



This holiday season, A-list actors drew moviegoers to a film with a distinctly un-Hollywood plot line: A company dumps thousands of pounds of toxic, long-lived chemicals (PFAS, or per-and polyfluoroalkyl substances) into unlined pits that drain into a farming community's drinking water. Local residents fall ill, some terminally. A heroic attorney (Mark Ruffalo) represents them pro bono for years at great personal cost (neglected spouse Anne Hathaway). When a favorable verdict finally comes, it's little, and late. The penalties levied against the chemical manufacturer (DuPont) are but a tiny fraction of its single-year profits. The lead plaintiff dies, since money can't cure cancer. And the tragedy is poised to recur elsewhere, because companies aren't required or incentivized to handle PFAS in health-protective ways in future.

That's the narrative arc of *Dark Waters* (with apologies for the spoiler), in which Ruffalo plays actual PFAS toxic tort lawyer Rob Bilott of the Midwest firm Taft Stettinius & Hollister LLP. Meanwhile, in the real world, the UC Berkeley Environmental Law Clinic (ELC) and its clients—acting on advice from Bilott—have written a treatment with a more hopeful conclusion.

ELC's script, on behalf of Green Science Policy Institute and five activist groups in PFAS-contaminated communities across the nation, takes the form of a just-filed [petition to U.S. EPA](#) urging the agency to regulate known-toxic PFAS chemicals as "hazardous wastes." The petition explains that the pervasive use of PFAS in consumer products (Teflon-coated frying pans, Scotchgard-sprayed boots, Gore-tex jackets, takeout food containers, dental floss, and more) and specialty products (particularly fire-fighting foams at airports and on military

bases) has created broad-scale environmental contamination, poisoned thousands of people, and left hundreds of public water supplies and private wells undrinkable. The petition notes that the longest-studied PFAS chemicals (PFOA, PFOS, and GenX) are associated with serious health conditions, including cancer, liver damage, thyroid disease, asthma, high cholesterol, low fertility, diabetes, and immune system suppression, and have been detected in the blood of nearly all Americans.

Our petition urges EPA to list these chemicals as hazardous wastes under RCRA (the Resource Conservation and Recovery Act). RCRA listing would:

- Establish cradle-to-grave tracking for and management of PFAS wastes, so that they can't be indiscriminately discarded to land, drained to surface water, or vented from factory air;
- Prompt research on safe disposal practices, and associated standard-setting;
- Prevent the U.S. from becoming a dumping ground for overseas PFAS wastes as other nations (especially, in the EU) tighten their own PFAS regulations; and
- Result in automatic cross-designation of the chemicals as "hazardous substances" under the federal Superfund law (CERCLA), making polluters retroactively, jointly, and severally liable for site cleanup. Bilott has urged that this liability expansion is crucial to achieving broad-scale remediation of legacy PFAS contamination.

ELC's pitch joins other recent actions to amplify pressure on EPA to take serious action on PFAS, including a complementary petition to EPA from the whistleblower group Public Employees for Environmental Responsibility. Eyes now shift to the agency to write a happy ending.