

Small Town vs. Big Pollution: Black Residents Allege Environmental Racism

STATELINE
ARTICLE

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By: [Rebecca Beitsch](#)

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Uniontown, Alabama, resident Alex Jones walks along Cottonwood Creek, which abuts his farm. The bright green creek receives runoff from a cheese factory and the city sewage lagoon. Jones says the pollution has damaged his crops and hurt his cows.

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UNIONTOWN, Ala. — It's 6 p.m. on a Tuesday in August and residents who have climbed the City Hall steps learn that, once again, there will be no city council meeting. So once again, they will be unable to discuss with local officials the pollution that has been plaguing their small town for the better part of a decade.

Uniontown has an inordinate number of polluters for a town of 2,300, and residents say city leaders often dodge their attempts to air their grievances. There's the landfill next to the historic black cemetery that residents opposed from the beginning but went apoplectic over when it started accepting coal ash [after a spill of the waste in Tennessee](#). There's the pungent odor from a cheese plant that has released its waste into a local creek, according to an environmental group's hidden cameras. And then there's the waste water from the catfish processing plant, which contributes to an overwhelmed sewage system that spills fecal matter into local waterways.

Many residents feel all this pollution has been dumped in their backyard — and allowed to continue — because for the most part, they are black, poor and uneducated.

“Look at every black community or poor community,” said Esther Calhoun, a resident who has been involved in numerous lawsuits against the town's polluters. “The EPA is supposed to be the Environmental Protection Agency, but they're protecting the rich. What do they do for us? Nothing.”

It's a similar story across Alabama and much of the country. Many minority communities say their towns have been targeted by polluting industries because residents have few resources to put up a fight, and state and federal agencies have largely sided with industry when locals have challenged polluters.

Black residents in Union Hill, Virginia; North Birmingham, Alabama; Braddock, Pennsylvania; Burke County and Jessup, Georgia; Waukegan, Illinois, and many others have made similar accusations over the past several years.

In Uniontown, residents say the Alabama Department of Environmental Management (ADEM) has not helped. The department rescinded its civil rights complaint policy in June in the face of a lawsuit from some state residents. That means the state now has no process for reviewing complaints that environmental problems are disproportionately impacting people of color. The department said it cannot comment on the process because litigation is ongoing, but the EPA in July said it will investigate ADEM's civil rights policies.

The EPA also has faced criticism on civil rights issues. An agency study published in April found that black people are [more burdened by air pollution](#) than any other group, even when taking poverty into account. And the agency has taken years or even decades to respond to complaints. Earlier this year, the agency denied Uniontown's environmental racism complaint.

The EPA didn't return repeated requests for comment.

Robert Bullard, a professor of urban planning and environmental policy at Texas Southern University and a prominent voice in the environmental racism debate, said his research shows polluting industries frequently seek out black, poor and rural towns to open shop. “When you get a series, a pattern, of locating these things in one location, you have to come to the conclusion that this is not accidental.”

The law does little to protect communities, Bullard said, because it requires them to prove industries intentionally targeted them because of their race.

“If you don’t have a smoking gun, it’s difficult,” he said.

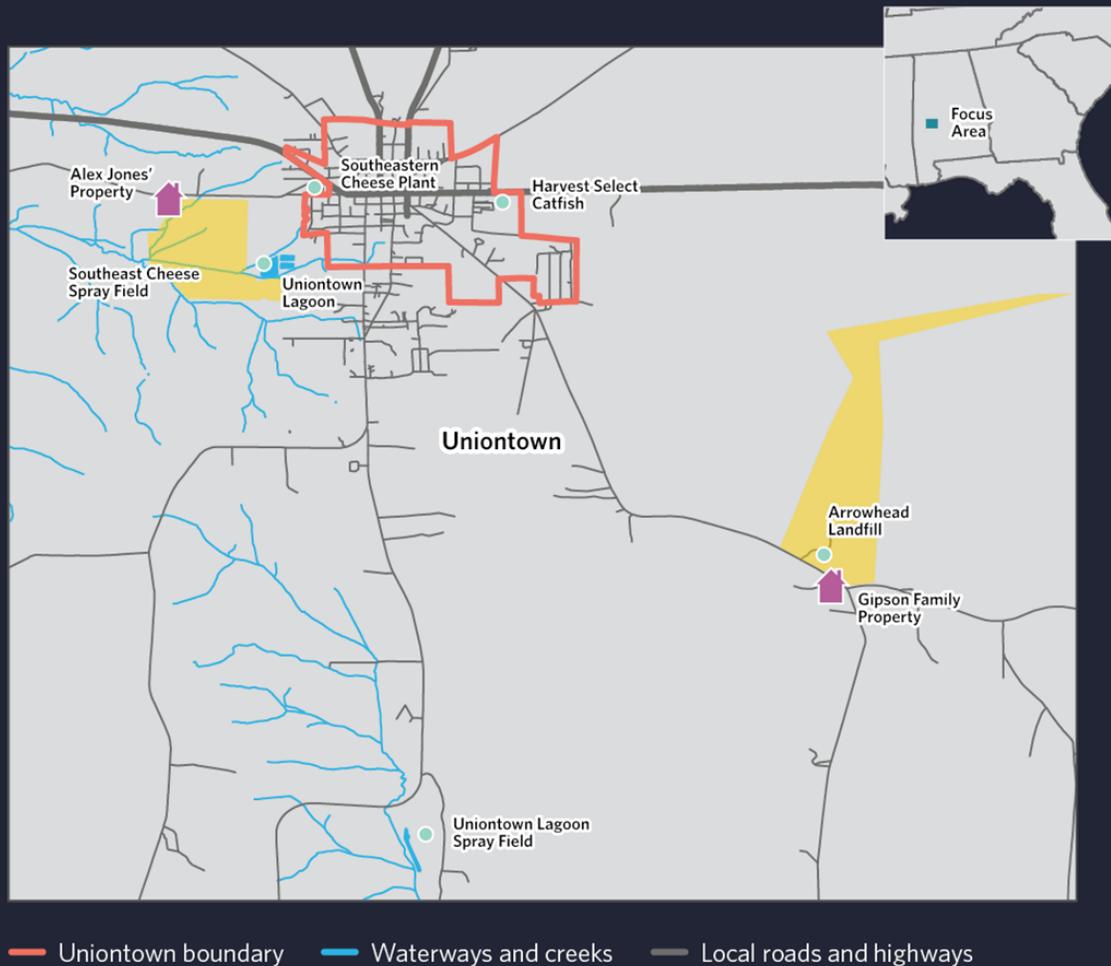
Black and Poor

Here in Uniontown, the population is 84 percent black, and 49 percent lives under the poverty level, census data shows. Fewer than 1 in 10 adults have a bachelor’s degree, compared with 1 in 3 nationally.

It would be a tough place to live even without the pollution. Many of the shops downtown are vacant or boarded up. Some of the remaining businesses operate out of buildings that appear to be abandoned at first glance. The only grocery store in town recently closed.

Pollution in Uniontown, Alabama

Across Alabama and the United States, minority communities with few resources to put up a fight say their towns have been targeted by polluting industries. In mostly black Uniontown, locals have spoken out against the landfill and cheese factory but say state and federal agencies have largely sided with industry when polluters are challenged.



Source: U.S. Census Bureau, United States Geological Survey

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Residents blame a host of health problems on the pollution, including asthma and neuropathy, which causes a tingling sensation in their arms and legs. They worry that the coal ash, residue from coal-fired power plants, dumped in the landfill is part of the problem. Many people do not drink water from the tap, after a University of Alabama-Huntsville professor determined it may not be safe because of lead and traces of arsenic.

They also complain about the odors emanating from the town's various industries, with descriptions ranging from "nauseating" to "rotten."

Residents often point to the cheese factory, Southeastern Cheese Corp., as the main culprit. The factory sprays whey, one of the main byproducts of cheese, onto a nearby field where it quickly pools. ADEM has gone after the company in court because of runoff into Cottonwood Creek, where the water has turned cloudy and glows an unnatural shade of lime green.



Nelson Brooke, the Black Warrior Riverkeeper, set up a hidden camera facing Southeastern Cheese's spray field. He said the footage shows an employee of the company opening a gate valve to a pipeline and releasing a rush of green liquid contaminated with whey in the area near Cottonwood Creek.

Courtesy of Nelson Brooke

"It's one of the worst smells I've come across in 15 years of doing this work," said Nelson Brooke, riverkeeper of the Black Warrior River. "Imagine trying to take a breath and the smell is so putrid you immediately start dry heaving. It makes your body involuntarily try to throw up."

Brooke took the company to court, submitting hidden camera footage of employees allegedly opening a pipe into a tributary to Cottonwood Creek, releasing a rush of lime-green liquid. The judge ruled against the Black Warrior Riverkeeper in the case, citing ongoing ADEM action.

Tied to the Past

Uniontown is 30 miles west of Selma, and the road between the two is lined with alternating cotton fields and catfish ponds. This is the Black Belt, named after its dark, fertile soil, and populated largely by descendants of the slaves who worked it.

Despite its proximity to a town famous for its civil rights marches, Uniontown still feels very much tied to its antebellum past. Many residents know which plantations enslaved their great-grandparents, and people as young as 50 remember growing up with sharecropper parents and no running water or toilets. The town is dotted with crumbling plantations.



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Downtown Uniontown has been slowly shuttering through the years. Many businesses have closed, and there are several crumbling plantations nearby.

Calhoun and other residents banded together to form a group, Black Belt Citizens Fighting for Health and Justice, to challenge polluters and the city leaders they say aid industry. Its board members and other residents in town have sued ADEM and petitioned the EPA. The fight has not been easy.

In 2016, the company that runs the landfill hit Black Belt Citizens board members with a \$30 million defamation suit.

Ben Eaton, a county commissioner-elect who sits on the group's board, was named in the suit. While not wealthy, Eaton is better off than most in town. The retired shop teacher built his own house, cutting two by fours and assembling the framing after work. He chuckled when he got the company's notice, which he called an intimidation tactic. His wife did not think it was funny.

"Her life flashed before her eyes. She said we've done too much and come too far to let them take this," he said, gesturing inside his home. "It's one of the reasons I agreed to the settlement."

With help from the American Civil Liberties Union, the residents settled the lawsuit without any payment in 2017.

Mike Smith, a Tuscaloosa-based lawyer who represents the landfill, the cheese factory and the catfish processing plant, said none of the companies he represents in Uniontown is harming the health of residents. The landfill has disposed of the coal ash properly, he said, and residents have made false statements about the company's intentions.

Landfill owners "are used to people saying that they don't like the landfill and make generalized statements about them, and they're pretty thick-skinned people," Smith said, adding that the defamation suit was more about lost business opportunities than the belief that the defendants had the ability to pay.

The residents received more disappointing news shortly thereafter. The EPA in March rejected residents' environmental racism case, citing "insufficient evidence."

Frequent Denials

The denial was hardly surprising to anyone familiar with the EPA's record on civil rights complaints.

According to a 2015 investigation by the Center for Public Integrity, a nonprofit journalism outlet, the department dismisses outright [more than 9 in 10 environmental discrimination complaints](#). When it does investigate, the EPA has almost never sided with a community that challenges pollution under the Civil Rights Act.

Suzanne Novak, a staff attorney with Earthjustice, said the EPA has only twice made findings of discrimination since President Bill Clinton signed an executive order in 1994 directing the agency to consider environmental justice issues.

Marianne Engelman-Lado, who runs the environmental justice clinic at Yale Law School, said other federal agencies that also rely on the Civil Rights Act of 1964 handle far more cases. The EPA's lack of enforcement gives state environmental agencies the impression the law doesn't matter, she said.

The U.S. Commission on Civil Rights also [slammed the agency's record](#) in a 2016 report.

"EPA is known for administrative delay in processing complaints, having an inadequate system for resolving complaints ... and for timid (if not entirely lacking) enforcement," the report said. "EPA does not take action when faced with environmental justice concerns until forced to do so. When they do act, they make easy choices and outsource any environmental justice responsibilities onto others."

In its written response to the commission's report, the EPA said it has a "strong and deep commitment" to environmental justice and has made "substantial progress."

Last year on the final full day of the Obama administration, the EPA made a rare finding of bias in Flint, Michigan, in a case involving a power plant that residents began fighting in 1992.



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Spray fields should be relatively dry land that absorbs water while the rest evaporates. But in Uniontown, the water is pooling up across the property, creating a pond that often spills over into nearby Freetown Creek. Fecal bacteria was eight times higher than what is allowed under a state permit, testing by local groups found.

Denials are so common that just over a hundred miles from Uniontown there is a nearly identical story.

Former slaves bought land outside of Tallassee, Alabama, known as the Ashurst Bar-Smith community, in the 1870s. They have been fighting a landfill since the 1980s.

As in Uniontown, the EPA cited “insufficient evidence” when denying the 2003 complaint 14 years after it was filed. The agency did not respond until after Ashurst Bar-Smith, along with residents in California, Michigan, New Mexico and Texas, won a 2015 lawsuit challenging the delays in responding to their cases. A federal district judge said some cases “languish” for decades.

“We don’t give up because the end result is to run us off the land and make the entire community a landfill. So what are your choices?” said Phyllis Gosa, a leader of a community organization fighting that landfill. She said when they started fighting, the nauseating landfill was two miles from her brother’s property, but it has expanded. Now it’s only a mile away.

“When people file a complaint, although they are hoping the federal government will be responsive to their concerns, that hope is built on not a shred of the history of the EPA but rather the aspiration of what the federal government should be doing,” said Engelman-Lado, who filed complaints for both Uniontown and Ashurst Bar-Smith.

Awaiting Justice

The EPA's rejection of Uniontown's case was disappointing news to Booker Gipson, whose daughter lives right across from the landfill. He spends much of his time at her house caring for his four grandchildren and tending to cows in the pasture behind their trailer home.

He doesn't think it's fair that coal ash that spilled out into the open in Kingston, a mostly white community in Tennessee, ended up in this mostly black community in Alabama. After the spill in late 2008, the landfill took in roughly a hundred railcars a day of coal ash for the next two years, according to Smith, the Tuscaloosa lawyer.

The landfill property spans 1,345 acres, but most of the waste abuts the road that separates the landfill from the Gipson property. Smith said the company that developed the landfill, which was permitted in 2006, wasn't very experienced — it should have centered the landfill in the middle of the property to make it easier to expand. The landfill, acquired by Green Group Holdings in 2011, accepts waste from 33 states, and Smith said the company is open to accepting more coal ash.



Booker Gipson leans against the tank his family uses for water. The 77-year-old grandfather is concerned the landfill across the street is having negative impacts on water and air in his neighborhood. The family was told to boil their water before drinking it.

Standing in the front yard on a summer afternoon, Gipson leans against a metal tank that holds the well water for the house, which was recently tested by the professor.

“They told us to boil the water, but every time you want to drink water you’re not going to boil it,” he said. “I’m worried about my daughter and grandkids here in the yard. I don’t want them to get infected by the landfill.”

ADEM has taken legal action against the cheese plant and the city for its sewage system. But Brooke, the Black Warrior Riverkeeper, said those enforcement actions don’t “ever create the resolution necessary to halt violations and remedy the concerns of the community.”

Under federal law, the cases tied up in state court prevent his group from bringing its own federal cases against polluters.

Meanwhile, Uniontown continues to face a dizzying number of problems.

“See that, that looks like a lake? That’s the runoff from the cheese factory,” said Alex Jones, a farmer who used to live near the cheese factory. Like his neighbors, he moved because of the smell.

Cottonwood Creek, which flows by the Jones property, radiates a shade of bright green that matches the leaves that surround it. The sun bounces off the water but does not shine through it.

Gosa, from Ashurst Bar-Smith, said pollution in one town is easily ignored by people who live in other towns. But the effects can range far and wide.

“Water doesn’t stay still. Air doesn’t stay still. ... The people there, they feel it immediately, but what are the long-term effects for everybody else?” Gosa said. “It was us today. Who’s it going to be next?”

AUTHORS



[Rebecca Beitsch](#)

Staff Writer
Stateline

