

Perry County landfill bankruptcy raises questions

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UNIONTOWN — Anyone here wanting to file a complaint against the Arrowhead Landfill in court for taking on the ash from an accident at a Tennessee Valley Authority site in Tennessee must wait.

Perry-Uniontown Ventures I LLC, also known as Perry County Associates, which purchased property in 2006 to develop the landfill has filed for bankruptcy. The documents were filed Tuesday in Mobile.

In court documents filed with the bankruptcy petition, Perry-Uniontown Ventures I LLC claimed two other operations, Phillips & Jordan Inc. and Phill-Con Services have withheld money paid by the TVA for accepting coal ash at the landfill located near Uniontown.

The complaint also asked for an accounting, indicating PUV did not know where the money paid by TVA for the disposal went.

Perry-Uniontown Ventures I LLC claims its three largest creditors are P&J for \$3.9 million, the Perry County Commission for \$779,837 and the Alabama Department of Revenue for \$11,000 in sales tax.

The bankruptcy filing comes as some residents of UnionTown and Perry County were considering filing a complaint in U.S. District Court against PUV for illegally disposing the ash, which contains dangerous heavy metals, in the landfill.

“The bankruptcy filing precludes new litigation against the entities that filed. Thus, the planned litigation against PCA cannot go forward at this time,” said David A. Ludder, an environmental attorney based in Tallahassee, Fla. “ We are examining options and should be making decisions soon.”

The ash is shipped down in boxcars by rail from Kingston, Tenn., where in December 2008, a dike collapsed near the Kingston Fossil Fuel Plant in Roane County, Tenn.

The accident resulted in 5.4 million cubic yards of ash released in the environment, a goodly portion of it in a branch of the Emory River and on more than 300 acres of adjacent land.

Although the ash contained heavy metals, such as arsenic, mercury and others, the U.S. Environmental Protection Agency said none of it was in significant numbers enough to threaten the health of people living nearby.

Aside from the health issue, a series of landowners along the Emory River have filed a class action lawsuit in U.S. District Court in Tennessee against TVA, claiming their properties in many cases were rendered unusable by the accident.

Rhon Jones, an environmental attorney with Beasley Allen in Montgomery, was on the site Wednesday afternoon. In a telephone interview, Mr. Jones said he is uncertain what effect, if any, the bankruptcy filing would have on his clients and their case.

It is also uncertain if the bankruptcy filing would stop shipments of the ash to the landfill or stop the cleanup at Kingston.

The Locust Fork News-Journal, an Alabama blog, reports Eddie Dorsett, president of Phill-Con Services, stated in an e-mail that PUV has an outstanding balance with P&J and Phill-Con for work and services for the landfill. The money owed by PUV was taken from its share of the payments made by TVA.

PUV contends in its bankruptcy filing the withholding of those funds was not agreed to and caused PUV to miss a Dec. 31, 2009, interest payment that lead to its having to file bankruptcy.

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