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EDITOR'S PICK

Lawsuit filed in Niagara Sanitation landfill case

By Mia Summerson mia.summerson@lockportjournal.com Mar 28, 2017



After more than 160 notices of claim from people alleging chemicals buried in the Niagara Sanitation Landfill have harmed their health or properties, a formal lawsuit has been filed against the Town of Wheatfield.

The \$5.9 billion lawsuit, which lists 65 plaintiffs and eight total defendants, including the town, argues that years-long exposure has resulted in significant health concerns as well as dips in property values. The landfill, which is owned by Wheatfield and located near the border of North Tonawanda, contained waste from Love Canal until recently when a remediation effort led by the state Department of Environmental Conservation saw most of the materials removed.

“In 1968, 1,600 cubic yards of Love Canal waste, material from Hooker Chemical and Plastics Corporation that was excavated from the Love Canal Landfill, was dumped at the site,” the lawsuit says. “Shortly thereafter, waste disposal activities at the site ended and the nature of the hazardous waste within was not disclosed to the surrounding neighbors.”

Louise Caro, attorney for the plaintiffs, said Tuesday afternoon that the suit has been filed and that summonses have been sent out. In addition to Wheatfield, other defendants are Occidental Chemical Corp., Bell Helicopter Textron, Inc., Saint Gobain Abrasives, Inc., Roe Consolidated Holdings, Graphite Specialties, Crown Beverage Packing, LLC and Greif, Inc.

Caro said this is the first complaint filed but it will likely not be the only one. She said new people are reaching out to become a part of the process all the time.

“I’m thinking it will come in waves,” she said. “This is just the beginning.”

Wheatfield Supervisor Robert Cliffe and Town Attorney Matthew Brooks were contacted for comments. Cliffe didn’t return a call and Brooks said that the town has not received the filing and he couldn’t comment until he has reviewed it.

Caro said that the environmental engineer who is serving as an expert on the case has been to the properties in question, many of which are on Forbes Road in North Tonawanda. Air, water and soil samples were taken on the properties and sent to a lab for analysis, she said.

“Some of those homes might not be habitable,” Caro said. “Our expert said he wouldn’t let his kids in those houses for more than 10 minutes.”

In the lawsuit, plaintiffs are requesting compensation for the damage or ill health they’ve experienced as well as money to cover the costs of medical care for those who have been diagnosed with various cancers or other ailments.

Currently, the town is focusing its attention on the installation of a fence around the landfill, which has been recommended since the remediation project to remove the Love Canal waste was finished in 2015. In early 2016, \$75,000 was promised by state Sen. Robert Ort, R-North Tonawanda, to assist with the project. After not acting on it for roughly a year, the town voted in February to move \$76,976 from its appropriated fund balance to cover its share of the funding for the fence.

The landfill has in recent years been used by residents for recreational purposes. The lawsuit cites a DEC public notice that was issued to warn residents that recreational activities on the landfill can cause any contaminants to be further exposed.

“This exposure concern has been documented as people are using the landfill as a jogging and play area,” the portion of the notice quoted in the lawsuit read. “Dirt bike trails are evident throughout the site and use of such has resulted in landfill materials to become exposed at the surface. Therefore, the site represents a significant threat to the environment and public health.”

The DEC has recently announced its intent to launch an in-depth investigation of the site, with a goal of determining whether contaminants are seeping out of the landfill and into residential neighborhoods. When the study is complete, the DEC will release its findings in a report, then a feasibility study will be conducted to determine which options are available in terms of further remediation.

Caro said she would like to see the DEC get more demanding in regard to such issues moving forward. She said she’d really like to see them “step up.”

“They have always said all along that there’s no problem here, nothing is moving off-site, there’s been no impact on property, no impact to health,” Caro said. “I think we’ve kind of disproved that at this point and I hope the state steps up and does more work.”

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