

News Articles Regarding Landfill Nuisance Class Action Lawsuits

In Order:

Dayton, Ohio 5-8 Miles

Arbor Hills, MI

Pearland, TX 2.4 Miles

Bridgeton, MO

Clark County Indiana, 3 Miles

Bethlehem, PA 2.5 Miles

Rochester, NY “For Miles”

Jefferson Parish, LA

Seymour, WI

Medley, Florida

Monmouth County, NJ

Wheatfield, NY

Holly Springs, NC 3 Miles

San Jose, CA 1.5 Miles

Ontario County, NY 5 Miles

Tullytown, PA

Seneca Meadows, NY

Fostoria, OH 3-5 Miles

Los Angeles, CA

Salem Township, MI



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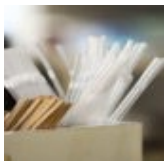
NEW DETAILS: About 1,800 paid in Dayton landfill odor lawsuit settlement

NEW



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NEW DETAILS: About 1,800 paid in Dayton landfill odor lawsuit settlement



...eral lawsuit settlement stemming from odors at a Dayton landfill resulted in nearly 1,8 receiving checks, according to an attorney for the plaintiff.

The base share for those approved as class-action members in a Moraine resident's suit against Stony Hollow Landfill was \$602.42, said attorney Nicholas Coulson.

Coulson said Tuesday all checks to approved class-action members from the settlement of the 2016 lawsuit filed by Carly Beck have been sent.

The settlement approved by U.S. District Judge Thomas Rose in November directed Stony Hollow parent company Waste Management Inc. to deposit \$1.875 million as part of the class-action.

It also required the 2460 S. Gettysburg Road site to invest \$1.45 million there to "reduce the potential for odor emissions," according to court records.

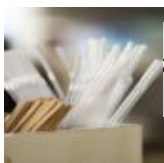
The landfill has drawn complaints from residents in Jefferson Twp., Kettering, Miamisburg, Moraine, Oakwood and points beyond since early 2016.

Source: <https://www.daytondailynews.com/news/new-details-about-800-paid-dayton-landfill-odor-lawsuit-settlement/TbbySbzegVSmk3NeQG1wOM/>

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'Threat to residents': Lawsuit filed against Advance Disposal over Arbor Hills Landfill not meeting federal requirements

Families who live near landfill say stench is unbearable at times

Priya Mann, Reporter

Kayla Clarke, Web Producer

Published: **October 23, 2020, 6:41 pm**

Tags: **Northville, Lawsuit, Advance Disposal, Arbor Hills Landfill, News, Local, Local News, Dana Nessel, Ridge Wood Elementary, Eric Ladwig, Monya Ibrahim**



NORTHVILLE, Mich. – Families who live near the **Arbor Hills Landfill** say the stench is unbearable at times.

"I want to be able to go have a backyard bonfire," resident Eric Ladwig said. "Where I don't have to smell this stuff."

Families in the Ridge Wood Elementary community in Northville have been dealing with noxious smells

emanating from the landfill for years.

Hundreds of people have called their state representatives, gone to town halls and signed petitions. On Friday, Michigan Attorney General Dana Nessel filed a lawsuit against Advanced Disposal.

"This site has been a public nuisance for years and the threat to residents is significant," Nessel said. "It's clear legal action is a necessity."

Nessel said the landfill failed to ensure gas collection systems met state and federal requirements to control the emission of air pollutants. There is also concerns about potential groundwater contamination.

"I started my journey with a few parents and now we stand as a state," Monya Ibrahim said.

Parents of students at Ridge Wood Elementary school, which sits near the landfill, have been speaking out for years.

"Today, Northville has proven regardless of our background that we made a difference," Ibrahim said.

Families said the lawsuit is just the first step. They want to make sure Advance Disposal will not be allowed to expand.

If the landfill comes into compliance, the Michigan Department of Environment, Great Lakes, and Energy wouldn't be able to deny them a permit. That means, to prevent an expansion laws would likely need to be passed.

Nessel said the state is looking for significant fines and if Advance Disposal Services doesn't comply, the state would want to shut them down.

Local 4 reached out to the owners of the landfill for a statement but did not hear back.

November 6, 2019

Landfill/Class-Action: Federal Appellate Court Addresses Nuisance Claim

Walter Wright

Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.

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The United States Court of Appeals for the Fifth Circuit (“Court”) addressed in an October 30th opinion issues associated with a class-action lawsuit filed against a landfill. See *Jing Gao, et al. v. Blue Ridge Landfill TX, L.P.*, 2019 WL 5653224.

One of the issues considered was whether the landfill constituted a temporary or permanent nuisance and applicable statute-of-limitations.

Plaintiffs living near a landfill in Pearland, Texas brought a class-action lawsuit against Blue ridge Landfill TX, L.P. (“Blue Ridge”). The Plaintiffs argued that Blue Ridge constituted a nuisance.

The United States District Court for the Southern District of Texas had granted summary judgment to Blue Ridge

from which the Plaintiffs appealed.

Plaintiffs on appeal argued that Blue Ridge is not a “permanent” nuisance under Texas law.

The Court notes that Texas law classifies nuisances as either permanent or temporary. Which type of nuisance is applicable affects the statute-of-limitations analysis. For example, a permanent nuisance claim accrues when the injury first occurs or is discovered. A temporary nuisance claim accrues anew upon each injury.

In describing a permanent nuisance the Court stated that it may be established by:

. . . showing that either the plaintiff’s injuries or the defendant’s operations are permanent. . . . In most nuisance cases, a permanent source will result in permanent interference. . . . The presumption of a connection between the two can be rebutted by evidence that a defendant’s noxious operations cause injury only under circumstances so rare that, even when they occur, it remains uncertain whether or to what degree they may every occur again. . .

In applying these principles to Blue Ridge it was noted that the landfill had been in operation since 1992. This was described as a decade before Plaintiffs’ homes were constructed. The Court notes that a survey conducted by Plaintiffs’ counsel identified “numerous residents who lived in the affected area for a decade or more reported experiencing odors continuously ever since they moved to the neighborhood.”

As a result, such injuries and the landfill’s operations were described as permanent.

The Court concludes, after reviewing the evidence (in the light most favorable to Plaintiffs), that it identifies nothing indicating that the odors “are so rare that it is uncertain whether or to what degree they may ever occur again.” Consequently, the Court determined that the presumption of a permanent nuisance is un rebutted.

This determination has consequences for the Plaintiffs' claims. They argue the claims are not time-barred. However, the statute-of-limitations for nuisance claims in Texas is two years. Since the landfill is a permanent nuisance, the Court notes that the claims accrued when the injury first occurred or was discovered. Because the Plaintiffs' neighborhood had been experiencing odors from the landfill for at least a decade, the claims are deemed barred by the statute-of-limitations.

A copy of the opinion can be found [here](#).

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https://www.stltoday.com/news/local/crime-and-courts/bridgeton-landfill-agrees-to-pay-16-million-to-settle-2013-missouri-attorney-generals-lawsuit/article_c60c3299-3c5f-5580-86fb-6130f44c44b3.html

Bridgeton Landfill agrees to pay \$16 million to settle 2013 Missouri Attorney General's lawsuit

Robert Patrick
Jun 30, 2018



Looking northeast from Earth City toward Bridgeton, the West Lake Landfill is photographed on April 25, 2018. Photo by Bob Srenco

PHOTO BY Robert Srenco

Robert Patrick

T *UPDATED at 5:15 p.m. with court testimony and comments and noting*

correct title of judge.

ST. LOUIS COUNTY • The Bridgeton Landfill has agreed to pay \$16 million to settle a 2013 lawsuit by the Missouri Attorney General’s office that claimed a “subsurface reaction” was harming the health of nearby residents.

Under the terms of the agreement, **landfill** owners will pay \$12.5 million into the Bridgeton Landfill Community Project Fund. The money could be used only as “compensation and restitution” to communities within a four-mile radius of the now-shuttered landfill and to pay for environmental cleanups “explicitly authorized by Missouri law.”

The money cannot be used to buy out homeowners, for **lawsuits** or lobbying or to reimburse any damages or losses, the agreement says.

The money is supposed to be spent within four years, and will be administered by the **St. Louis Community Foundation**. The settlement did not specify what uses would be approved.

The settlement also includes a \$1 million civil penalty that will go to a St. Louis County school fund, \$500,000 that will be used to restore public properties and \$2 million to reimburse some of the costs of the **Missouri Department of Natural Resources**, according to court testimony.

The agreement also contains financial assurances to ensure that the landfill, or **Republic Services**, which assumed ownership of the landfill after it merged with Allied Waste in 2008, will continue to fund the ongoing, extensive environmental remediation and monitoring.

St. Louis County Circuit Court Judge Michael Jamison, who approved the settlement Friday, called it a “very good attempt” to resolve the “multitude of issues,” adding that “there is no perfect settlement.”

Karen Nickel and Dawn Chapman of the **Just Moms STL** activist group wiped

away tears in court after talking to Jamison before the public portion of the hearing began, and after Jamison signed the agreement.

Nickel called it “bittersweet,” saying “It is time to move forward.”

Chapman, who was shaking when she spoke to a reporter outside of the courtroom, said the agreement “is locking (the landfill) down on quite a few things,” referring to the remediation and monitoring provisions.

In court, Deputy Attorney General Ryan Bangert called the \$16 million “an incredibly large amount” for similar cases.

William Beck, a lawyer for the landfill, called it “fair, reasonable and adequate.” He said that the work that has been done at the landfill was “the most work I’ve ever heard of on the face of the planet,” as well as “the most monitoring.”

Beck said the landfill has spent more than \$242 million to control odors and for environmental remediation and site improvement costs, as well as about \$6.4 million to pay 1,092 individual claims against the landfill.

Among those improvements are a special cap to contain odors, other odor control equipment and equipment to monitor and contain gas and liquid that the landfill produces. The landfill has also installed systems that monitor and cool a “**subsurface smoldering event**,” or reaction caused by rapid decomposition, that was first detected in 2010 and is expected to continue for five to six more years.

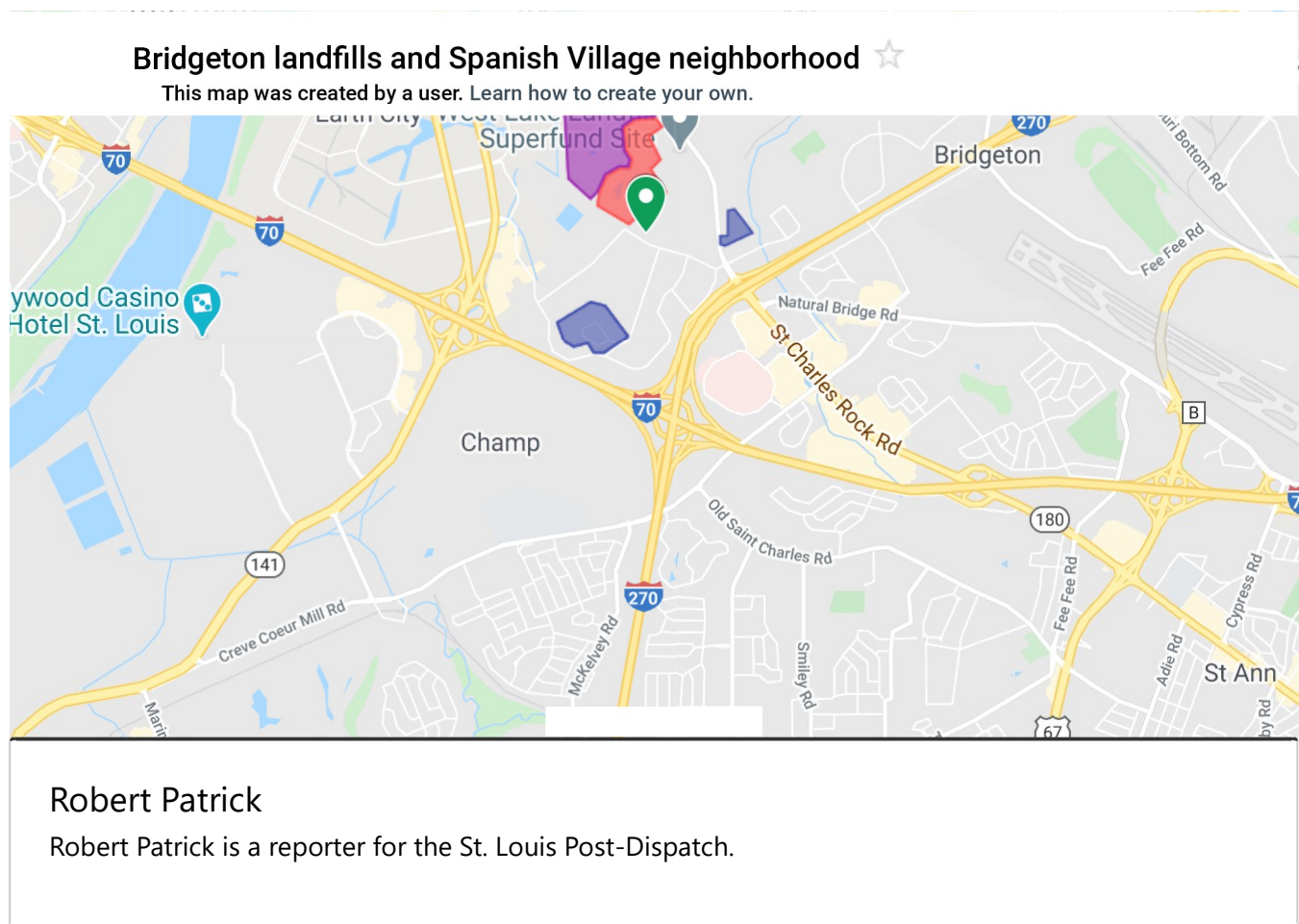
Much of that work sprang out of a **prior agreement** between the landfill and the Attorney General’s office.

In a statement, the landfill called the site an “industry model” and said the landfill “team has chosen to do the right thing for our community at every step.”

The Bridgeton Landfill and the adjacent West Lake site have sparked lawsuits and protests for years, including fears sparked by the improper disposal of radioactive

waste in West Lake. Neighbors and regulators have also **repeatedly raised concerns** about whether the smoldering would reach that radioactive waste and spread it through the air. The U.S. Environmental Protection Agency **has said** that airborne outcome was unlikely.

The lawsuit was filed by then Attorney General Chris Koster in March 2013 to address the underground reaction and other issues, Bangert said, adding, “The landfill was in bad shape.”



Class-action certification upheld in Clark County residents' suit against landfill

June 18, 2020 | [Katie Stancombe](#)

KEYWORDS [CLARK COUNTY](#) / [CLASS ACTION](#) / [ENERGY & ENVIRONMENTAL LAW](#) / [ENVIRONMENT](#) / [ENVIRONMENTAL ISSUES](#) / [LANDOWNER ISSUES](#) / [LAWSUIT](#) / [LITIGATION](#) / [POLLUTION](#)

A group of Clark County neighbors have prevailed in an interlocutory proposed class-action lawsuit that claims a Jeffersonville landfill negatively impacts the surrounding residential area.

In August 2016, homeowners Ricky Gonzalez, Yvonne Gonzales and Tamara Scoles filed a putative class-action complaint against Clark County based on noxious odors emanating from a nearby landfill operated by Clark County.

The homeowners filed a putative class-action complaint against Clark County (and other things), that their “neighborhoods, residences and yards have been physically invaded by noxious odors, pollutants and air contaminants. The “horrible odors” have interfered with their “use and enjoyment of their property and in damages”

When the homeowners moved to certify their complaint as a class action in 2018 and designated supporting evidence, the Clark Circuit Court granted the homeowners’ motion and ultimately certified the class using the broadest possible class definition.

Among other things, the trial court concluded that class litigation is more streamlined and efficient than individual litigation. The court also found that the proposed class definition was appropriate and that the proposed class action was the most efficient way to resolve the dispute.

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on individual bases.” Additionally, after finding that the homeowners satisfied the four requirements of Trial Rule 23(A), the court further satisfied Trial Rule 23(B)(3).

Thus, when the trial court certified the order for interlocutory appeal, the class action certification by questioning whether the trial court met the legal standard. It specifically asserted in one sentence of paragraph 10 of its class-certification order, a legal preamble, the trial court erroneously stated that it did not engage in [an] analysis of the merits of the allegations in order to determine if a class action may be maintained.”

“CFL does not suggest that paragraph 10 as a whole is an incorrect statement of law. Indeed, the trial court’s commentary in paragraph 10 of its order is consistent with Indiana law,” Judge Edward Najam wrote for the court in rejecting CFL’s first argument.

“In any event, CFL’s ultimate argument on this issue is that one sentence in the class-certification order shows that the court failed to properly consider the designated evidence in certifying the class. But the court’s order clearly shows that the court consistently and specifically cited or referred to the designated evidence throughout the order. Thus, even if the one sentence CFL complained about was an erroneous legal statement, the order as a whole makes clear that the court considered the designated evidence when it entered its judgment,” the appellate court stated.

It similarly rejected CFL’s assertion that the trial court erred in certifying the class “because no evidence supports the Homeowners’ definition of the class as living within a three-mile radius of the landfill.” The appellate court ruled to heighten the evidentiary burden under Trial Rule 23’s impracticability requirement.

Additionally, it found the trial court did not err in concluding that the trial court’s failure to meet the predominance requirement of Trial Rule 23(B)(3) or in rejecting CFL’s argument that the homeowners failed to show commonality. It also found that the trial court did not err in refusing to strike numerous exhibits designated by CFL.

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motion for class certification.

The appellate court therefore affirmed the trial court's certification of *Floyd Landfill, LLC v. Ricky Gonzalez, Yvonne Gonzalez, Robert Scoles, on Behalf of Themselves and All Others Similarly Situate*

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Third Circuit Revives Class Action Odor Lawsuit Against Pennsylvania Landfill

[Blog](#) MGKF Litigation Blog

Manko Gold Katcher & Fox

USA | July 20 2020

This week the Third Circuit issued a precedential opinion reversing the Eastern District of Pennsylvania's decision granting Bethlehem Landfill Company's ("Bethlehem's") motion to dismiss the complaint filed by homeowners concerning alleged odors and air contaminants emanating from the Bethlehem landfill. *Baptiste v. Bethlehem Landfill Co.*, No. 19-1692, slip op. (3d. Cir. July 13, 2020). In doing so, the Court found that a class of homeowners allegedly affected by landfill odors may bring suit under theories of negligence, public nuisance and private nuisance.

Robin and Dexter Baptiste (the "Baptistes"), the named plaintiffs, live near Bethlehem's 224-acre solid waste disposal facility and landfill. In 2018, the Baptistes sued Bethlehem alleging that Bethlehem is not operating its landfill in accordance with the Solid Waste Management Act and industry standards, resulting in odors and other air contaminants that negatively impact the class's use and enjoyment of their homes and cause a loss in property value. The complaint asserted claims under Pennsylvania common-law for public nuisance, private nuisance, and negligence on behalf of a punitive class of homeowner-occupants and renters in 8,400 households within a 2.5-mile radius of the landfill, claiming property damages in excess of \$5 million and seeking both injunctive and punitive relief.

Bethlehem moved to dismiss the complaint for failure to state a claim and the Eastern District of Pennsylvania granted the motion, finding that too many residents were similarly affected to bring a private claim for public nuisance, the alleged odors impacted too many people and the landfill was too far away to constitute a private nuisance, and the plaintiffs failed to identify a duty of care to sustain a negligence claim. The court also dismissed the Baptistes' request for punitive and injunctive relief. The Baptistes appealed.

On appeal, the Third Circuit reversed the District Court's decision and remanded the case. First, the Third Circuit addressed the Baptistes' nuisance claims, noting that "[c]ommon-law nuisance is a notoriously perplexing and unruly doctrine, seeming to defy all efforts to draw bright lines around it." *Id.* at 10. The Baptistes argued that the District Court misapplied Pennsylvania law and erroneously imposed restrictions on

their nuisance claims. Bethlehem contended, however, that dismissal was proper because the Baptistes alleged a “mass nuisance” for which there is no private right of action but, rather, is addressed through the Commonwealth’s regulatory power.

Turning first to the Baptistes’ private claim for public nuisance, the Third Circuit noted that there was no dispute that the Baptistes alleged the existence of public nuisance, however, the question at issue was whether the Baptistes properly pleaded a private claim for public nuisance. To do this, they had to allege that they suffered a harm of greater magnitude and of a different kind than that suffered by the general public. The Third Circuit found that they did. The Baptistes, the court explained, are seeking to “vindicate their right to use and enjoy their home and obtain the full value of their property—personal rights that are qualitatively different . . . than the general, non-possessory right to clean air held in common with the community at large.” *Id.* at 14. Further, the Third Circuit emphasized that the harms that the Baptistes identified—such as inability to use their swimming pools, porches, and yards—are unique to them and the other members of the class and the injuries they alleged exceed any injury suffered by the public “because they involve private property damages that the public at large has not endured.” *Id.* Accordingly, the court held that the Baptistes properly alleged a private claim for public nuisance and found that the District Court’s dismissal of the claim on the basis that the odors impacted too many people for the Baptistes to claim a special harm was unsupported by Pennsylvania law.

Addressing the private nuisance claim, the Third Circuit found that the District Court likewise erred in dismissing the claim because of the number of people impacted. The court emphasized that private and public nuisance claims are not mutually exclusive and explained that the main difference between them is not the number of people harmed but the nature of the impacted right: “a public nuisance requires interference with common or *pubic* rights, while a private nuisance requires only interference with personal or *private* rights.” *Id.* at 18 (emphasis in original). Moreover, the Third Circuit found that the District Court also erred in dismissing the private nuisance claim on the basis that the Baptistes’ home was too far from the landfill to qualify as a neighboring property for purposes of bringing a private nuisance claim. Not only did the Third Circuit find that there was there no support under Pennsylvania law for this, but the Supreme Court case that the District Court relied on did not hold that a property could not bring a nuisance claim based on its proximity to the nuisance nor had any other Pennsylvania cases. Thus, the court held that the Baptistes properly alleged a private nuisance claim.

The Third Circuit also addressed and rejected Bethlehem’s “mass nuisance” theory that when too many people complain about the same specific harm they lose their right to bring a private action to remedy that injury and must instead rely on the government to do so. Finding no Pennsylvania Supreme Court decision addressing whether there is a limit on the number of plaintiffs that can recover private property damages on a nuisance theory, the court applied Pennsylvania law to determine how the highest court would decide the case. The Third Circuit found “no reason to depart from longstanding principles that allow individuals to recover private property damages caused by widespread nuisances, especially where, as here, the number of plaintiffs is not so large as to be ‘indeterminate,’ . . . but rather is defined and limited to homeowner-occupants and renters within a 2.5-mile radius from the landfill.” *Id.* at 27. The Third Circuit cautioned that “[t]o adopt Bethlehem’s novel position would produce the anomalous result of penalizing small polluters while exempting larger polluters from the same liability. We decline to take that step without a clear directive from the Pennsylvania Supreme Court.” *Id.*

Finally, the court addressed the negligence claim. The Baptistes argued that Bethlehem owes it a common-law

duty of care. While Bethlehem conceded that it owes such a duty, it took the position that the duty was to protect others against unreasonable risk of *physical* harm, not nuisances like odors. Because it was undisputed that Bethlehem owes a common-law duty to the plaintiffs, the Third Circuit reversed the District Court's dismissal of the negligence claim. The question remained, however, as to whether the Baptistes sufficiently pled a cognizable injury to assert an independent negligence claim. The Third Circuit declined to address this question for the first time on appeal and decided to defer to the District Court to determine whether to consider the question of physical injury on remand.

While the Third Circuit's decision does not indicate whether the Baptistes will ultimately prevail on their common law nuisance and negligence claims, the court's reversal and remand has provided the plaintiffs with an opportunity to make their case. Industry members should keep a close eye as the litigation against Bethlehem proceeds and shapes private parties' rights to recover for harms allegedly suffered because of noxious odors.

Manko Gold Katcher & Fox - Maria C. Salvemini

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Democrat & Chronicle

COMMUNITIES

More than 200 Perinton-Macedon area residents sue Waste Management over High Acres odors

[Meghan Finnerty](#) and [Steve Orr](#) Democrat and Chronicle

Published 12:22 p.m. ET Aug. 15, 2018 | Updated 9:06 p.m. ET Aug. 15, 2018

More than 200 residents of the Perinton-Macedon area are suing the owner of the High Acres Landfill, saying odors and noise from the facility are ruining their quality of life.

The suit, filed Tuesday in U.S. District Court in Rochester, asks a federal judge to scale back use of the landfill and require its owner, Waste Management Inc., to pay damages to area residents.

The grassroots group Fresh Air For the Eastside joined 214 individual residents of Perinton, Penfield, Macedon and Walworth in bringing the case.

The *Democrat and Chronicle* first reported of odor issues at High Acres in December. Officials from High Acres and Waste Management attributed the odors to new technology, construction, water levels and a clogged pipe and publicly stated they were committed to mitigating the odors and getting back to "good neighbor" status.

"We continue to work with the New York State Department of Environmental Conservation and the host communities to ensure compliance with all of our permits, Waste Management said in a statement. "We have not reviewed the complaint and have no comment at this time."

The plaintiffs say the company's efforts to address problems at the landfill have failed, and that odors from decaying

trash are persistent, noxious and offensive.

The document alleges that Waste Management has interfered with the ability to enjoy life and property.

The plaintiffs say in the legal papers that the odors are so bad their children can't play in their yards or they can't open their windows. Some say they're awakened at night by odors or by noise, or that they're embarrassed to have guests visit their houses. Others say they're trying to sell their houses and move, but no buyers can be found.

"The odors persist at an intensity and frequency that unreasonably impacts the community's comfortable enjoyment of life and property," the papers say.

Nighttime noise from the landfill's rail operation disturbs neighbors and can be heard for miles, the plaintiff's complaint alleges.

High Acres, which straddles the border between Perinton and Macedon, is the only landfill in New York state authorized to accept deliveries of solid waste by rail. Waste Management has a long-term contract to dispose of trash brought by special freight trains from New York City.

The imported trash has made High Acres the state's second-largest landfill.

The complaint also alleges tremors or reverberations cause windows to rattle and structural cracks to appear in nearby homes, that chemical deodorizers released by Waste Management to mask the landfill odors have made people feel ill, and that vermin are a problem in some locations.

The plaintiffs want the court to order Waste Management to reduce odors and other air emissions. To accomplish that, they want the order to permanently bar the company from using two sections of the landfill that have been implicated in the odor problems and to immediately reduce shipments of trash from New York City by at least 50 percent.

They also want rail-related operations restricted to daylight hours.

As well, they want compensation for loss of property values, loss of enjoyment and for health problems that residents tie

to the landfill.

Questions surrounding whether the landfill is having an impact on residents' health has been brought up repetitively over the past nine months.

According to the court documents, Waste Management "is also causing imminent and substantial endangerment to health or the environment" due to their operations.

During a 12-week air monitoring program by the landfill company, approved by the New York state Department of Environmental Conservation, two public health assessments were conducted.

One was at the request of the town of Perinton and another by Waste Management.

The results from the five air monitoring systems showed no dangerous levels of hydrogen sulfide, a gas that smells like rotten eggs, said Perinton Town Supervisor Michael Barker. The hydrogen sulfide readings were reported below what the town's Conservation Board requested. The board requested an even lower threshold than state requirements, he said.

The results show that hydrogen sulfide levels are not a public health concern, according to a statement from Waste Management.

MEFINNERTY@Gannett.com

SORR@Gannett.com

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BRIEF

Suit filed against Waste Connections, others in Jefferson Parish, Louisiana

By Jordan Schultz

Published July 27, 2018

Dive Brief:

- A proposed class-action lawsuit against Waste Connections, three subsidiaries, APTIM Corp and the local government in Jefferson Parish, Louisiana was filed by lawyers on behalf of River Ridge resident George Ictech-Bendeck along with other unnamed residents on July 25.
- The suit — with unspecified damages — was filed based on complaints that odors emanating from the site lower property values and cause a nuisance for affected residents, as reported by The Times-Picayune. The document states August 1, 2017 as the start of the odor problems for residents.
- An earlier investigation found improper containment and disposal of leachate at the facility led to the current odor issues.

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The finding resulted in the resignation of the landfill engineer. At a press conference on July 23, Jefferson Parish President Mike Yenni said he had told landfill operator LRLC that they were in breach of contract for failing to fully contain and prevent the odors.

Dive Insight:

In a statement reported by WGNO, Waste Connections President Worthing Jackman said, "As it relates to the allegation of foul odors coming from the Landfill, the landfill gas collection and control system at the Landfill is designed to capture landfill gases which cause odors. Jefferson Parish operates and maintains the landfill gas collection and control system at the Landfill, not LRLC. It is well documented that the landfill gas collection and control system at the Landfill does not function properly."

Such cases highlight that landfill odor complaints continue to be a serious management issue for facilities nationwide. Problems can arise from issues with cover maintenance, gas leaks or leachate management. Pennsylvania residents filed their own lawsuit against a Waste Connections site over odor issues earlier this month.

Regulatory decisions on landfills are often linked to odor issues. Last year, a facility in Michigan was given the go ahead to flare gas



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by Michigan Department of Environmental Quality after excessive methane emissions from the site led to complaints. Another instance occurred in California last year where the local city council decided to change its dumping site as a preemptive move to avoid litigation, leading to a price increase for commercial customers.

The cause of this particular odor issue in Louisiana is still under investigation. An air quality task force has been established by the local parish council and all liquid wastes are currently prohibited.

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 THE TIMES-PICAYUNE

Landfill odors cited in new lawsuit filed against Jefferson Parish [↗](#)



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How High Will It Go?

neighbors concerned about planned expansion of Eau Claire's Seven Mile Cree

[Julian Emerson](#), photos by [Andrea Paulseth](#) | January 13, 2020



Advanced Disposal is asking for permission to expand the Seven Mile Creek Landfill just outside Eau Claire. If the request is approved, the landfill could cover an additional 12.5 acres and rise 60 feet higher. Some neighbors in the town of Seymour are concerned about the impact the influx of additional trash will have on their properties.

~

When Kathy and Dennis Campbell bought 40 acres in town of Seymour in 1996, they looked forward to living in the midst of trees and open land on their property 4½ miles northeast of Eau Claire.

to impact the lives of the couple and others who live near the site more than they could have imagined.

“It doesn’t matter if there’s a wind or not, I can smell it. When it’s really bad it just about gag me.”- Dann Jackson, Town of Seymour resident

The board’s action transferred county control over the landfill to its new owners. In ensuing years, Seven Mile Creek Landfill has become ever larger as ton after ton of garbage from not only the Chippewa Valley but Minnesota and Iowa made its way there.

These days, when the Campbells look a half mile to the south, they see a mountain of garbage that has grown substantially during the past two decades and towers above its surroundings.

“You look out the window and wonder how high is that mountain of garbage going to be?” Kathy Campbell said on a recent morning as she and her husband perused records related to the landfill in their home’s kitchen. “We never imagined this when we bought this property.”

In November 2018, landfill owner Advanced Disposal announced it is seeking approval for another expansion, the fourth at the landfill in the past 20 years. The Ponte Verde, Florida-based company intends to grow the area where trash can be piled by 12.5 acres and allow it to be raised by as much as 60 feet higher than currently allowed over a 22-acre space. (Advanced Disposal did not respond to repeated requests for an interview for this article.)

More than 1,000 tons of garbage are dumped daily at the landfill’s 79.5-acre active area. More than one-quarter of that trash is trucked from out of state. The rest comes from Wisconsin: If you toss something in the trash in the Chippewa Valley, chances are its final destination is Seven Mile Creek Landfill.





State Rep. Jesse James, R-Altoona, left, and state Sen. Jeff Smith, D-town of Brunswick, right, attended a Dec. 7 meeting of more than 70 residents discussing a proposed expansion of Seven Mike Creek Landfill in the town of Seymour. (Image: Julian Emerson)

The last expansion, which occurred in 2016, increased the maximum elevation by 40 feet. Those living near the landfill said as the landfill has expanded, so have the number of related problems they face. More garbage dumped there means additional issues with odor, traffic, noise, litter blowing onto surrounding properties, and animals such as gulls and rats, they said.

"I don't want to uproot my family, move away from the family farm. But it's something I wonder about when I see this landfill keep growing."- Dann Jackson

"It seems like the growth of the landfill is exponential," said Jason Engen, who lives about three-fourths of a mile west of Seven Mile Creek Landfill. "It just keeps growing and growing and growing."

The prospect of yet more growth at the landfill – this expansion an especially large one that would add dumping capacity for an estimated eight years – has prompted reactions and concerns among many town of Seymour residents. More than 70 of them attended a meeting in December to learn more about the proposed expansion and to voice worries about it.

"The bigger this (landfill) gets, the more it impacts all of us who live out here," said Dann Jackson, who raises cattle, pigs, goats, and chickens on his farm three-fourths of a mile northeast of the landfill.

Jackson grew up on his family farm just a half mile from his property and is no stranger to strong odors such as cow manure. But on some days, he said, the stench from the landfill is so strong he

“It doesn’t matter if there’s a wind or not, I can smell it,” he said. “When it’s really bad it just about gags me.”

Dan Bauer and his wife Elise live about a quarter-mile north of the landfill, on the farm where he has lived all his life. He recalls back when the landfill site was a farm house and a field, before trash and odors and truck noise were commonplace. “There have been so many changes out here with the landfill, and not for the better,” he said.



Town of Seymour resident and landfill neighbor Kathy Campbell spoke at the meeting. (Image: Julian Emerson)

Payment Debate

Town of Seymour residents hope a committee composed of representatives of the City of Eau Claire, Eau Claire County, and the town where they reside can win concessions from Advanced Disposal to ease the impact of the proposed expansion. The Landfill Siting Committee negotiates terms of expansions with the landfill operator. The state Department of Natural Resources also is part of the process and has final say over approval.

market value of their property if a landowner doesn't receive an offer within 180 days of listing a property on the market. The provision would require the company to pay the difference if a property sells for less than fair market value.

Anders Helquist, an Eau Claire attorney representing the Siting Committee, said the property guarantee addresses "the most common concern" committee members have heard from town of Seymour residents related to landfill expansion. Fair market value of properties within one mile of t landfill would be set at a value as if they were not near the landfill, Helquist said.

Siting Committee member Thomas Kemp said he backs the property guarantee, given that the growing landfill is likely to have an increased impact on nearby residents.

"With the height increase, it will be harder to hide the landfill than it was before," Kemp said. "When you can see (the growing garbage pile) from your house ... that is when it starts to impact property values. We want to make sure that homeowners have a safety net if they want to move."

While the property guarantee plan sounds like it could be good for landfill neighbors, Kathy Campb called it a "double-edged sword" because she worries allowing the landfill operator to match any property purchase offer as proposed could lead to more landfill expansions beyond the 331 acres Advanced Disposal already owns there. She said those living near other Advanced Disposal landfills Wisconsin are provided more protections through property guarantee measures at those locations "and I don't understand why we shouldn't be treated the same here," she said.





Dennis and Kathy Campbell look at paperwork related to the proposed expansion of the landfill, which is about half a mile from their house. (Image: Julian Emerson)

Concessions Sought

Neighbors also are seeking annual “sociological payments” that would be paid to those living near the landfill, a form of compensation for the adverse impacts they experience because of living near the landfill.

People living near four of the six Wisconsin landfills operated by Advanced Disposal receive yearly compensation payments ranging from about \$1,000 to \$3,000, plus cost of living increases, Kathy Campbell said. She and some others believe the more than 100 owners of properties within a mile of Seven Mile Creek Landfill should receive some sort of compensatory payment, too.

Bauer backs that idea but said he isn’t optimistic a compensation payment will be enacted. “We feel like we’ve been left out of the discussions altogether,” he said.

Instead of direct sociological payments, the committee has proposed increasing the landfill tipping fee from \$1.64 to \$3.74 per ton of trash dumped there. The additional revenue – estimated to be hundreds of thousands of dollars – would be divided among local governments, who would decide how to spend that money, Helquist said.

However, landfill neighbors say, that money wouldn’t go directly to them, but instead would be spent by the town on various projects.

Eau Claire County Board Supervisor Joe Knight, who represents the town of Seymour district where the landfill is, commended the Siting Committee for proposing the property guarantee measure. But he disagrees with its stance against making direct payments to those living near the landfill.

“It appears everyone else will make out well on this deal except the people living close to the landfill,” Knight said.





Impacts Discussed

According to Advanced Disposal records, Seven Mile Creek Landfill has about two years before it will be full, according to terms of the last expansion agreement. The landfill took in 390,108 tons of garbage in 2018, including 105,296 tons from Minnesota and 600 tons from Iowa. In fact, Seven Mile Creek Landfill took more out-of-state trash than any other landfill in Wisconsin in 2018, according to DNR figures.

"If the expansion is approved, it would provide dumping capacity for about eight years beyond the end of the current agreement," Helquist said.

Many town of Seymour residents said they were told years ago the landfill would be filled by now and closed. They said they didn't anticipate it would be allowed to repeatedly expand, and they're upset how much trash – 27% of which comes from out of state – is being dumped in their neighborhood.

"The more this landfill expands, the more it impacts all of us who live out here," Jackson said. "I don't want to uproot my family, move away from the family farm. But it's something I wonder about when I see this landfill keeps growing."

Landfill neighbors submitted a list of concerns signed by 123 people to the Landfill Siting Committee in September. Two months later, after several public meetings, the Siting Committee submitted an initial proposal to Advanced Disposal that seeks additional litter control measures and further sustainability efforts that could include solar energy and increased composting. The plan also involv

Jackson, Bauer, and some other Town of Seymour residents question why the committee's membership doesn't include anyone who lives within a mile of the landfill. Some also wonder whether expansion discussions are being rushed as Advanced Disposal is negotiating a sale of the landfill to Waste Management, which is expected to be finalized this spring.



Neighbors of the Seven Mile Creek Landfill have expressed a number of concerns about the expansion proposal, including the impact of additional odor, truck traffic, and litter.

“We appreciate the committee’s effort, but there is more they could do,” Kathy Campbell said, noting a lack of transparency in the process. “How come the people of the neighborhood have not been used as a resource about this? We want to be included to help make this a better situation.”

Kemp said Landfill Siting Committee members are listening to landfill neighbors. The committee doesn't have the power to determine whether an expansion can occur – that decision is overseen by the DNR – but it does help determine conditions the landfill operator must abide by.

“I am sympathetic to the community’s plight with this,” Kemp said. “I understand this (expansion) is not something anybody would want. But we’re going to do our best to make sure no parties are damaged by this expansion.”

Residents will have the opportunity to ask questions and discuss concerns about the landfill at a

Meanwhile, the DNR is conducting a landfill expansion feasibility review, a process that includes examining the proposal’s possible impact on groundwater, forestry, fishing, wildlife, and wetlands.

When the review is completed, the DNR will oversee a 30-day public comment period about the proposed expansion. Once that process is finished, Advanced Disposal must submit a plan of operation that also requires DNR review to make sure plans comply with state regulations regarding health and the environment. That plan must garner approval before the new expansion could occur.

Until then, landfill neighbors said they plan to continue to express their concerns about the propose expansion with the hope it will lead to the best possible outcome.

“We’re doing everything we can,” Dennis Campbell said. “Now we hope (the committee) will consider our concerns and negotiate for what we want.”

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COMMENTS



Nellie Wilson Jan. 16, 2020

If I recall, when the Seven Mile Creek Landfill was originally peddled to the county residents as a public service

in Newswire
August 6, 2020

'Mount Trashmore': Waste Management of Florida Hit with Class Action Over 'Noxious Odors' from Medley Landfill

by **Corrado Rizzi**

Last Updated on August 6, 2020

Miranda v. Waste Management Inc. of Florida

[• Read Complaint](#)

FILED: AUGUST 5, 2020 ♦ § 1:20-CV-23257

Waste Management Inc. of Florida faces a class action in which a Doral resident claims noxious odors emitted by a landfill operated by the co. has disrupted community life.

DEFENDANT(S)

LAW(S)

STATE(S)

Waste Management, Inc. of Florida

Florida

[\(i\) New to ClassAction.org? Read our Newswire Disclaimer](#)

A proposed class action lawsuit aims to take Waste Management Inc. of Florida to task for the Medley Landfill's alleged release of

“substantial and unreasonable noxious odors” into the surrounding community.

The Doral, Florida resident behind the 23-page lawsuit says the odors released by the 170-acre landfill have damaged proposed class members’ properties through “nuisance, negligence and gross negligence.”

According to the complaint, Waste Management Inc. of Florida is the exclusive manager, controller and operator of the Medley Landfill, a site that accepts thousands of tons of waste on average per day. As the lawsuit tells it, residents of neighborhoods surrounding the landfill—which they refer to as “Mount Trashmore”—have had to contend with odorous and offensive gas created as a byproduct of the general decomposition of waste occurring at the site.

Per the suit, the gas released by the Medley Landfill is comprised of hydrogen sulfide, which resembles a rotten egg smell, and methane and carbon dioxide, among various other compounds.

The lawsuit argues that a “properly constructed, operated, maintained, and managed” landfill would have no issue with gases escaping into the ambient air as “fugitive emissions.” The gas problems at the Medley Landfill are the result of a host of failures on the part of Waste Management Inc., the complaint alleges:

“Defendant has failed to adequately collect, capture, and destroy landfill gas generated at the Landfill to prevent fugitive emissions and to otherwise prevent noxious odors, gases, and/or particulates from the Landfill from invading the homes and property of Plaintiff and the Class.

Defendant has failed to sufficiently collect, capture, and destroy leachate generated at the Landfill to prevent landfill gas collection wells from becoming ‘watered in’ including by utilizing adequate drainage systems.

Plaintiff’s property has been and continues to be physically invaded by noxious odors which originated from the Landfill.”

According to the lawsuit, the Medley Landfill has been the subject of numerous complaints from local residents and media reports outlining that the smell interferes with public and private activities.

“More than 60 households have contacted Plaintiff’s counsel documenting the odors they attribute to the Landfill,” the case says, with the plaintiff noting “[w]e are not able to sit outside our terrace. We are not able to enjoy cookouts with family and friends. We refrain from cooking on the grill.”

In all, the case charges the odors emitted by the Medley Landfill have unreasonably interfered with the plaintiff’s ability to use and enjoy her property and have reduced the property’s overall value.

The lawsuit, filed March 19 and removed to federal court on August 5, looks to represent those who live within the following geographic area:

“Beginning at the interchange from the Ronald Reagan Turnpike (a/k/a Homestead Extension of Florida’s Turnpike, SR 821) to Beacon Station Boulevard; East on Beacon Station Boulevard to the intersection of Beacon Street Boulevard and N. Okeechobee Road (a/k/a US 27); Straight traveling Northeast on Hialeah Gardens Boulevard to W 68th Street; East on W 68th Street to the Palmetto Expressway (a/k/a SR 826); South on Palmetto Expressway to 58th Street; West on 58th Street to the Ronald Reagan Turnpike; North on Ronald Reagan Turnpike to starting point at intersection/interchange of the Ronald Reagan Turnpike and Beacon Street Boulevard. (Ex. 1, Class Boundary Map).”

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About ClassAction.org

ClassAction.org is a group of online professionals (designers, developers and writers) with years of experience in the legal industry.

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LOCAL

Monmouth threatened with \$233M lawsuit from neighbors over county dump

Dan Radel Asbury Park Press

Published 4:01 p.m. ET Apr. 12, 2019 | Updated 8:06 p.m. ET Apr. 12, 2019

TINTON FALLS - Neighbors of the Monmouth County dump, which has been the source of persistent odor complaints, have notified the county government that they plan to take their concerns to court.

Neighbors of the reclamation center, commonly known as the county dump, handed Monmouth County a tort claim of a pending class-action lawsuit seeking \$233 million in damages for the "improperly controlled landfill emissions and odors" from the county-owned site.

According to the notice, the "claimants and the class have been injured by incurring lost property value and suffering the loss of use and enjoyment of their properties."

The notice blames unknown employees of the county and its landfill for causing the alleged injuries and/or losses.

The Asbury Park Press obtained a copy of the tort claim via an Open Public Records request.

The claimants are represented by attorney Kevin S. Riechelson of the Trenton-based law firm Kamensky, Cohen and Riechelson. Riechelson did not return a phone call from the Press.

The listed claimants are Dan and Jan Chase, Carolyn Bateman and "a class of other owner-occupants" or renters of residential property within three miles of the landfill.

The Press reached out to several residents in Tinton Falls, many of whom declined to comment on the lawsuit or did not return phone calls, emails or messages on social

media.

Monmouth County Freeholder Director Thomas Arnone, who has pledged to residents to fix the odor issues, told the Press he will continue to work on solutions for the landfill.

"Unfortunately, these landfill issues are not unique to Monmouth County. With that said, the county wants to be a good neighbor and I am committed to continuing to work hard to mitigate the odors," Arnone said.

New Jersey tort law states that the claimants have six months from the date of the claim to file suit in an appropriate court of law.

Watch:See drone video of Monmouth County landfill; county trying odor solution

Issues regarding foul odors at the landfill were brought to the surface at a town hall meeting on Jan. 28 that was organized by Sen. Vin Gopal, D-Monmouth, after odor complaints spiked that month.

Residents said their complaints went unanswered for months and only after they directed their calls to the Monmouth County Regional Health Commission did they get a response from the county and state.

The damages, according to the notice, are based on the total number of impacted households and the likely impact to value from a landfill odor nuisance, and total \$233 million for approximately 10,824 households.

The town hall was attended by officials from the county and the Department of Environmental Protection.

At the meeting, Geoff Perselay, the reclamation center's interim superintendent, tied the odors to a major construction project, which he said exposed 11 acres of the sprawling landfill to the air; escaping methane gas and leachate seeps caused by too much rain.

Perselay also acknowledged at the meeting that the county "didn't notify Tinton Falls or the residents that (they were) going to dig up 11 acres of landfill."

More: Officials pledge to fix Monmouth County dump stink

Arnone and Gopal pledged to the packed audience to fix the problem.

Since the town hall, the county approved \$4.45 million for emergency fixes at the landfill.

Overall, the county said it will spend \$7.5 million in projects aimed at curbing the smells.

The first of those projects, a \$130,000 misting system that sprays the chemical Neutralene into the air to neutralize odors, has been installed.

Monmouth County approved a \$2.5 million emergency contract with Waste Management to drill 30 new wells for the methane gas collection system, which have also been installed.

More: Monmouth County plans \$7.5M to fix stinky landfill

About the Monmouth County Reclamation Center

900 Acres in Tinton Falls, but only 283 are used for landfill

Handles waste disposal for all 53 towns in Monmouth County.

The center handles 400,000 tons of trash a year and 1,300 tons, or 2.6 million pounds, daily.

New Jersey landfills

At one time over 854 landfills operated in New Jersey, including 276 privately owned dumps, according to the state's Division of Solid and Hazardous Waste. The list of landfills includes not only registered landfills but also suspected illegal and pre-regulatory sites.

In the early 1970s, the state created the Department of Environmental Protection and implemented new regulations for solid waste management which led to the closure of almost all the landfills.

Today, only 14 landfills are active — a dozen of them are government run and two are industrial. None is private.

Dan Radel: @danielradelapp; 732-643-4072; dradel@gannettnj.com

37°

BUFFALO > | FEBRUARY 27, 2021

LOG IN

BY ALEX HAIGHT

WHEATFIELD

PUBLISHED

JANUARY

24, 2017

@4:04 AM



WHEATFIELD, N.Y. -- Sixteen Niagara County residents who live near the old Nash Road Landfill in Wheatfield filed a notice of claim Monday against the town. Wheatfield Town Supervisor Robert Cliffe says each of the residents are asking for \$60 million; or \$960 million total.

According to the complaint, residents living near the old landfill believe chemicals from the site leaked on to their property. The homeowners say they conducted independent testing last July which detected a powdery residue.

In the past, Love Canal waste was dumped at the Nash Road site. Despite remediation efforts, the DEC declared that property a significant threat to public health in 2015.

"Their complaints are that they're sick, and I have nothing but compassion for the sick for any reason, let alone from chemicals that the town might be or might not be complicit on, but it's a scary process for them," said Cliffe, R-Wheatfield. "It just seems a little strange that the chemicals went in there in 1968, they came out in 2015, finished up in spring of '16, and we get sued based upon the chemicals that are no longer there."

37°

BUFFALO > | FEBRUARY 27, 2021

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As for the notice of claim, Cliffe says the homeowners have one year to decide if they want to move forward with the suit.

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By Adam Owens, WRAL anchor/reporter

HOLLY SPRINGS, N.C. — The operator of the South Wake Landfill in Holly Springs has reached a deal with nearby residents to settle their class-action lawsuit over [odors from the dump](#).

The agreement, which still must be approved by a judge, calls for Wake County Disposal LLC to pay \$950,000 to the residents and add an estimated \$1.2 million in odor-reducing equipment and technology to its operations at the landfill.

The 180-acre landfill on Old Smithfield Road was surrounded by woods when it [opened in 2008](#). But as Holly Springs has grown in recent years, some neighborhoods have developed nearby – and a trash dump and residents don't always mix.

Residents sued two years ago over "airborne emissions of pollutants, air contaminants, and noxious odors" from the landfill.

"Mostly, you just go outside and get in your car, or you go somewhere else, go back inside. You can't stay outside because it just stinks," Christi Bennett, who lives nearby, said Wednesday. "The biggest problem is there was no course of action before the lawsuit."



NC's growing trash problem poses challenge

Anyone who has lived within 3 miles of the center of the landfill since September 2015 is eligible to take part in the settlement, so it's unclear how much each household would receive. People have 45 days to apply to be part of the settlement after notices are sent out, or they have 30 days to opt out of the settlement and pursue their own claims in the case.

The attorneys who represented the residents in the lawsuit can claim up to \$465,000 of the settlement for their fees and expenses.

Wake County Disposal plans to add an odor-neutralizing agent to the spray it uses as an alternative to daily cover at the landfill, install dewatering pumps as needed into approximately 30 percent of the landfill's methane gas wells and purchase environmental data management software and hardware to better monitor odors at the site.

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BUSINESS

Milpitas: Judge finalizes settlement in class-action suit over alleged landfill odors

By **IAN BAUER** | Bay Area News Group

PUBLISHED: July 25, 2016 at 4:36 a.m. | UPDATED: August 11, 2016 at 10:46 p.m.

A class-action lawsuit that alleged noxious odors, dust and air pollution that emanate from the Newby Island Landfill and Resource Recovery Park on the Milpitas-San Jose border harm area residents was settled earlier this month.

Santa Clara County Superior Court Judge Peter Kirwan on July 8 granted the final settlement agreement, which ended years of litigation involving the landfill operated by Republic Services of Santa Clara County at 1601 Dixon Landing Road in San Jose and residents living near the dump.

“The court finds that the settlement is fair and reasonable and that denial of the settlement would, in fact, be harmful to the class rather than beneficial,” Kirwan wrote. —...While the proposed settlement does not provide for closure of the landfill site or prevent expansion of the landfill site, it does provide for significant remediation measures to be implemented that could have a substantial impact on the door leaving the disposal facility. If the court were to not approve this settlement, those remediation measures would not go into effect. In other words, the odor and nuisance issues would remain as they currently exist.”



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spokesperson, said this week. "Also, as part of the settlement, Newby Island agreed to a number of improvements to reduce the potential for odors."

According to the approved agreement, Republic Services agreed to provide about \$2 million in injunctive relief to mitigate odors via a landfill gas collection system over the next five years. Also, by Dec. 31, 2017, Republic will have the sole option to either cease the receipt of green waste materials for composting or utilize forced air static piles for odor control (using cured compost on top of the piles as a bio-filter) for green waste composting. However, much of the basic processes for composting at the facility — including providing compost for "beneficial uses" — would be allowed to continue under terms of the settlement.

Also, over the next 12 months, the company will also expand its misting system, which includes the use of odor neutralizers, around the compost facility. Similarly, over a five-year period, a total of \$750,000 would be used to mitigate and prevent potential odors at the adjoining recyclery, the agreement states.

The company will also cease, and pursue no further, the outdoor stockpiling of "wet" waste at the landfill bunker, which awaits processing, among other mitigation measures, the agreement states.

In 2012, Evans Law Firm of San Francisco, in conjunction with Detroit-based Liddle & Dubin PC, sued Republic (named in the suit as International Disposal Corp. of California) over the San Jose landfill on behalf of Milpitas residents Peter Ng and Dolly Wu and thousands of other unnamed residents.

But after the waste company challenged the data submitted to substantiate the odor nuisance allegations, the court ruled in January 2015 to deny the lawsuit's assertions.

At that time, Judge Kirwan in part ruled that the suit was "overly broad" and members of the class action could not be easily identified as Milpitas residents or persons living within the vicinity of the landfill. The judge also asserted the case was not a class action per se — a decision that briefly stalled proceedings.

Previously, Knocke told this newspaper that the settlement was actually reached by the parties in July 2015 following the judge's initial ruling.



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odors smelled in Milpitas or any other nearby community.

"Newby Island has not caused any damages to residents, and the evidence in the case shows that the odors complained of by some Milpitas residents result from a number of nearby natural and man-made sources, including the many tidal sloughs and marshes around Newby Island and prevalent in the South Bay, stagnant impoundments in the bay that were once used in salt production, and the bay itself," Knocke said previously.

He noted the man-made sources include nearby public and private facilities involved in treating sewage and other forms of waste.

"Scientific measurements by independent experts we have provided to the City of San Jose Planning Commission confirm the landfill is not a significant source of local odors," he said previously.

In the last couple of years, talk of odor apparently emanating from Newby Island Landfill — and impacting residents here — coincided with plans to see the dump site grow in size. Under a proposal by Republic, the company seeks to increase the landfill's height by 95 feet, increase its capacity by approximately 15.12 million cubic yards and extend its estimated closure date until January 2041. The landfill's current closure date is 2025.

However, to gain further information over possible impacts of odor on surrounding communities City of San Jose requested a formal odor study be conducted — in part, based on an appeal Milpitas filed in 2014 over San Jose Planning Department's approval of a permit allowing the landfill to grow.

In San Jose, that city's planning commission — as well as Republic Services — still awaits the results of the odor study. Those results may be announced at the panel's Aug. 24 meeting.

And although there was initial talk among some in the community that the class-action lawsuit might be used to close down the Newby Island Landfill, Judge Kirwan's July 8 ruling dispelled that notion.



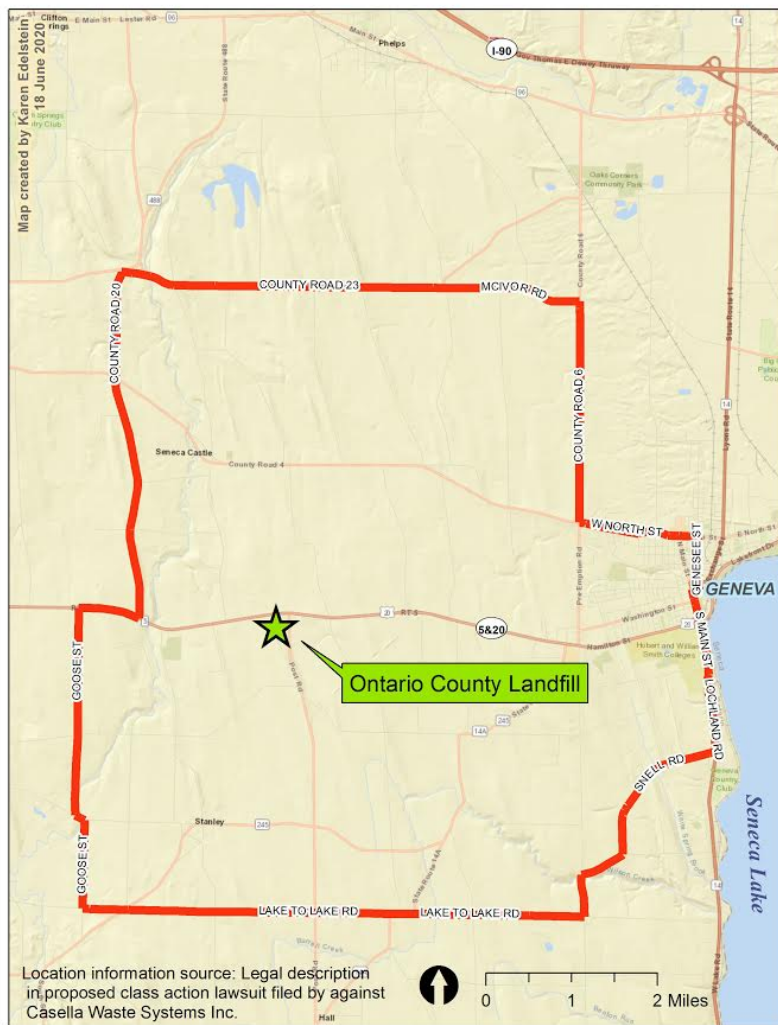
Water Front- Peter Mantius

Environmental politics in New York's Finger Lakes

Feeling Pressure From Several Sides, Casella Ramps Up Efforts to Suppress Foul Odors at Ontario County Landfill

[Peter Mantius](#) / [June 19, 2020](#) / [Uncategorized](#)

That remains to be seen, but Casella Waste Systems Inc. finally appears to be responding to a combination of legal actions, public pressure and state enforcement. The company is energetically working to suppress the odors emanating from the Ontario County Landfill, which it operates.



A Michigan law firm that specializes in class action lawsuits has sued Casella Waste Systems Inc. on behalf of more than 1,000 residents of Ontario County who have allegedly suffered from foul odors released by the county landfill. Potential class members fall within the red line border (left).

“I was very unsatisfied a few months ago with the pace, but in the last month or so, they’ve stepped it up,” Mark Venuti (below), supervisor of the Town of Geneva, said of Casella’s activities. “We’re expecting significant improvement.”

Geneva is less than six miles east of the landfill, and often downwind.

For years, the Vermont-based waste company



deflected hundreds of public complaints about odors, and in 2018 it significantly increased its imports of reeking sludge at the Ontario facility, the state’s third largest landfill.

It has since trimmed back its sludge business, Venuti said, and in recent weeks it has been installing new wells and piping while sending out drone sensors to locate “hot spots” of escaping hydrogen sulfide, which causes the rotten-egg smell.

Those corporate actions have come only after:

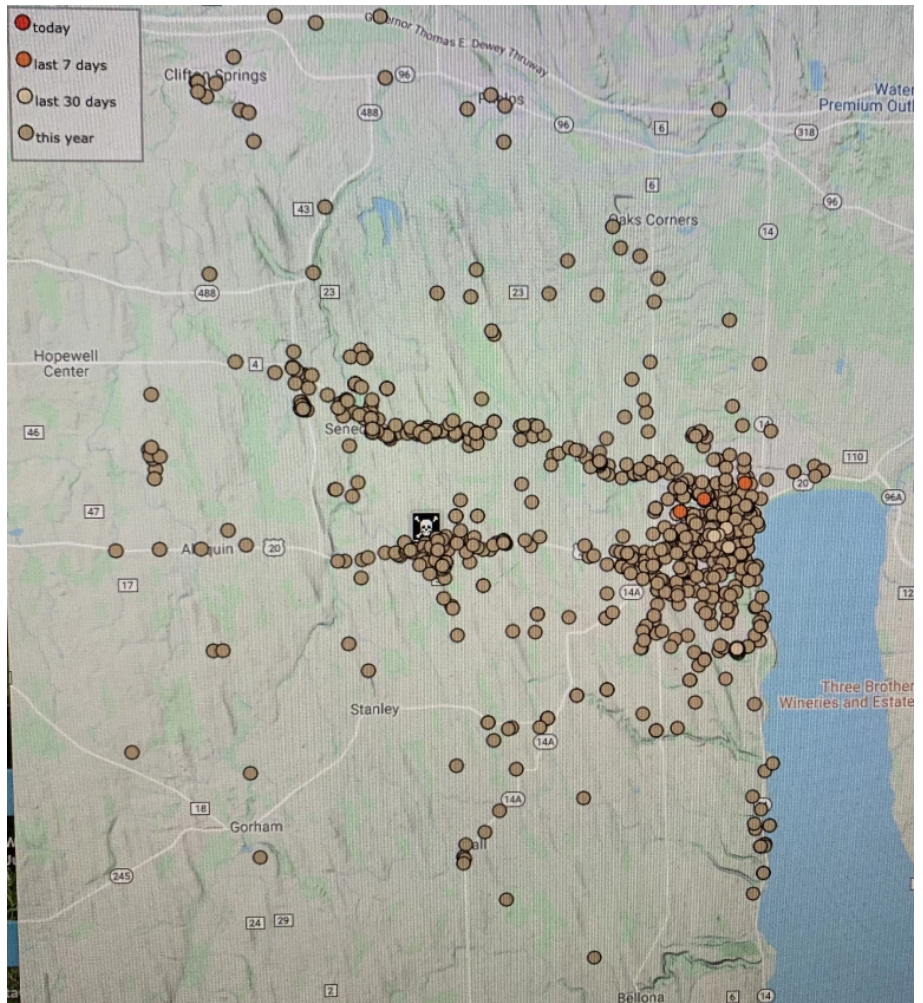
- The website ItStinks, created early last year, encouraged citizens to report foul odors and mapped them to create a public data source not dependent on Casella or state regulators (right).
- A Michigan law firm, experienced in class action lawsuits against landfills, quietly filed suit (<https://waterfrontonline.files.wordpress.com/2020/06/casellasuedontariosept2019.pdf>) last September on behalf of more than 1,000 Ontario County residents.

– The state Department of Environmental Conservation, after years of allowing odor complaints to slide, finally this year issued Casella at least two notices (<https://waterfrontonline.files.wordpress.com/2020/06/deccitesmay2020flt.pdf>) of odor violations at the landfill.

– The Ontario County Board of Supervisors hired a litigator from the Buffalo law firm Hodgson Russ to consult on steps addressing landfill odors.

While acknowledging that the landfill “might be too big to control,” Venuti said the local officials hired the Buffalo litigator to “send a message that we’re serious.”

Casella has also had to contend with the virtually unpublicized class action filed in Ontario County Supreme Court by the Detroit law firm Liddle & Dubin. While the judge has not yet certified the class, the company has been in settlement negotiations (<https://waterfrontonline.files.wordpress.com/2020/06/postponefortimetosettlefeb2020.pdf>) since



February, according to the case docket.

“If I don’t get a penny, I don’t care, I want to make the dump more accountable for the smell,” said Richard Vandemortel, lead plaintiff with his wife Deb Vandemortel in the lawsuit.

When the wind and humidity are unfavorable, the landfill stench is overwhelming at their home in the Town of Seneca, said Vandemortel (left). “I’ve got a pool,” he said. “You can’t go out there with that smell. You can’t hang laundry on the line.”

The lawsuit charges that Casella has “failed to adequately collect, capture, and destroy landfill gas they generate at the landfill to prevent fugitive emissions and to otherwise prevent odors from the landfill from invading the homes and property of plaintiffs and the class.”

In its filed response (<https://waterfrontonline.files.wordpress.com/2020/06/aacasellaanswertosmolaknov2019.pdf>), the company “(denies) that plaintiffs Richard and Deb VanDeMortel can bring a class action or that there is a putative class, or ... that plaintiffs are entitled to the relief they seek.”



LIDDLE
& DUBIN, PC

Environmental Contamination Class Action Attorneys

Casella's attorney in the case, Tom West of Albany, did not return phone call and email messages this week. Neither did three senior Casella officials — Joseph S. Fusco, Elizabeth A. Casella and Larry Shilling — respond to emailed questions.

The Liddle & Dubin lawsuit was sufficiently weighty to merit a mention in Casella's most recent annual and quarterly filings with the U.S. Securities and Exchange Commission.



In a note in its most recent 10Q report, filed with the SEC in May, the company said it planned to vigorously defend against the action, which “seeks damages for diminution of property values and infringement of the putative class’ rights to live without interference to their daily lives due to odors emanating from the Ontario County Landfill (above).”

Vandemortel said he welcomed the chance to participate in the lawsuit after years of frustration with the DEC's lack of initiative on offensive landfill odors.

He attributed that official inaction to the state's deference to a few large municipal solid waste landfills created roughly two decades ago after the state ordered the closing of dozens of smaller unregulated dumps. “(Odor complaints) go in one ear and out the other with the DEC,” Vandemortel said.

Lately, the DEC has become more assertive.

In April, the agency noted 48 air-quality standard violations at the Ontario facility between Jan. 17 and March 27. It proposed fines of up to \$15,000 a day if the problem was not resolved. A previous notice had cited 41 violations.

The dozens of times odors exceeded state limits were consistent with complaints registered earlier on the online portal [ItStinks \(https://itstinks.org/\)](https://itstinks.org/), which was created by Jackie Augustine (right), a former Geneva City Councilor, and Jeff Henderson, a software engineer.



It accepts and maps odor reports volunteered by the public. The site focuses on three New York landfills — Ontario County, Seneca Meadows Inc. in Seneca County and the S.A. Dunn Landfill just across the Hudson River from Albany.

In 2017, Liddle & Dubin filed a class action suit against SMI, which straddles the line dividing Waterloo from Seneca Falls.

Doug Avery, a member of the Seneca Falls Town Council, said he had heard about the case when it was filed three years ago, but little since then. [Liddle & Dubin \(https://waterfrontonline.files.wordpress.com/2020/06/senecameadowsclassactionliddlepr-1.pdf\)](https://waterfrontonline.files.wordpress.com/2020/06/senecameadowsclassactionliddlepr-1.pdf) continues to refer to it on its website.

In January 2019, Jan Smolak, an attorney in Auburn who has worked with the Detroit firm, reportedly solicited clients for a class action against the Dunn Landfill.

In April 2019, Liddle & Dubin approached Smolak (right) to pursue the Ontario Landfill case, according to court records.

The Michigan attorneys involved in the Ontario case — Steven D. Liddle, Nicholas A. Coulson and Matthew Z. Robb — did not respond to emails and phone calls this week.



WASTE CONNECTIONS, INC.



On its website, the law firm claims a series of victories

(<https://waterfrontonline.files.wordpress.com/2020/06/liddledubinodorcases.pdf>) against major waste companies in landfill odor class actions across the country.

The firm has had setbacks as well. Last year Waste Connections, owner of SMI, won dismissals (<https://waterfrontonline.files.wordpress.com/2020/06/wasteconnectionslawyerswininpennsylvanialouisiana.pdf>) of class actions against landfills its operates in Bethlehem, Pa., and Jefferson Parrish, La.

Published by Peter Mantius

I am a journalist who lives in Watkins Glen, NY. I write about the environment and politics on my website, Waterfrontonline.blog. For more detail on my background, see the "Peter's Bio" section on that site. [View all posts by Peter Mantius](#)

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Second lawsuit alleges 'offensive odors' at landfill

The Morning Call · 12 Mar 2019 · asalamone@mcall.com 610-820-6694

A second lawsuit has been filed against Waste Management's Grand Central Sanitary Landfill over offensive odors residents allege have been coming from the Plainfield Township facility.



The complaint, filed Friday in Northampton County Court, is similar to one brought last month against the landfill, which sits off Route 512 near Pen Argyl. The complaints allege that the landfill is creating a public nuisance due to "pollutants, offensive odors and air contaminants" emanating from the plant, and it has been negligent in controlling the scents.

The plaintiffs, all from Pen Argyl, include Dr. Luther Bond, David Flyte and Dorothy Maimone, according to the complaint.

"The odor has gotten completely out of control," said Easton attorney John Kotsatos, who is representing the residents.

The lawsuit asks for reimbursement of \$50,000 for each complainant and to certify it as a class action case with up to 90 members, for a total damage request of at least \$4.5 million. In an email, Waste Management spokesman John Hambrose said, "We are reviewing this complaint and have no further comment at this time."

Last month, several Slate Belt residents filed a lawsuit seeking more than \$100,000, arguing the odors and pollutants have interfered with their "enjoyment of their property, resulting in damages in excess of \$5 million."

A state investigator checking on complaints last December noted strong, persistent landfill gas and sewage odors coming from Grand Central. The Pennsylvania Department of Environmental Protection has issued Waste Management several notices of violations.

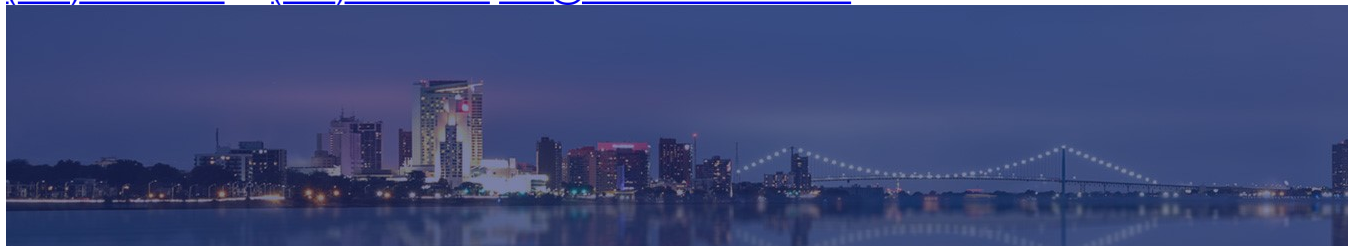
However, DEP also has said landfills in the region have experienced "extremes" of excessively wet weather, temperature fluctuations and more. Those climate changes have required landfills to implement measures beyond regular odor-control practices, DEP spokeswoman Colleen Connolly said.

Connolly said last week that odor complaints dipped during winter. The agency received 64 calls about odors in September, 89 in October, 63 in November and 79 in December, she said. The complaints dipped to 41 in January.

Bond has also been among numerous residents opposed to a \$26 million plant planned on landfill property that would take truckloads of treated sewage sludge and convert it into pelletized “biosolids” that can be sold as fertilizer or fuel.

The plant, proposed by Synagro Technologies, has drawn fire from nearby residents, who fear the project would lower their quality of life. Plainfield Township and the DEP need to approve the project, which was first announced in November 2016.

[\(800\) 536-0045](tel:8005360045) or [\(313\) 392-0015](tel:3133920015) info@LDclassaction.com



Seneca Meadows Landfill Odor Class Action

Current State:

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[Seneca Meadows Landfill](#) is facing a class action lawsuit filed by a neighboring resident who contacted [Liddle & Dubin P.C.](#) alleging that foul odors from the landfill blanket her home and negatively impact her ability to use and enjoy her property.

The class action complaint was filed in the Supreme Court of the State of New York, County of Seneca, and alleges that thousands of homes adjacent to the landfill have been adversely impacted by the nuisance odors created by the landfill.

Seneca Meadows Landfill sprawling landfill is situated on a [500 acre site](#) in Waterloo in Seneca County in

New York that accepts approximately 6,000 tons of solid waste **per day** from residences, businesses and industry.

Unfortunately for neighboring residents, the Seneca Meadows Landfill has a well documented history of failing to control its [odorous emissions](#).

The company has [acknowledged the odors](#) but continued complaints are evidence of the fact that residents continue to live with the smells without relief. Residents should report the presence of odors to the Seneca Meadows Landfill odor hotline at (800) 889-4318.

Affected residents can also contact [Liddle & Dubin, P.C.](#) We have handled [many air pollution cases](#), including those concerning a landfill's emission of noxious odors. In these past cases, we filed a lawsuit seeking compensation for the nuisance created by the odors and for any negative impact the odors have on property values.

We have also worked to change the way a Defendant operates its facility in order to reduce, if not eliminate, the emission of odors into the surrounding community. We have the same goals in the case currently pending against the Seneca Meadows Landfill.

Seneca Meadows Landfill Odor Data Sheet

If you have experienced odors, we encourage you to complete the Data Sheet. You can also contact attorney [Laura L Sheets](#) at (800) 536-0045 for further information.

Please note that this is a request for information only and does not mean that you are hiring our law firm or will be receiving legal representation. Your response will not establish an attorney-client relationship.

Name *

First

Last

Your Spouse's, Roommate's or Partner's Name

First

Last

Address *

Street Address

Address Line 2

City

State

ZIP Code

Address affected by the odors (if different)

Phone *

Email *

Enter Email

Confirm Email

Do you own your home?

Have you noticed odors from the Seneca Meadows Landfill at your home? *

Please briefly describe the offensive odors: *

Please briefly summarize how the offensive odors affect your ability to use and/or enjoy your home: *

Submit

Thank you for completing the Seneca Meadows Landfill odor data sheet online. We will contact you once we have had an opportunity to review your information.

Please note that the completion of this form does not mean that you are hiring our law firm, or will be receiving legal representation. In other words, your response to this form will not establish an attorney-client relationship.

If you have any other questions or concerns, please feel free to [contact us](#).

Liddle & Dubin P.C. is one of the premier class action firms in Michigan. The firm specializes in cases involving basement flooding, air pollution, environmental contamination and complex consumer class actions.



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Email: info@LDclassaction.com

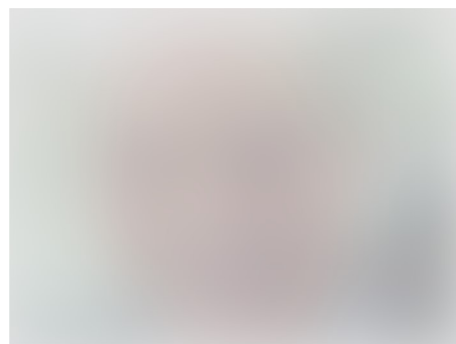
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https://www.fltimes.com/news/town-of-geneva-opposes-seneca-meadows-plan/article_83a18a74-fda4-5c99-94aa-c63244e922f8.html

Town of Geneva opposes Seneca Meadows plan

Finger Lakes Times

Feb 13, 2021



Venuti

GENEVA — The town of Geneva has joined the effort to see Seneca Meadows Landfill close by the end of 2025.

Supervisor Mark Venuti said the Town Board unanimously passed a resolution at its meeting Tuesday to support a local law by the Seneca Falls Town Board prohibiting Seneca Meadows from accepting any more trash after 2025. The resolution comes after Seneca Meadows applied to the state Department of Conservation for a permit to accept trash for another 15 years after 2025 by expanding into an area within the landfill's existing footprint.

The town resolution says Seneca Meadows, the state's largest landfill, negatively impacts Geneva because of the trash trucks that travel through the town, and through gas and offensive odors.



Expand

The Geneva City Council passed a similar resolution last month.

Venuti noted that the Ontario County Landfill, another of the state's largest facilities of its kind, is scheduled to close at the end of 2028.



The Advertiser-Tribune

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New judge to be appointed to oversee landfill case



Joanna Lininger

Sep 03, 2019 11:00 PM

A new judge is to be appointed to oversee a



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local landfill.

Class-action lawsuits had been filed against Sunny Farms LLC and Sunny Farms Landfill LLC.

During a hearing for one of the lawsuits in Seneca County Common Pleas Court Judge Michael Kelbley's courtroom Tuesday, attorneys heard about Kelbley's family owning property near the landfill.

Kelbley is to seek appointment of a retired judge by Ohio Supreme Court.

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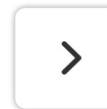
The landfill is located at 12500 W. CR 18, Fostoria.

In one of the lawsuits, Michael Stahl and Ann Stahl of 22912 TR 217, Fostoria, are suing Sunny Farms Landfill LLC.

The lawsuit alleges Sunny Farms Landfill LLC releases noxious odors that invade the Stahls' property, causing property damage through negligence, gross negligence and nuisance.

An attorney for Myra Spires of 11607 W. TR 108, Fostoria; Nikki Frisch, 1079 Columbus Ave., Fostoria; and Nathanael Heiser, 3580 Eagleville Road, Fostoria, had filed a separate lawsuit in Seneca County Common Pleas Court.

The lawsuit alleges Sunny Farms LLC releases noxious odors that invade the property, causing loss of enjoyment of homes



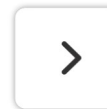
The noxious odors originate from the landfill and waste water treatment plant, the lawsuit states.

“A properly operated, maintained, and managed landfill will collect, capture and destroy landfill gas from the landfill in order to prevent it from escaping into the ambient air as fugitive emissions,” the lawsuit states.

“Defendants have failed to sufficiently collect, capture, and destroy landfill gas generated at its landfill to prevent fugitive emissions and to otherwise prevent odors from the landfill and pollution treatment plant from invading the homes and property of Plaintiff’s and the Class,” it states.

Ohio Environmental Protection Agency had taken enforcement action against the landfill in January after there had been complaints about odors.

Sunny Farms Landfill had agreed to pay



alleged violations of past water pollution, solid waste and air pollution control laws, according to a release from Ohio Attorney General Dave Yost.

The landfill also agreed to pay an additional \$2.01 million for under-reported and mischaracterized fees associated with waste entering landfill facilities, it states.

The public made 276 complaints to the landfill from October through December, the release states.

According to a release from the landfill, Ohio EPA determined the landfill is in substantial compliance with applicable regulatory requirements.

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Landfill stench prompts class action lawsuit

Posted on January 2, 2013 (<https://scl-cac.org/2013/01/landfill-stench-prompts-class-action-lawsuit/>) by [sclcacadmin \(https://scl-cac.org/author/sclcacadmin/\)](https://scl-cac.org/author/sclcacadmin/)

From [ABClocal.com \(http://abclocal.com/kabc/story?section=news/local/los_angeles&id=8927678\)](http://abclocal.com), [Miriam Hernandez \(http://abclocal.com/kabc/bio?section=resources/inside_station/newsteam&id=5744059\)](http://abclocal.com/kabc/bio?section=resources/inside_station/newsteam&id=5744059)

Upcoming Events

Sunshine Canyon Landfill - Community Advisory Committee Meeting

Knollwood Country Club, 12024 Balboa Blvd, Granada Hills, CA 91344

3/11/2021 | 3pm

5/13/2021 | 3pm

7/8/2021 | 3pm

GRANADA HILLS, LOS ANGELES (KABC) — A lawsuit over the stench from a landfill near Granada Hills was filed by residents living near the Sunshine Canyon Landfill. They say their many complaints have not solved the problem.

“We have been here since 1978. It’s a constant problem,” said local resident R.K. Chetty.

“It smells like garbage out here,” said Nick Terzian.

“Since 2010 it’s slowly been a progressing hell, pretty much,” said Yeshayahu Michaely.

They live downwind from the Sunshine Landfill, where tons of waste are hauled from city and county areas. Browning-Ferris Industries operates the landfill. The company has been a consistent violator of air-quality regulations, according to the South Coast Air Quality Management District (AQMD), with 55 odor violations in the last two years.

“The sheer magnitude of complaints and violations at Sunshine Canyon is significantly larger than really any other landfill within our four-county area,” said AQMD spokesman Sam Atwood.

AQMD imposed a fine of nearly \$500,000 last summer. Neighbors say that is not enough. They have filed a class action lawsuit demanding that the landfill reduce its operations or compensate neighbors for damages.

“If we could just pick up and move, we would move. We know it’s not healthy for ourselves, for the kids,” said Michaely. “There is no quality of life.”

At Van Gogh Street Elementary School, children complain too. AQMD has installed a monitoring station. While the air may stink, it is not toxic, says

Links

- SCL-LEA – Sunshine Canyon Landfill Local Enforcement Agency (<http://www.sclea.org/>)
This agency was formed by the City and County of Los Angeles to act as the lead agency and to enforce the regulations of the State of California in a combined City/County landfill. It provides a lot of useful information from various sources that relate
- SCL-LEA Useful Links (<http://www.sclea.org/useful-links>) View reports and information prepared by SCL-LEA and other State agencies.
- SCL-LEA – Sunshine Canyon Landfill Inspection Reports (<http://www.calrecycle.ca.gov/SWFacilities/Directory/19-AA-2000/Inspection/>)
Copies of the SCL LEA’s inspection reports of the Sunshine Canyon Landfill can be downloaded from the CalRecycle website.
- The replacement CUP issued by L.A. County in 2007

AQMD.

As for remediation, the company has installed more pipes to draw out methane gas and burn it before it blows into neighborhoods.

“We are seeing a significant increase, about a 67 percent increase, in the amount of landfill gas that they are collecting this year versus last year,” said Atwood. “So we know that the trend is in the right direction.”

Ask neighbors though, and they say the smell has only gotten worse.

“It is just not a way to live,” said Michaely.

Since the \$500,000 settlement, the AQMD says the Sunshine Landfill has been in violation 10 more times. Browning-Ferris Industries had no response.

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Tagged air quality management district (<https://scl-cac.org/tag/air-quality-management-district/>), browning ferris industries (<https://scl-cac.org/tag/browning-ferris-industries/>), chetty (<https://scl-cac.org/tag/chetty/>), class action lawsuit (<https://scl-cac.org/tag/class-action-lawsuit/>), county areas (<https://scl-cac.org/tag/county-areas/>), sam atwood (<https://scl-cac.org/tag/sam-atwood/>), sheer magnitude (<https://scl-cac.org/tag/sheer-magnitude/>), south coast air quality management district (<https://scl-cac.org/tag/south-coast-air-quality-management-district/>), sunshine canyon (<https://scl-cac.org/tag/sunshine-canyon/>), violator (<https://scl-cac.org/tag/violator/>).

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(http://www.sunshinecanyonlandfill.com/home/pdf/env/County_Conditional_Use_Permit.pdf) It contains information as to History of approvals and the development of the landfill.

- CalRecycle (<http://www.calrecycle.ca.gov/>) CalRecycle is the new home of California’s recycling, waste management and waste reduction efforts and agencies. CalRecycle is officially known as the Department of Resources Recycling and Recovery. CalRecycle administers programs formerly managed by the
- South Coast Air Quality Management District (SCAQMD) (<http://www.aqmd.gov/>) South Coast Air Quality Management District (SCQMD) is the air pollution control agency for all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino counties.
- SCAQMD’s Facility Information Detail (FIND) System – Notices of

Violation

(http://www3.aqmd.gov/webappl/fim/prog/novnc.aspx?fac_id=4911)

1) The SCAQMD's online Facility Information Detail (FIND) system provides access to their public information files about Sunshine Canyon Landfill. Online viewable and downloadable copies of the SCAQMD documents related to Notices of Violation.

- SCAQMD's Facility Information Detail (FIND) System – Hearings and Documents
(http://www3.aqmd.gov/webappl/fim/prog/hbhome.aspx?fac_id=4911)
11) The SCAQMD's online Facility Information Detail (FIND) system provides access to their public information files about Sunshine Canyon Landfill. Online viewable and downloadable copies of the SCAQMD documents related to Hearings and Documents.
- Los Angeles Regional Water Quality Control Board (LARWQCB)
(<http://www.swrcb.ca.gov/rwqcb4/>) The Los

Angeles Regional Water Quality Control Board (LARWQCB) protects ground and surface water quality in the Los Angeles Region, including the coastal watersheds of Los Angeles and Ventura Counties, along with very small portions of Kern and Santa Barb

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BRIEF

Waste Management expected to pay \$2.3M in New York landfill settlement

By E.A. Crunden

Published July 21, 2020

Dive Brief:

- Waste Management of New York (WMNY) and plaintiffs in a class action lawsuit over the company's High Acres Landfill in Fairport, New York have proposed a \$2.3 million settlement, court documents show. Led by plaintiff James D'Amico, the original lawsuit was filed in the U.S. District Court for the Western District of New York in January 2018.
- Under the terms of the proposed July 14 settlement, WMNY will pay \$1.3 million "into a fund for the benefit of the Class Members" from that date over a 30-month period and an additional \$1 million into "improvement measures" at the landfill. Those measures include installing a gas collection system and waste mass dewatering pumps and control, along with synthetic alternate daily cover systems and "nearly 1 mile of an additional water- and vapor-based odor control misting system."
- "High Acres has been part of the Perinton and Macedon communities for nearly 50 years and our relationships with our neighbors are very important to us," Garrett Trierweiler, senior manager of public affairs for Waste Management, told Waste Dive in a statement. Trierweiler said the company is "pleased"

by the tentative resolution, but could not offer further comment as the settlement is pending court review.

Dive Insight:

If approved by a judge, the 130-page proposed settlement would end an ongoing dispute brought by D'Amico and his neighbors over the landfill's alleged impacts on their homes. The plaintiffs sued over claims of nuisance, negligence and gross negligence regarding odor effects stemming from the upstate New York site.

The parties that make up the class action suit and would benefit from the settlement include "all owner/occupants, tenants, renters or lessees of residential property" within a designated area dating from Jan. 26, 2015 to the date on which the settlement becomes binding. That designated area is defined as the 2.5-mile radius reaching from the center of the landfill outward.

According to the settlement, WMNY filed two motions to dismiss the claims prior to the settlement. The court dismissed the plaintiff's public nuisance claims without prejudice, but also denied WMNY's efforts to dismiss them "on the basis of judicial abstention doctrines, and for failure to state a negligence claim." The plaintiff filed a third amended complaint to bolster the public nuisance complaint, but the parties notified the court of their intent to settle before it could rule on that motion.

The settlement states the parties have engaged with a neutral third-party mediator and mutually agreed to the terms. Plaintiffs led by D'Amico also note the agreement "provides substantial benefits" for them and "importantly, does not release claims based on personal injury or future emissions." For a judge to approve the settlement, it must be found to have been negotiated at length, with the class adequately represented and treated as equal, and relief adequately provided. The plaintiffs say all these criteria have

been met and the settlement states a judge is likely to approve the agreement as "fair, adequate, and reasonable."

The High Acres Landfill has been the subject of other controversies due to odor concerns and ongoing complaints raised by community members beyond the D'Amico suit. Last year, WMNY sought to consolidate the D'Amico case with a concurrent suit filed by Fresh Air For the Eastside (FAFE) and area residents over the same site. That effort was denied in December and the case remains ongoing. At the time, Judge Mark Pedersen echoed plaintiffs' concerns that consolidation might allow for the defendant to delay either case. He also said the cases were not in the same procedural position.

Melissa Valle, an attorney for Knauf Shaw LLP, told Waste Dive her firm is still representing 226 plaintiffs in that case and said "we have not reached a settlement." Valle, whose firm is not representing plaintiffs in the other case, offered no comment on the separate proposed settlement.

FAFE's case also involves New York City's Department of Sanitation (DSNY), as members say the city is responsible for more than 70% of MSW deposited in the landfill. DSNY previously told Waste Dive it does not comment on ongoing litigation, but that the department requires all of its contract holders to meet the same regulations. WMNY held a \$3.3 billion export contract with DSNY since 2017, which involves multiple landfills, including High Acres.

High Acres is one of the most active MSW landfills in the state, with more remaining permitted capacity than any other site, according to 2018 data from New York's Department of Environmental Conservation.

Recommended Reading:



Waste Management and DSNY prepare defense for trial over upstate landfill complaints [↗](#)