

BUFFALO NEWS

After a year of wrangling, federal judge refuses to handle Love Canal lawsuits

- [Thomas J. Prohaska](#)
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In 2011, Colvin Boulevard in Niagara Falls was closed to traffic at 97th Street as workers removed chemicals found during a sewer project.

News file photo

[Thomas J. Prohaska](#)

U.S. District Judge Frank P. Geraci Jr. had two words Monday for Occidental Chemical Corp. and the other defendants in the current round of Love Canal litigation: Go away.

Or at least, go back to State Supreme Court in Lockport, where 19 cases filed by hundreds of current and former residents near the infamous toxic landfill will again be heard, because of Geraci's refusal to let Occidental and the other defendants move the cases to federal court.

A 20th lawsuit was dismissed Sept. 30 by U.S. District Judge William K. Sessions III.

But the battle over which court should handle the lawsuits ate up a full year without making any progress toward resolving the claims, first filed in 2012, over alleged health impacts on hundreds of residents.

The immediate cause of the lawsuits was a Jan. 11, 2011, repair on a sewer main on Colvin Boulevard, near the Love Canal containment area, that allegedly sprayed toxic chemicals through the neighborhood.

But the lawsuits grew to include allegations of past and current health problems for residents near Love Canal, where about 21,000 tons of toxic waste are still buried, and three other landfill sites associated with Occidental's activities in Niagara Falls.

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The federal judge who oversaw the Love Canal lawsuit for nearly two decades has asked state and federal officials for a "detailed response and plan of action" on how to correct any difficulties that might still exist in the neighborhood surrounding the 21,800-ton chemical landfill.

The inclusion of the S-Area, Hyde Park and 102nd Street landfills in last year's amended versions of the 19 lawsuits was a reason for a federal court to hear them, according to attorneys for Occidental and the other defendants.

They include the City of Niagara Falls, the Niagara Falls Water Board and 10 other companies involved with the Love Canal dumping, the creation and monitoring of the waste containment structure, or the 2011 sewer repair.

"The plaintiffs' claims are meritless, and there is no credible evidence that the Love Canal landfill's remedy or OxyChem's operations are causing injuries to anyone," Occidental spokesman Eric Moses wrote in an email.

"Additionally, the 19 complaints in this case once included approximately 1,300 individuals, but that number has been reduced to 674, after nearly half of the plaintiffs voluntarily dropped their claims against OxyChem," Moses said.

The plaintiffs' attorneys, who are based in New York City and Dallas, did not immediately respond to requests for comment.

Geraci, in his 14-page ruling, noted that U.S. District Judge John Curtin refused to let Occidental move the first two of the 19 cases to federal court back in 2013. Geraci said federal law forbids appeals of orders like Curtin's, and the 17 newer lawsuits are virtually identical to the first two.

All 19 cases were punted back to State Supreme Court Justice Richard C. Kloch Sr.