond irresponsible. As designated protectors of the Vineyard's lands and waters, committed to ensuring responsible development, I strongly urge you to demonstrate what true leadership looks like and reject the proposed installation of any synthetic playing fields on Martha's Vineyard.

Sincerely,

James L. Ferraro Jr., Esq.