

Alabama faces civil rights complaint over landfill taking waste from TVA coal ash disaster

The Alabama Department of Environmental Management faces a [civil rights complaint](#) for permitting a landfill to take coal ash spilled three years ago in the Tennessee Valley Authority's Kingston disaster in eastern Tennessee.

The operation of the Arrowhead Landfill in rural Perry County, Ala. "has the effect of adversely and disparately impacting African-American residents in the community," states the complaint, filed this week with the U.S. Environmental Protection Agency's Office of Civil Rights by Florida attorney David A. Ludder on behalf of 48 complainants, almost all of them living near the landfill.

The complaint charges ADEM with violating Title VI of the Civil Rights Act of 1964, which prevents discrimination by government agencies that receive federal funds. ADEM receives millions of dollars in financial assistance from the EPA each year.

The Kingston disaster occurred on Dec. 22, 2008, when a dike ruptured at an impoundment at TVA's Kingston plant in Roane County, Tenn., releasing over 1 billion gallons of wet coal ash waste laden with arsenic, lead and radioactive elements into a residential community and the Emory and Clinch rivers. The EPA eventually signed off on a plan to scoop up the waste and transport more than half of it over 300 miles to the Arrowhead Landfill in Alabama.

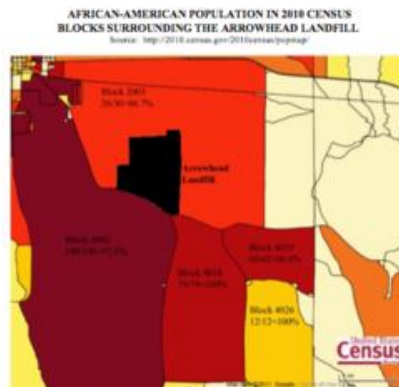
The population of Perry County is over 68 percent African-American, and over 35 percent falls below the poverty line, making it Alabama's poorest county. The landfill is located near Uniontown, Ala., a community where 88 percent of residents are African-American and almost half live in poverty. The population in the census blocks surrounding the landfill range from 87 to 100 percent African-American ([click on map for larger version](#)).

The landfill sits only 100 feet from the front porches of some residents, who say they have experienced frequent foul odors, upset appetite, respiratory problems, headaches, dizziness, nausea and vomiting. They also complain that fugitive dust from the facility has contaminated their homes, porches, vehicles, laundry and plantings.

The decision to dump the waste at the Arrowhead landfill sparked controversy, with the local district attorney [calling](#) the move "tragic and shortsighted."

In 2010, Hurricane Creekkeeper John Wathen of Alabama [filed a complaint](#) with the EPA citing health threats from the landfill, including runoff containing alarmingly high arsenic levels flowing into residential ditches and nearby creeks. Wathen is among those behind the civil rights complaint.

"In this case, as in others, ADEM alleges that it grants permits in accordance with applicable laws and regulations without regard to the racial composition of any impacted communities," the complaint states. "The allegation is, in essence, a claim that ADEM's permitting actions do



not intentionally have adverse impacts on racial minorities. While this may be so, it fails to recognize ADEM's obligation under Title VI to avoid unintentional discriminatory effects."

The complaint asks EPA's Office of Civil Rights to investigate whether ADEM violated Title VI. If it did, and if it is unable to come up with a less discriminatory alternative, the complaint asks EPA to suspend ADEM's funding.

(Map showing African-American population of census tracts surrounding the Arrowhead Landfill from the [civil rights complaint](#). Click on image for a larger version.)