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Alabama's Arrowhead Landfill Investigated By EPA For Civil Rights Violations

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The Environmental Protection Agency's [Office of Civil Rights](#) has agreed to investigate a complaint filed by residents of a largely African-American community in Alabama where millions of tons of coal ash were dumped between 2009 and 2010.

The [complaint](#), filed earlier this year, alleges that Alabama environmental regulators violated the civil rights of residents -- predominantly black and among the poorest in the state -- by renewing and modifying the permit issued to operators of the Arrowhead landfill near Uniontown in 2011.

Residents have cited a variety of ill effects from the landfill, including frequent foul odors, respiratory and eye irritation, headaches, dizziness, nausea and vomiting, dust, noise and decreased property values, among other complaints.

Should EPA find in favor of the residents, the [Alabama Department of Environmental Management](#) (ADEM) could lose federal funding. Such an outcome, however, would be highly unusual, and EPA would likely seek to negotiate a settlement between the parties first. EPA's Office of Civil Rights, which took more than four months to review the complaint, has also [come under increased fire](#) for a substantial backlog of unresolved cases -- some dating back nearly 20 years -- and general mismanagement.

According to [a report by the Center for Public Integrity](#) in December, the EPA has never withdrawn funding from a state agency.

Still, the attorney representing the Uniontown residents, David Ludder, noted that EPA has been revising its civil rights program, including issuing plans for [more robust enforcement](#) of [Title VI of the 1964 Civil Rights Act](#), which prohibits discrimination by government agencies that receive federal funds.

"EPA has rarely made findings of noncompliance with Title VI," Ludder said. "However, there is new interest at EPA in making Title VI effective, and the facts of this case are so compelling that it is difficult to imagine EPA not finding a violation."

Scott Hughes, a spokesman for ADEM, said in an email message that the department had not yet received notice of EPA's response to the Arrowhead landfill complaint. "However, we have an excellent working relationship with EPA and are prepared to provide any information that they may need related to this issue," Hughes said. "We are fully confident that our decision-making processes are not discriminatory and are consistent with the laws and statutes that govern our agency."

The Uniontown facility has been the focus of a long and contentious battle between the mostly black residents living nearby and the developers of the landfill, which opened for receipt of municipal waste and other trash in 2007. The facility is currently permitted to receive up to 15,000 daily tons of municipal, industrial, commercial and construction waste - - as well as "special waste" like coal ash -- from nearly three dozen states.

Taken in aggregate, the civil rights complaint argues, the population of that expansive service area is predominantly white, while the population bordering the landfill is nearly 100 percent African American.

The Civil Rights Act of 1964 [prohibits](#) recipients of federal funding from deploying policies that "have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex."

"Inasmuch as the percentage of African-Americans impacted by the Arrowhead Landfill far exceeds the percentage of African-Americans in the service area and the State of Alabama," the complaint argues, "the alleged impacts are 'disparate' impacts."

The dispute over the landfill escalated in 2009 when Arrowhead was [selected as the final resting place for more than 4 million tons of coal ash](#) that had spilled from a ruptured holding pond near the largely white community of Kingston, Tenn., at the end of 2008. The ash was shipped by rail and buried at the landfill over the course of a year.

Coal ash is a catch-all term referring to the material left behind after coal is burned to produce electricity. Critics have long argued that the material, which is laced with a variety of heavy metals, should be federally regulated as hazardous waste. Industry has long disputed the threat represented by coal ash, and Republican supporters in Congress [have](#)

[fought hard to block EPA's attempts at oversight of the waste stream](#), arguing that state-level regulations are sufficient.

According to Ludder, EPA's findings in the case are due in December, although he added that "EPA rarely meets its deadlines." If the agency concludes that a civil rights violation has occurred, it would likely issue recommendations to ADEM to mitigate the adverse impact on the black community surrounding the landfill.

If a voluntary resolution cannot be reached, EPA would then be obliged to seek termination of federal funding to ADEM.