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TOP STORY

Suit filed against three companies in connection to LaBelle coal-ash dump

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Kelly Tunney | Herald-Standard

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Part of the Matt Canestrale Contracting, Inc. operation in 2016 on the shore of the Monongahela River can be seen from Labelle Road.

A class-action lawsuit has been filed in federal court against two energy companies and a local contracting company for allegedly causing health problems for residents by bringing dangerous pollutants to a Fayette County community along the Monongahela River.

The suit filed by attorney Steve W. Berman of Washington representing Holly Rice, Yma and Rudolph Smith, Gary and Kimberly Kuklish, George and Ursula Markish and Darrel and Gina Redman, all of LaBelle in Luzerne Township.

The filing names First Energy Corp. and NRG Energy Inc., as well as Matt Canestrale Contracting Inc.(MCC) in Finleyville, Washington County, as defendants. Berman wrote that three years after the coal processing plant closed for good in 1994, MCC was contracted to perform reclamation at the site over a 10- to 12-year period.

“Instead of closing and reclaiming and abandoning this site, MCC has been running it as a waste disposal site for coal ash since it acquired the site, and plans to do so for an additional 10 years after the reclamation is complete,” Berman said in the complaint.

Both the health of residents and the property values have been negatively impacted by the polluted surroundings, the complaint alleged.

Coal ash, writes Berman, is acidic and contains high levels of toxic heavy metals, such as arsenic, boron, lead, selenium, and hexavalent chromium, and when water that comes in contact with the refuse and coal-ash waste enters the ground or surface waters, it threatens the health of local communities.

“It makes groundwater unsafe to drink, pollutes rivers and streams,” Berman said in the complaint. “Leachate from both types of waste continually seeps out from the site and travels onto residential property.”

Berman indicated that the heavy metals in coal ash can cause or contribute to health conditions, including skin, eye, nose and throat irritation, asthma, emphysema, hypertension, anemia, heart problems, nervous system damage, brain damage, liver damage, stomach and intestinal ulcers and many forms of cancer.

Since 2013, residents have said their neighbors have died of cancer, and those who are still living have discovered they have cancer or have cancerous tumors.

The Herald-Standard, through an ongoing lawsuit with the state Department of Corrections, has been battling since 2014 to get information about inmates at the State Correctional Institution at Fayette in Labelle who may have been affected by similar pollutants.

Berman said the site consists of an abandoned coal refuse pile made up of 40 millions tons of waste, two slurry ponds and millions of cubic yards of coal ash, the complaint alleged.

The site has been used by FirstEnergy and NRG Energy since 1997 to dispose of coal ash and waste by barges and trucks.

In his complaint, Berman states that there were "routine violations at the site," including uncovered barges and trucks hauling coal ash hauled to the site, causing it to be blown around and spread.

"The coal ash hauled and then dumped at the refuse site since 1997 is not properly contained, and the coal ash has been free to blow and disperse into the surrounding community and property, and leach into the groundwater on residential properties in and around the refuse site unencumbered," Berman writes in the complaint.

To be considered part of the class action suit, residents must be a current property owner in Luzerne Township that has resided in their current residence for the last two years or someone living within the township for the last two years.

Excluded from the suit is anyone who is already a party in a lawsuit for personal injury for a coal-ash related illness related to exposure to coal-ash exposure.

In June, a federal lawsuit filed against MCC from the Citizens Coal Council in 2013 was administratively closed for one year to continue settlement negotiations.

Those plaintiffs are seeking damages including the defendants funding a medical monitoring program of the exposure risks posed by toxic heavy metals such as lead, arsenic, cadmium and hexavalent chromium.

Damages also include the defendants funding a blood-test program to determine the current level of toxic heavy metals in the blood of the plaintiffs and also to fund a medical monitoring program for those in the affected area.

The plaintiffs are also seeking monetary damages, punitive damages as well as an injunction of implementing a mandatory testing protocol requiring the defendants to test private properties for toxic heavy metals and to remediate any contaminated soil.