

# “Don’t eat the dirt”

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EPA investigates civil rights complaint against the Jefferson County Department of Health in Walter Coke case.



[2]

Contaminated soil is being temporarily housed at the EPA staging area at the old Carver High School. Photo by David Garrett.

In the latest wrinkle in the long-running issue of contaminated property in North

Birmingham, the Environmental Protection Agency last week accepted a civil rights complaint filed against the Jefferson County Department of Health.

The complaint, filed by the environmental justice group, the Greater Birmingham Alliance to Stop Pollution, alleges that the JCDH violated Title VI of the 1964 Civil Rights Act when the board issued Walter Coke operating permits last year, said GASP spokesperson, Michael Hansen.

EPA's investigation comes a month after the nation's largest producer of coal, Walter Energy, filed for Chapter 11 bankruptcy in federal court and then filed for bankruptcy protection under state law in Jefferson County.

The complaint states that residents have been adversely impacted by industrial pollutants in the predominantly African-American neighborhoods surrounding Walter Coke.

As stated in the EPA notice, "The decision to investigate the claim in no way amounts to a decision on its merits. Rather, it means the complaint has met the jurisdictional criteria."

A representative with the JCDH said, "The JCDH is cooperating with the EPA's Office of Civil Rights completely, and is committed to promoting healthy communities and environments throughout Jefferson County."

Title IV of the 1964 Civil Rights Act outlines regulations that recipients of federal financial assistance must follow so their actions will not negatively impact people on a racial basis, among other things:

"A recipient [of EPA financial assistance] shall not use criteria or methods of administering its program which 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."

Many residents in Collegeville, Fairmont and Harriman Park are familiar with the thin black layer of soot that covers the homes downwind from the industrial facilities in the area.

Marva Ingram, who lives in Fairmont just beyond the perimeter of the EPA 35th Avenue cleanup site, said that when she moved into her home 28 years ago her neighbor had just died from cancer. Now, 63, Ingram points to the black particles of soot that gather in and around her home as the cause of her Chronic Obstructive Pulmonary Disease.

Although she can see Walter Coke out of her bathroom window and the yards of her neighbors down the street were tested for contaminants, Ingram said the EPA has not yet tested her yard. “They haven’t done nothing,” Ingram said.

After years of living in Fairmont, Ingram said she began to notice it was getting hard to breathe. Last year she was diagnosed with COPD. Before that, she collapsed at her job as a nurse at Northway Health and Rehab.

Ingram feels marginalized by the boundary established by the EPA when determining which properties were contaminated. According to an EPA spokesperson, there are still about 850 properties within the boundary that have not been tested because of absentee owners. So far the EPA has tested over 2,000 homes in the area.

On August 20, dozens of North Birmingham residents filled the pews of the historic Bethel Baptist Church to learn about the findings of a study conducted by the Agency for Toxic Substances and Disease Registry in the 35th Avenue cleanup site in Collegeville.



[3]  
Contaminated soil is being temporarily housed at the EPA staging area at the old Carver High School. Photo by David Garrett.

According to the ATSDR study, there are no threats to the “general public” but

particulate matter in North Birmingham “could have resulted in harmful effects in sensitive individuals.” The agency report said that sensitive subgroups could include children under 18 and adults over 65, anyone suffering from asthma or COPD and those of “lower socioeconomic status.”

The study continues, “Current exposures to particulate matter in North Birmingham air are unlikely to result in harmful effects in individuals.”

During the meeting, representatives with the EPA and the ATSDR addressed members of the public and discussed how people could minimize exposure to potential contamination. Rick Jardine, the EPA on-site coordinator for the 35th Avenue site, said that they are finding contaminants that are analogous with byproducts of coking operations.

According to Jardine, work to clean up the neighborhoods is well underway. Phase IV of the EPA cleanup plan, which will focus on 260 properties exceeding residential standards, has just begun.

Kirsten Bryant, outreach director for GASP, was at the August 20 meeting and said she was disappointed with the recommendations made by the ATSDR report.

“Our biggest takeaway from the whole process is that the findings in the ATSDR report were really strong,” Bryant said. “There are clearly some public health issues with the three contaminants in a lot of the properties. The recommendations, though, were the exact opposite.”

At the meeting, an ATSDR environmental health scientist urged residents to monitor their children when they play outside and not to let them eat dirt. Also, residents should take their shoes off before coming inside to avoid tracking in contaminated soil.

“When they were making the recommendations last night, it just seemed so flippant and casual, just giving basic information about the contaminants, telling people not to eat the dirt and things like that,” Bryant said. According to Bryant, instead of addressing the root cause, those recommendations are like slapping a bandage on a gaping wound.

Bryant believes not enough attention has been given to the pollutants that stick heavily onto the sides of North Birmingham homes.

“The focus has been on the remediation of the soil,” Bryant said. “The industry there still spews out toxics and soot, and people in their neighborhoods are still wiping their hands on the outside of their house and their hands are black. The historic air pollution and the ongoing air pollution have absolutely contributed to the soil contamination there.”

EPA representative James Pinkney said that the EPA has tested some of the soot on the side of some houses but was unable to find the direct source. “Common sense says it’s coming from one of the coking operations in the area, but it was unclear where exactly the soot is coming from,” Pinkney said.

As for addressing the ongoing contamination, Pinkney said that falls under the jurisdiction of the JCDH.

Some residents also say they have not received confirmation that their properties have been cleaned and are safe and healthy after the EPA arrived to remediate their soil.

One of those residents, Jimmy Smith, addressed EPA officials at the community meeting. Smith said that the EPA visited his home and removed the contaminated soil. But he has yet to receive written confirmation that his yard is free of contamination.

“We want to breathe clean air and drink clean water just like everyone else,” Smith said. “Washing our apples isn’t going to fix that. The problem is ongoing and something needs to be done about it. Do not force our hands to take the street,” Smith said. “Enough is enough.”

The EPA has maintained a consistent presence in the neighborhoods of North Birmingham since the clean-up process began in 2012. “This is a very important community for the EPA and we are committed to staying here and finishing this,” Jardine said.

Representatives with Walter Coke declined to comment.

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