



Residents of the area near the former Niagara Sanitation landfill have conducted their own tests and say the results are different from those done by the DEC. (T.J. Pignataro/Buffalo News)

Residents persevere despite DEC's finding of no leaks at Wheatfield landfill

By **Thomas J. Prohaska** (https://buffalonews.com/author/thomas_prohaska/) | Published March 18, 2019 | Updated March 18, 2019

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A recent state finding that no toxic waste has leaked from an old Wheatfield landfill has not hurt the legal claims of more than 300 current and former residents who say living near the landfill damaged their health, according to their attorneys.

One of the attorneys said nuggets buried in the 333-page report (http://www.dec.ny.gov/docs/remediation_hudson_pdf/nsc11.pdf) help their cases.

"On page 133 they have a groundwater figure that actually shows the groundwater is flowing directly from the landfill toward our client properties," said attorney Ashley M. Liuzza of New Orleans.

The state Department of Environmental Conservation said the lawyers are not reading the data correctly.

The Niagara Sanitation landfill covers 18.7 acres of a 20.8-acre lot off Nash Road in Wheatfield, just north of the North Tonawanda city line. Forbes Street is the first street inside the city limits.

Some residents, including Cory D'Agostino of North Tonawanda, say the results of private tests in 2017 show that toxic chemicals were found in their basements, sump pumps and backyards.

D'Agostino, who lives on Forbes Street, said DEC workers took soil samples in his backyard last fall. He said he urged them to test inside his home, but they refused.

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Cory D'Agostino

"I don't think it's finished until they test inside our homes," D'Agostino said. "I don't think I should have dioxin and PCBs in my home."

"DEC does not test in homes and does not regulate indoor air or indoor conditions," Abby M. Snyder, regional DEC director, wrote to D'Agostino last October. She suggested that D'Agostino contact the Health Department.

"The governor has our results," D'Agostino said. "The DEC has our results, and they're ignoring them. Why?"

D'Agostino said he and his 25-year-old son have liver problems and his wife has thyroid issues.

Another Forbes Street resident, Brett A. Grzwe, 53, died of liver cancer Oct. 14. He had said in interviews with The Buffalo News in 2017 that he needed a liver transplant to survive.

"It's not a coincidence, all the health issues on Forbes," D'Agostino said.

The DEC report, based on 290 soil and groundwater samples, including 22 on residential properties, reached the same conclusion as state studies in July 2017 and January 2018: The toxic waste in the landfill hasn't leaked outside the boundaries of the 18.7-acre site.

"DEC, in consultation with the New York State Department of Health, evaluated all data and information associated with our comprehensive investigation and scientifically determined that the contaminants in the landfill are not adversely impacting off-site properties and do not present a health risk to off-site residents," the DEC



said in a statement. "If any data indicated otherwise, DEC would always take action to ensure the public and environment are protected."

The residents say their private tests, even of dust inside houses, show otherwise.

Because of the lack of in-home testing, "they don't have any information to say things are not present on our clients' properties," Liuzza said of the DEC statement.

"You find really high levels of the contaminants that are known to be from Love Canal materials in the dust," Liuzza said.

Some waste was shipped from Love Canal to Niagara Sanitation in 1968, when the construction of the LaSalle Expressway disturbed the infamous Niagara Falls landfill.



The DEC says all that waste was removed from the Wheatfield landfill in 2015. The plaintiffs dispute that in U.S. District Court lawsuits against the Town of Wheatfield, which has owned the landfill since 1968, and the companies and agencies that disposed of waste there.

One of the defendants is Occidental Chemical Co., the successor of Hooker Chemical Co., which created the original Love Canal landfill.



(<https://s3.amazonaws.com/bncore/wp-content/uploads/2019/03/Niagara-Sanitation-map.jpg>)

"The plaintiffs' attorneys continue to disregard unbiased, independent science from DEC," Occidental spokesman Eric Moses said. "Based on nearly 40 years of studies, DEC has identified a number of chemicals that need to be present together to be considered Love Canal indicators. Dioxin, PCBs and DDT, which are common throughout the country, are not specific Love Canal indicator compounds."

Liuzza said there's a map in the report with red arrows that show groundwater beneath the landfill flowing south, toward Forbes Street.

"Groundwater is a vector for the contaminants here, and the results show that," Liuzza said.

The DEC responded that the flow is slight and there is little movement of the water in any direction because the clay beneath the landfill is so thick.

Liuzza also said that the toxic chemicals benzene and toluene were found in concentrations far above the state's safety standards.

The DEC said those findings were in the landfill itself, near where the Love Canal waste was, and none of the benzene and toluene was found between the landfill and Forbes Street.

"We will discuss the results of our science-based evaluation one-on-one with residents to ensure that all their questions are answered by DEC and DOH experts," the DEC statement said.

An opportunity to do so comes from 11:30 a.m. to 2:30 p.m. March 30, when DEC officials will hold a public availability session in the Wheatfield Community Center behind Town Hall, 2800 Church Road.



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