

Pa., W.Va. Landowners Sue FirstEnergy Over Waste

Vicki Smith, Associated Press

MORGANTOWN, W.Va. (AP) -- More than 50 West Virginia and Pennsylvania property owners are suing FirstEnergy Corp. over groundwater pollution, soggy yards and foundation damage they blame on a leaking coal ash impoundment and the 7-mile waste pipeline that feeds it.

The lawsuit in U.S. District Court in Wheeling accuses the Ohio-based power company of negligence, reckless conduct, trespass and creating a nuisance. The plaintiffs demand unspecified compensatory and punitive damages.

FirstEnergy had not formally received the complaint as of Monday afternoon, spokeswoman Stephanie Walton said in an email, but a closure plan for the unlined 1,700-acre Little Blue Run impoundment is under review by Pennsylvania regulators.

The planning and design work for a gradual shutdown of the facility straddling Beaver County, Pa., and Hancock County, W.Va., is already underway, she said.

The pit takes waste from the coal-fired Bruce Mansfield power plant in Shippingport, Pa., which is run by subsidiary FirstEnergy Solutions Corp. The complaint says the pit holds more than 20 billion gallons of slurry, a soupy mix of combustion waste products.

The lawsuit — filed last week — also says the U.S. Environmental Protection Agency has designated the structure a "high hazard" impoundment, meaning a failure would likely result in fatalities. Some 50,000 people could be affected by a breach and flood.

The complaint says FirstEnergy is pumping arsenic, boron, selenium and other substances hazardous to humans into the pit in violation of a federal discharge permit and the Clean Water Act.

It also says monitoring by FirstEnergy and the Pennsylvania Department of Environmental Protection has indicated the presence of arsenic in groundwater near the impoundment, and chlorides, sulfates and other substances in groundwater indicate that the impoundment is the source.

People who live near the site also say that the air has been fouled by the noxious odors of hydrogen sulfide gas, and that FirstEnergy has failed to address the problem despite multiple complaints from residents and notices of violation from the Pennsylvania DEP.

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FirstEnergy has been cited so many times that its conduct should qualify as willful and reckless, the lawsuit says.

The pit is unlined because linings to protect groundwater weren't required when it opened in 1974. Seepage and leaks have since created constantly wet conditions in yards, the property owners say, spawning mold in homes and allowing foundations to shift and crack.

FirstEnergy has already purchased at least 12 homes in Lawrenceville, W.Va., and installed a pumping station and pipelines to get contaminants back into the impoundment.

In May 2012, the Environmental Integrity Project notified the utility of its intent to sue.

Since then, the complaint says, the Pennsylvania DEP has written multiple violations for illegal French drain systems that diverted contaminated water into streams, failure to do required groundwater monitoring and failure to stop seepage.

In December 2012, FirstEnergy agreed to a monitoring plan with the DEP and said it would submit a plan for closing the impoundment. But the violations continued to mount.

Last month, the Washington, D.C.-based Environmental Integrity Project, the Little Blue Regional Action Group and the Pennsylvania communities of Georgetown and Hookstown declared the proposed 15-year closure plan inadequate because it doesn't require the utility to remove any of the waste from the pit.

They say that would allow the contamination of groundwater to continue indefinitely.

FirstEnergy's plan calls for a gradual closure, starting in 2017 and ending in 2032.

"Even after the impoundment is closed," the complaint says, "FirstEnergy's own environmental models predict that only a small portion of the contaminants would be fully removed after 250 years."

Walton said FirstEnergy will close the pit in "a safe and environmentally responsible fashion."

"Even after site closure," she said, "FirstEnergy will continue extensive environmental monitoring programs at the disposal facility, including dam safety and ground and surface water monitoring."

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