

Opponents of huge Alabama landfill fight company's \$30m defamation suit

When residents of Uniontown protested at the dumping of 4m tons of toxic coal ash in the poor, 91% black town, Green Group Holdings sued them for slander

Matthew Teague, southern correspondent

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Residents in tiny Uniontown, Alabama, are locked in a legal battle against a company that has dumped millions of tons of coal ash there and then filed suit for defamation against those protesting against the act.

The residents formed a group, Black Belt Citizens Fighting for Health and Justice, to fight the placement of a landfill filled with the coal ash in their town that they say threatens their health and constitutes a racial injustice. Uniontown is 91% black, and is among the poorest communities in the nation: half the residents live below the poverty line.

The company that owns the landfill, Georgia-based Green Group Holdings, has slapped four of the residents with a \$30m lawsuit for defamation, objecting to the way they describe life on the edge of the 1,200-acre Arrowhead landfill.

On Thursday morning the American Civil Liberties Union - whose co-founder was a Uniontown native - filed a motion in federal court to dismiss the suit, saying it goes against "the very core of the first amendment".

"The residents are making statements of opinion, statements of emotion and passion which can't be penalized consistent with the first amendment," said ACLU senior attorney Lee Rowland. "Green Group is using lawsuits to silence their critics."

Thirty million dollars, she said, is "an unbelievably terrifying number" in a town where the median per capita income is about \$8,000 per year. "It's our goal to ensure that they are not intimidated."

Green Group's suit alleges that the Black Belt Citizens group used its website and Facebook page "in a false and malicious manner" and that the group's leaders, Esther Calhoun and Benjamin Eaton, made "knowingly false" statements about the site.

Green Group revealed its motives, Rowland said, when the company's lawyers approached the four plaintiffs before they sued them, offering to cut a deal: Green Group

wanted access to their electronic devices, access to the group's future social media postings, and extensive details about Black Belt Citizens' membership, advocacy and communications with other environmental groups. The company also wanted apologies from each potential defendant and required them to withdraw as complainants in a federal civil rights complaint filed with the Environmental Protection Agency.

"It's an outrage. I'm an attorney and I've never seen anything quite like it. The company wants to force the residents not only to agree with them, but to become a mouthpiece for them," Rowland said.

Officials at Green Group did not immediately return calls from the Guardian, but a statement on the company's website references the project: "We take pride in our operation of the Arrowhead Landfill which, despite being the most inspected landfill in Alabama, has had zero notices of violation since opening in 2007," according to Ernest Kaufmann, Green Group's CEO.

The conflict started in 2009, when the previous site holding the coal ash, in Kingston, Tennessee, suffered a catastrophic dam collapse, contaminating surrounding rivers, lakes and land with arsenic and lead.

The Environmental Protection Agency said the disaster posed "imminent and substantial endangerment to the public health".

Train cars carried the coal sludge - four million tons of it - south to Uniontown in Alabama.

The town's historic graveyard sits adjacent to the landfill, and some residents claim that since the coal ash expansion they can't find some of the older graves.

"They have been out in my ancestors' cemetery," said Esther Calhoun. The graveyard holds the remains of slaves, and was used as recently as 1996.

Calhoun is a defendant in Green Group's suit, but she said the company may have miscalculated by bringing such a huge lawsuit against such poor people.

"It kind of scares me less than people who have something to lose," she said. "I can't even count that high. How can I come up with that kind of money?"

She gave a rueful laugh. "It's painfully funny," she said.

When the wind blows, she said, foul smells waft up from the coal ash. "My friend lived across the street from the landfill, and I couldn't even get to go visit her for the smell," she said. "She didn't have air conditioning, so she sat out on her porch. She died recently. It used to be that living in the country you could sit on the front porch, hang your clothes out to dry, barbecue. All that has changed since the landfill."

Another of the defendants, Benjamin Eaton, told AL.com, "We are tired of being taken advantage of in this community. The living around here can't rest because of the toxic

material from the coal ash leaking into creeks and contaminating the environment, and the deceased can't rest because of desecration of their resting place.”

Now that the ACLU has filed for a dismissal of the suit there will be another month or so of back-and-forth responses with Green Group. Then the federal judge will decide whether to rule on the written motions or hear arguments in court.

Rowland, the ACLU attorney, said she is prepared to go to court. “We have impassioned witness testimony,” she said. “We are ready to go.”

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