

MORIARITY BADARUDDIN & BOOKE, LLC

119 NORTH 7TH AVENUE
BOZEMAN, MONTANA 59715
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January 24, 2014

VIA CERTIFIED MAIL AND BY E-MAIL

State of Montana
Chief Legal Counsel
840 Helena Ave
Helena, Mt 59601
e-mail: jlaslovich@mt.gov

State of Montana
Secretary of State
1301 East 6th Ave
Helena, Mt 59601
e-mail: secretary@mt.gov

County of Gallatin
County Commissioners
311 W Main St # 306
Bozeman, Mt 59715
e-mail: commission@gallatin.mt.gov

City of Bozeman
City Commission Members
City Manager Chris Kukulski
121 North Rouse Avenue
P.O. Box 1230
Bozeman, MT 59771-1230
e-mail: ckukulski@bozeman.net
jkrauss@bozeman.net

NOTICE OF CLAIM

Pursuant to Mont. Code. Ann. § 2-9-301 for Personal Injury and Property Damages
Suffered by Claimants listed below

Claim Is Made Against State of Montana, County of Gallatin, and City of Bozeman

MORIARITY BADARUDDIN & BOOKE, LLC

736 South Third Street West
Missoula, Montana 59801
(406) 728-6868
Facsimile (406) 728-7722

252 South 1300 East, Suite A
Salt Lake City, Utah 84106
(801) 326-8090
Facsimile (801) 438-2309 Fax

119 North 7th Avenue
Bozeman, Montana 59715
(406) 586-8458
Facsimile (406) 586-8460

TO WHOM IT MAY CONCERN:

INTRODUCTION

The above law firm has been retained¹ counsel in the above-referenced matter on behalf of the below listed claimants. This notice of claim, being filed on behalf of claimants, arose out of acts and omissions of the governmental entities named herein, their employees (2) (a), agents, policy makers, regulators and enforcement personnel. The acts and omissions of independent contractors, or other wrongdoers, will be dealt with in other proceedings (2) (b), not requiring a Notice of Claim.

The governmental entities (herein after referred to as “Respondents”), and who are herein named are responsible for the protection of the health and safety of the individuals within their various jurisdictions. In Montana, we have a constitutional right to a clean and healthful environment, see Mont. Const., Art. II, § 3. The Montana Supreme Court has ruled that the right to a clean and healthful environment constitutes a fundamental right, see *MEIC v. Dept. of Environmental Quality*, 1999 MT 248, ¶ 63, 296 Mont. 207, 988 P.2d 1236.

Claimants rely upon their governmental entities to provide these protections that are financed by taxes and assessments paid for by the Claimants and other taxpayers. These monies go into the governmental funds that support the governmental duties and responsibilities. The governmental entities are charged by law to be responsible for their acts and omissions. The Respondents have made the determination to pay insurance premiums for re-insurance in case of incidents such as what has occurred with the Bozeman Landfill. The damages claimed in this Notice will not cost the taxpayers out of their funds. If this matter cannot be resolved in the short-term it is going to end up with the decisions being made and directed by the carriers and not by the governmental entities. Decisions about this notice of claim are to be made by the Governmental entities and should not be used as a tool of delay.

This Notice of Claim is being filed for two specific reasons, both of which are very important. First, this Notice of Claim is required by law and gives the Governmental entities 120 days in which to act on the claims and attempt to get them resolved. Second, this Notice of Claim respectfully contains a special and specific appeal that this 120-day period be used for the good faith and statutorily imposed purpose of attempting to get the claims resolved.

To that second reason the Claimants pledge full and complete cooperation, (including mediations or similar attempts at resolution), during this 120-day period in a good faith attempt on their part to get this dispute resolved. The Montana Code - Section 2-9-301, in part, dictates:

“(2) A complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department of

¹ There are no specific requirements for the contents of the notice of claim other than one requiring that an attorney who is representing a claimant: “shall file with the claim a copy of the contract of employment showing specifically the terms of the fee agreement between the attorney and the claimant.” Mont. Code Ann. § 2-9-314(1). Said contracts are attached.

administration and the department has finally denied the claim. The department must grant or deny the claim in writing within 120 days after the claim is presented to the department. The failure of the department to make final disposition of a claim within 120 days after it is presented to the department must be considered a final denial of the claim for purposes of this subsection....”

As stated in Section 2-9-301 the Respondents have several choices as to how to handle this Notice of Claim. Examples of these choices are:

a). They can say lets try to work with the Claimants and do what we can to get the claim resolved;

Claimants argue for this example since claimants and the Respondents have some mutual goals the most important of which is to protect the health and safety of the taxpayers; be that of the Respondents plight of running the government entity within reasonable budget limitations and at the same time getting this claim resolved; compared with the plight of the Claimants trying to be reinstated to as close to equal a position as that they were in when their health and property values, homes, home security, and their exposure of emotional suffering became a reality.

b). They can say lets take the Claimants up on their good faith offer of cooperation, meet and confer and set out a plan and timeline to get the claim resolved;

c). They can say the issue is complicated, time consuming, specialized and should be left to the legal system, and since we cannot get it resolved, we will simply give an early reply and deny the claim;

d). They can set the matter for special sessions without any resolution and end up putting it off until they have run out of time and then be forced to either deny the claim in writing in a few months, or let it expire on the statutory term of 120-days;

e) They can avoid their own input and leave the decision to the carriers who routinely advise to wait until the 120-day expires and let the Claimants file and then the cases will go on for years. This choice does not comply with the duties imposed by statute and ends up with the governmental entity having the potential liability hang over their heads and the claimants must suffer further exposure, serious health decisions, economic ruin, emotional suffering, and loss of enjoyment of life;

f). They can simply set it aside and wait 120-days and the law will rule it denied and the Claimants will have to bring a case in the proper court.

f). They can simply say the problem is to large to resolve, it is over our heads, and we will just let time pass and see what happens.

There is no question that insurance is involved in this matter. The damages will not be paid by taxpayer funds. The governmental entities have purchased insurance to cover any exposure above and

beyond the statutory damage caps, and therefore those caps are waived under Mont. Code Ann. § 2-9-108(3).

Please accept and consider this letter as the required Notice of Claim as described in Mont. Code Ann. § 2-9-301 for each of the below identified Claimants. This Notice constitutes claims of both Personal Injury and Property Damage as defined in Mont. Code Ann. § 2-9-101(1) (4) and (6). This Notice of Claim is provided to you, for delivery to the Clerk or Secretary of your respective "Governmental entity" political subdivision, pursuant to M.C.A. § 2-9-301(3). Please see 2-9-101. Definitions below:

2-9-101. Definitions. As used in parts 1 through 3 of this chapter, the following definitions apply:

(1) "**Claim**" means any claim against a governmental entity, for money damages only, that any person is legally entitled to recover as damages because of personal injury or property damage caused by a negligent or wrongful act or omission committed by any employee of the governmental entity while acting within the scope of employment, under circumstances where the governmental entity, if a private person, would be liable to the claimant for the damages under the laws of the state.

(2) (a) "**Employee**" means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity temporarily or permanently in the service of the governmental entity whether with or without compensation.

(b) The term does not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which parts 1 through 3 apply in the event of a claim.

(3) "**Governmental entity**" means the state and political subdivisions.

(4) "**Personal injury**" means any injury resulting from libel, slander, malicious prosecution, or false arrest and any bodily injury, sickness, disease, or death sustained by any person and caused by an occurrence for which the state may be held liable.

(5) "**Political subdivision**" means any county, city, municipal corporation, school district, special improvement or taxing district, or other political subdivision or public corporation.

(6) "**Property damage**" means injury or destruction to tangible property, including loss of use of the property, caused by an occurrence for which the state may be held liable.

(7) "**State**" means the state of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

In accordance with the statutes, the State of Montana, (hereinafter "State") including but not limited to the Montana Department of Environmental Quality, (hereinafter "DEQ"), the City of Bozeman, (hereinafter Bozeman or City), Gallatin County (hereinafter "County), should take notice of the following:

CLAIMANTS:

This Notice of Claim is submitted in one document and is to be considered as individual claims submitted by each of the named claimants. General Loss Notice has also been given to the Montana Municipal Interlocal Authority (hereinafter MMIA), P.O. Box 6669, Helena, MT 59604-6669, 406-443-0907/1-800-635-3089. This was filed by computer as required by the MMIA.

The Claimants in this Notice of Claim pursuant to Mont. Code. Ann. § 2-9-301 are as follows:

1. **LES AND SANDRA FISCHER**
2. **CAROLINE BOWEN**
3. **PETE AND EILEEN MCGOVERN**
4. **EDWARD AND KATHERINE MORIARITY**
5. **ANY AND ALL FAMILY MEMBERS OF ALL OF THE ABOVE**

IDENTIFICATION OF CLAIMANTS:

1. **LES AND SANDRA FISCHER**
Residents: Les Fischer
Sandra Fischer and family
Address: 610 St. Andrews Drive
Bozeman, MT 59715
2. **CAROLINE BOWEN**
Residents: Caroline Bowen and family
Address: 972 St. Andrews Drive
Bozeman, MT 59715
3. **PETE AND EILEEN MCGOVERN**
Residents: Pete McGovern
Eileen McGovern and family
Address: 801 Turnberry Court
Bozeman, MT 59715
4. **EDWARD AND KATHERINE MORIARITY**
Residents: Edward P. Moriarity
Katherine Moriarity and family
And Pauline Wagner
Address: 973 St. Andrews Drive
Bozeman, Montana 59715

BRIEF STATEMENT OF THE FACTS:

The City of Bozeman Landfill (license number 196)(hereinafter landfill) was established in 1970 and is located at 2143 Story Mill Road, Bozeman, MT 59715. The Landfill was not properly planned, designed, engineered, constructed, installed, permitted, and monitored (hereinafter inherently dangerous). When the landfill was established, a liner to protect the land and groundwater was not installed. The landfill was expanded. Even though the expanded section of the landfill had a liner the entire landfill was not properly protected, monitored, inspected and there was a failure to keep the

toxins in the landfill. The decision makers of the governmental entities did not take the required steps to protect the known dangers to health and safety created by the landfill to the people in the City, and especially to the innocent residences of Bridger Creek Phase III. The decision makers did not construct the necessary barriers that would have protected its citizens against the dangers to health and safety as they were elected, appointed, hired, and/or contracted to create.

The governmental entities that owned, controlled, regulated, and made property decisions regarding the establishment, approval of, and the issuing of building and occupancy permits in the Bridger Creek Phase III, (hereinafter BC III), subdivision knew, or should have known, the inherently dangerous condition of the Sub-division, and the unknown risks to which they exposed the inhabitants of BC III. The governmental entities who participated in this practice even continued to permit construction of homes and issued building permits when these governmental entities knew the landfill was inherently dangerous and posed a substantial risk of harm to the inhabitants of BC III.

The landfill was scheduled to close in 2001. This closure date was continued as shown by the records of the Bozeman City Council and the other Governmental entities identified herein. Even though the danger of this landfill was known, dangerous substances were permitted to be dumped in the landfill for several more years. The landfill was officially closed in 2008. There was a continuing duty to monitor, inspect, control, regulate, and contain the landfill. The City of Bozeman contends they have been testing the ground water biannually since 1981. This testing was inadequate. The testing reports and related documentation² proves the governmental entities were on notice of the dangers. The City Officials also say Bozeman began testing the soil around the landfill in 2012 and informed the residence near the landfill regarding the toxicity of the land in 2013. This testing, whatever it involved, was not adequate. This was not the only testing of the Bozeman Landfill. Bozeman knew the landfill was leaking, knew the problems contained therein, and most important, knew the problems that were leaking into BC III. They, along with the other Respondents, did not take the timely action they should have when claimants bought their homes in the Bridge Creek Phase III subdivision.

The bottom line is that the landfill never should have been located at 2143 Story Mill Road, Bozeman, MT. Once it was so located BC III never should have been approved. The approval of BC III, the approval of building permits, the approval of habitation of the homes, and the cooperation with the developers of this dream sub-division, resulted in many good people investing millions into the property and homes that are now the swords that will cut out their futures and retirement, cut out their expected enjoyment of life, cut out their health, and cut out their shelter, cut off their biggest investment- their homes- and leave them homeless, destitute, ill, emotionally shattered, and unable to take care of themselves, and their families.

This notice of claim is to attempt to be placed back into the positions the Claimants were in before they went through the nightmare of BC III referred to above. This Notice of Claim is provided as required by the laws of Montana. It has to be made for the highest amount of potential recovery of the claims – that is the law. The stated amounts in these claims are based upon known and reasonably foreseeable acts and omissions and resulting damages. These amounts can be addressed in detail and negotiated based upon reasonable facts. Claimants respectfully request the governmental entities to

² These documents are well known to the Respondents since they are in their records and if there is any question Claimants will work with the Respondents to make sure the documents are available.

address these good faith claims and to take whatever steps are available to try to wake us up from this nightmare and bring it to an end. We will cooperate, we will do whatever is expected of us, we just ask that we all work together as residents of Montana, as residents of Gallatin County, as residents of Bozeman, and as victims of BC III and the Bozeman Landfill.

NATURE OF CLAIMS ASSERTED:

This is a claim for damages arising from property damage and personal injuries suffered by the Claimants³ caused by the acts and omissions of the Government Entities including but not limited to the City of Bozeman, Gallatin County and the State of Montana. These claims are made against any and all departments within or controlled by the governmental entities as defined in, and included within, Mont. Code Ann. § 2-9-301. This is a civil claim for general and special damages that were and continue to be the direct and proximate cause of the acts and omissions of the governmental entities covered by this Notice of Claim.

DAMAGES INCURRED BY CLAIMANTS SO FAR AS THEY ARE KNOWN:

LES AND SANDRA FISCHER
Address: 610 St. Andrews Drive
Bozeman, MT 59715

Les Fischer

Birth Date: 5/27/1951
Occupation: Retired. Prior to retirement was Mechanic Foreman
Date Retired: 10/1/2012
Last Employed By: Northwestern Energy – Bozeman Division
Date of purchase: October 2001
Property Value Prior to VOCs: \$425,000 Taxable value \$463,668 as estimated by Zillow
Property Value Post VOCs: \$0.00
Medical Treatment: None to date
Effect of Incident: Stressed and disappointed that he ever built a house in this subdivision. He first learned what a VOC is at the first meeting with the City. Then he found more information by Googling VOC's and unlined landfills. Since then, nothing has been quite the same.

Sandy Fischer

Birth Date: 11/20/1953
Occupation: On permanent disability. Prior to disability was Executive Assistant to General Counsel, CFO, and Legal Department.
Date of Disability: Short-term disability and part-time employment – 7/18/2011

³ Claimants listed on Page 5

Short-term disability and full-time leave of absence – 10/3/11
Long-term disability with no leave of absence – 11/12/2011
Termination from RightNow – 11/12/2011

Last Employed By:
Medical Treatment:

RightNow Technologies, Inc. Now RightNow Technologies/Oracle
Diagnosed with Multiple Sclerosis (hereinafter MS) on 8/31/2010.
Began having problems 2/3/2008. Underwent numerous testing until her diagnosis of MS in 2010. The VOCs may be a contributing factor to her MS and her symptoms as VOCs are neurotoxins and could possibly contribute to MS.

Effect of Incident:

The stress level for her has risen ten-fold since first being notified of the problem by the City in June, 2013 and especially after receiving the first report of the VOCs found in her home. MS is greatly affected by stress. Her spasticity in her legs and hands has become almost unmanageable. Her medication has been adjusted a couple of different times, but with not a lot of relief. Her spasticity is worse at night and she is often up until 1 or 2 a.m. before it subsides enough that she can go to sleep. She have had spasticity so bad that her feet and hands curl in and she can't open them until she am able to relax. Her cognitive memory is also affected during high levels of stress. She is unable to concentrate, remember things, perform simple things like paying bills and knitting to mention just a few.

Effect of Incident on Les and Sandra Fischer:

At the time they received the notice, their house was for sale with a realtor until mid-August when the contract ended. Once the contract had ended, they called a realtor and asked if she would list thier home. She said she would not because of what was going on in the subdivision. They also received inquiries from two other realtors to list our house. Once Les explained the situation, the realtors would not list their house because the realtors didn't feel it would sell and the realtors would lose money from listing the house in ads. Even if the house was listed for sale, the problem with the VOCs in the house and the mitigation system needs to be disclosed along with the fact that the landfill continues to leach the VOCs through the soil and will continue for years to come.

The findings of the VOCs and the responses from realtors greatly impacted them in terms of their future retirement plans. They had planned on selling our home and moving to a warmer climate. It was their 401K for the new phase in their life. This has left them unsettled as what they should do. Their plan was to a buy motorhome to be out of the house as much as possible. They contacted their bank to see if they could do a home equity loan or possibly refinance the house. The bank was aware of the situation in Phase III and after looking into things, the bank informed them that the bank would not be able to give them either a home equity loan or refinance the house. The bank also said that no new

loans would be given in this area which would then also make it impossible for a prospective buyer to buy their home.

Their daughters lived in the house for two to three years before getting married or going to college. Both daughter now have medical issues. Claims are being made for both daughters as well. Their dog, Shitzu, has had chronic liver disease since 2006. The vet thought he had been affected by chemical fertilizers used by commercial lawn care companies applied to the neighbor's lawn. However, she did say that the fertilizers are not to have an effect on animals. He has been on liver medication since then.

The full extent of the damages suffered by Les and Sandra Fischer and their family members have not yet been fully determined. However, the damages suffered and claimed by the Fischer's include, but are not limited to:

PROPERTY VALUE:

the loss of property value: over \$1,500,000 in an amount to be proved;

PERSONAL INJURY

medical expenses, the loss of the quality of life, the potential cost of care and medical treatment, potential shortened life expectancy, loss of consortium, and pain and suffering all in an amount to be determined.

The full value of all damages is not yet known, but for purposes of resolving this claim exceed \$3,000,000.00.

CAROLINE BOWEN

Address: 972 St. Andrews Drive
Bozeman, MT 59715

DOB: 11/20/51
Occupation: Ski instructor
Employed by: Bridger Bowl
Property Value Prior to VOCs: \$499,999.00
Property Value Post VOCs: \$0.00

Medical Treatment: Counseling for panic disorder

Effect of Incident: She has emotional distress including suffering from a panic disorder upon being informed of the VOCs.

The full extent of the damages suffered by Caroline Bowen and her family members have not yet been fully determined. However, the damages suffered and claimed by the Bowen's include, but are not limited to:

PROPERTY VALUE:

the loss of property value: over \$1,500,000 in an amount to be proved;

PERSONAL INJURY

medical expenses, the loss of the quality of life, the potential cost of care and medical treatment, potential shortened life expectancy, loss of consortium, and pain and suffering all in an amount to be determined.

The full value of all damages is not yet known, but for purposes of resolving this claim exceed \$3,000,000.00.

PETE AND EILEEN MCGOVERN

Address: 801 Turnberry Court
Bozeman, MT 59715

Pete McGovern:

DOB: 10/10/47
Occupation: writer/editor/expert witness
Date retired: 9/2003
Last Employed By: Federal energy regulation commission
Property Value Prior to VOCs: \$241,000.00 Value paid; \$146,493.00 taxable value
Property Value Post VOCs: \$0.00
Medical Treatment: Treated for skin cancer (AFX) in 2011 and MRSA
Effect of Incident: He has emotional distress caused by stress of living in a VOC infected home. Dog got cancer and is currently being treated with Chemo-therapy.

Eilleen McGovern:

DOB: 1/26/49
Occupation: Temp work
Date retired: 9/2003
Medical Treatment: Bi-lateral breast cancer in 2007
Effect of Incident: She has emotional distress caused by stress of living in a VOC infected home. They Moved to Arizona and are staying at Pete's sister's house. They are scared to stay in the house. They called a realtor who would not even come out to look at the house.
The full extent of the damages suffered by Pete and Eilleen McGovern and their family members have not yet been fully determined. However, the damages suffered and claimed by the McGovern's include, but are not limited to:

PROPERTY VALUE:

the loss of property value: over \$1,500,000 in an amount to be proved;

PERSONAL INJURY

medical expenses, the loss of the quality of life, the potential cost of care and medical treatment, potential shortened life expectancy, loss of consortium, and pain and suffering all in an amount to be determined.

The full value of all damages is not yet known, but for purposes of resolving this claim exceed \$3,000,000.00.

EDWARD MORIARITY AND KATHERINE MORIARITY

Address: 973 St. Andrews Drive
Bozeman, Montana 59715

Katherine Moriarity:

DOB: 12/13/53
Occupation: Decorator
Employed by: Self employed owner of BEDazzle
Property purchased 2007
Property value prior to VOC'S: \$1,520,000.00 Purchase price plus over \$100,000 add ons.
Property value post VOC: cannot even get it listed- value Zero
Medical Treatment: ongoing but include a brain aneurism on January 27, 2010
Effect of incident: Stress at the loss of value of our home. Grandchildren not allowed to stay in the home. They wanted to retire from the sale. However, they are now unable to sell the home.

Edward P. Moriarity:

DOB: 9/21/1941
Occupation: Lawyer and Rancher
Employed by: Self employed lawyer and Rancher
Medical Treatment: ongoing
Effect of incident: When we purchased our beautiful house in 2007, it was with plans to live in Bozeman where we could visit with our grandkids and help them along with our then grown children. We have seven children and 18 grandkids. I was born and raised in Butte and was taught the value of a close family. We paid over \$1,600,000 for our home and planned to use this investment for our planned future. In January 2013, we had decided to list our house so we would have some liquidity to permit us to travel and help the grandkids with their future education. The relator was anxious to get our listing because it was a wonderful property, in very good shape, built by a reputable contractor, and it was located on a golf course in a very reputable sub-division named BC III. After all the information about the landfill problems came out the property lost its value, no one came to look at the property and the Relator could not get anyone to even come and look at the listing.

At no time during our search for a home were we ever informed there was any problem with the landfill. We were sold on the sub-division because of the higher priced homes, the upkeep, the represented fact that it was a sub-division where it was not difficult to re-sell if that became a factor. It was represented to be a very safe area and very special. We felt very secure in the purchase and paid cash for the property. We were

happy and felt very secure. Prior to the City publishing their findings we were proud to say our house was in BC III. After, we were afraid to even tell people where we lived.

The City invited us to a neighborhood meeting where they disclosed the problems and represented they wanted to work with us. They then conducted studies of the homes in BC III and it seemed like they just inventoried the chemicals, paint, vehicles, and finger nail polish that was in our garages and homes. We tried to be patient and cooperate but at the same time asked if it was safe to remain living in our homes and have our grandchildren stay with us and continue to visit on almost a daily basis. They refused to answer regarding the health questions saying it was a medical problem. The now newly elected Mayor said that he could not say if the homes were safe but that he would not let children stay in the basements or lower floors. At each meeting residents of BC III tried to get an answer to the health question and all we got were excuses why the question could not be answered. The minutes of the meetings that were held were represented to be taken but upon request no formal minutes were produced other than a skeleton outline of the subject matters discussed.

This whole matter and the responses and lack of full information caused a great deal of stress. The stress affected us in all of our ongoing daily work, living, business and everyday affairs. One day you have a plan for the future, you have a safe and secure home and all of a sudden you have lost the basic foundation for your plans. Out of a matter of safety our grandchildren spend very little time at our home. We would never forgive ourselves if something should happen to any of them. Pauline Wagner, my wives mother, who is presently 85 years old lives with us most of the time. We brought her up from Cody, Wyoming so we could help her and take care of her. As time goes on she suffers from many ailments that require a great deal of medical care and treatment. Most of these problems involve her autoimmune system and her endocrine system. She suffers from other health problems and we would be willing to provide copies for your review of this claim if you would like this information. Due to her age, we struggle with her staying with us and the potential risks, vs. her staying alone and being subjected to all of the fears of being an elderly person living alone. My wife, who previously had breast cancer, suffered from a brain aneurysm after we moved into the house. The VOC's, especially the higher readings in the reports, in and on our property can cause these types of illness. The mixture of these VOC's when mixed together - (what the City has referred to as a "cocktail of VOC's) (hereinafter referred to as "Cocktail") - and the mixture of all of the VOC's has not been tested, has not been analyzed, and must be considered in any action taken on these claims.

As far as medical problems of Ed Moriarity are concerned he has suffered form headaches, something he rarely had prior to moving into the house. His stress levels have been through the roof. He suffers from nightmares, night sweats, sore throats, breathing problems, problems with his autoimmune system and endocrine system. He seems to have memory problems, reaction problems and a lesser ability to concentrate.

The full extent of the damages suffered by Edward and Katherine Moriarity and Pauline Wagner have not yet been fully determined. However, the damages suffered and claimed by the Moriarity's include, but are not limited to:

PROPERTY VALUE:

the loss of property value: over \$1,600,000 in an amount to be proved;

PERSONAL INJURY

medical expenses, the loss of the quality of life, the potential cost of care and medical treatment, potential shortened life expectancy, loss of consortium, and pain and suffering all in an amount to be determined.

The full value of all damages is not yet known, but for purposes of resolving this claim exceed \$3,000,000.00.

Please direct any questions, comments or other communications concerning this Notice of Claim to Claimant's attorney, Edward Moriarity of the law firm Moriarity, Badaruddin & Boone, in care of the undersigned, at 736 South 3rd Street West, Missoula, Montana 59801. We respectfully await your reply.

Very truly yours,



Edward P. Moriarity
Shandor Badaruddin
Attorneys for Claimants