

Niagara County land owners sue over high radiation levels

By [Phil Fairbanks](#) | Published October 23, 2017 | Updated October 23, 2017

For nearly 40 years, state and federal officials looked into cleaning up radioactive hot spots in Lewiston and Niagara Falls.

The owners of those contaminated properties, frustrated by years of inaction, are now suing in federal court in Buffalo.

The new suit, filed just a week after Sen. Charles Schumer raised questions about the clean-up delays, identifies three alleged polluters and seeks a court-ordered remediation of their properties.

"First and foremost we're looking to have these properties evaluated and cleaned up," said John G. Horn, a lawyer for the property owners.

Horn said his clients once looked to the Environmental Protection Agency for help in remedying the contamination problem, but that hope ended when the agency stopped its cleanup efforts earlier this year.

The suit also seeks monetary damages and identifies the alleged polluters as Union Carbide Corp., Occidental Chemical Corp. and Bayer Cropscience Inc. It also claims the high levels of radiation detected at the sites stem from the companies' past practice of using radioactive waste as fill material at other sites.

Horn said his clients, many of them with property on Upper Mountain Road in Lewiston and Niagara Falls Boulevard in Niagara Falls, filed the suit when the EPA ceased work and it became clear they had no other avenue to pursue a solution.

"Now, they have a pathway to a remedy," he said.

The suit claims the three companies engaged in the "reckless and deliberate" practice of disposing of radioactive waste as fill during the 1960s and 1970s and should have known it would create a public health risk.

The property owners also claim that numerous state and federal agencies investigated the high levels of radiation and recommended the removal of radioactive waste at those sites.

The suit also notes that, despite more than four decades of government involvement, none of the sites have been cleaned up. Budgetary constraints are believed to be behind the EPA's decision to halt its latest remediation effort.

A representative for Occidental Chemical declined comment and representatives for Union Carbide and Bayer Cropscience could not be reached for comment.

The plaintiffs in the suit are Talarico Bros. Building Corp., Joseph Lozina Sr. , Joseph Lozina Jr., John Grace, Philip Palmeri, Mark and Theresa Schuler, Christine and Constantino Argona, John Raymond, Harold Wade, Walter and Barbara Michaels, Robert Ward and Betty Moticka, all of Lewiston, Joseph C. Weber Inc., Greater Buffalo Building Center, Bowlen Enterprises Ltd., Paul and Diane Ziuko and Dietrick Bros. Inc., all of Niagara Falls, and Thomas and Deborah Harrison, The Wheelhouse Inc. and Gary Ebersole, all of Grand Island.