
Five Years Later and the Story of the TVA Spill Continues

December 23, 2013 by Debra Mayfield

Harriman, TN residents are not the only ones dealing with legacy of the spill



Esther Calhoun is one of many community members who are fighting for health protections to be enforced at the Arrowhead Landfill. *(Photo by Chris Jordan-Bloch)*

It's been five years, but hard to forget: On December 22, 2008, just after midnight, the town of Harriman, Tennessee woke to the flood of more than one billion gallons of toxic coal ash sludge that burst through an earthen dam on the Tennessee Valley Authority's Kingston Fossil Plant. It was [one of the worst environmental disasters in U.S. history](#)—its volume *101 times larger* than that of the *Exxon Valdez* oil spill. One resident described the boom of the breach as something supernatural, like the sound of the end of the world. The disaster damaged or destroyed two dozen homes, destroyed power lines, washed out roads, ruptured a major gas line and water main, and killed thousands of fish and other wildlife.

Harriman residents were dealing with a monumental disaster. But in the long saga of cleanup and recovery, they weren't the only ones dealing with the legacy of this spill.

Flash forward to 2010. Only a small percentage of the ash had been cleaned up, and residents of Harriman were losing patience. Though [local papers](#) reported that TVA had considered keeping the coal ash within state lines, with the approval of the Alabama Department of Environmental Management (ADEM), they chose to move the 4 million cubic yards of [poisonous ash](#) across state lines and dump it at the Arrowhead Landfill in Perry County Alabama, a county that is 68 percent African American, [according to the 2010 Census](#) and one of the poorest in that state.

But, the residents living near or around the Arrowhead landfill didn't take this decision lying down. Though their county commission campaigned heavily to receive the poisonous ash, saying that the money the county received for accepting the waste would benefit the local economy, schools, and infrastructure of the county and create local jobs, residents saw through their bluster. If the ash was too dangerous to stay in a predominantly white, middle class community how will it be any safer coming down to their predominately African American, poverty stricken one? This was not just an environmental problem, but a civil rights injustice as well—something this county knew very well. They were determined to fight this, and now, Earthjustice is proud to help them do just that.



Esther Calhoun, one of our complainants and the president of BBCFHJ; Ben Eaton, community leader and vice president of BBCFHJ; and, local environmental and civil rights activist, Barbara Evans (clockwise from left). *(Photo by Chris Jordan-Bloch)*

Last week, Earthjustice attorneys Marianne Engelman Lado, Matt Baca and Lisa Evans submitted a letter to the EPA's Office of Civil Rights informing them that we'll be representing six Perry County residents raising claims under [Title VI of the Civil Rights Act of 1964](#), an important civil rights law that prohibits recipients of federal funds, including state agencies, from using those funds to implement or promulgate any policy that has an unjustified disproportionate adverse effect the basis of race.

The complaint is against ADEM for the reissuance and modification of the permit of the Arrowhead Landfill without proper and readily enforceable protections of public health. The complaint alleges that ADEM, which received funds from the EPA, violated Title VI by reissuing and subsequently modifying Arrowhead's Solid Waste Disposal Facility permit to receive coal ash. This authorization has a disparate impact based on race.

In preparation for our representation of this complaint, [Marianne Engelman Lado](#), [Chris Jordan-Bloch](#) and I, visited Uniontown, a small town in Perry County where the landfill is located. We entered the town with the confidence of being on the right side of justice. We were optimistic, but realistic. We understood what to expect and felt we knew what we were in for. We knew no such thing.

The town is small and a little empty. The main drag anchored by an aging Piggly Wiggly grocery store runs straight through what once was a bustling and thriving hamlet. The

neighborhood streets are lined with dilapidated Victorian mini-mansions and eviscerated antebellum plantation homes. [Four of these homes are listed on the National Register of Historic homes](#), including [one](#) owned by two of our complainants. Uniontown echoes of old promise realized and a legacy that has died, or at least changed hands. Memories of white wealth may line these streets, but so do those of African American struggle and triumph. In 1965, [incidents in Perry County](#) sparked the March on Selma and onto Montgomery, and a few years back, the county voted to establish [Barack Obama Day](#) as a legal holiday.



Earthjustice Managing Attorney Marianne Engelman Lado, complainant Esther Calhoun, complainant Rev. Mark Johnston, Alabama River Alliance organizer Adam Johnston, Earthjustice’s Debra Mayfield, and complainant Rev. Tom Brown (counterclockwise from right). *(Photo by Chris Jordan-Bloch)*

This complexity was the most compelling and resonant aspect of our trip. The disruption and devastation of those in this community who are forced to endure the noxious, nauseating smell of coal ash waste, the incessant buzz of birds and flies, the unbearable noise of heavy machinery, and the grime of fugitive ash encasing their trailer homes and cars was always coupled with a strong spirit of resistance. Some have to stay indoors all day—a conflict with the centuries-old social culture of the South of being outside with neighbors and friends—to avoid heavy coughing, itchy eyes or skin irritation. Some feel they must buy bottled water, for fear they will get sick from possible water contamination from the run-off oozing down from what the residents call “the mountain” of toxic waste when it rains.

But while this may be gloomy, there were no signs of defeat. Our six complainants have been on this complaint since its inception in 2011 and have no plans to give up—no matter how long it takes. As each of the complainants insisted and other community members agreed, this is not about money, but about what’s right and just. They are in this fight until they win. And Earthjustice is proud to be standing right beside them.



A button for the Black Belt Citizens for Health and Justice, the local group fighting for health protections to be enforced at the Arrowhead Landfill. They organize to bring awareness to all environmental injustices facing their community. *(Photo by Chris Jordan-Bloch)*