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Plant Scherer pollution claims prompt wave of lawsuits

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Plant Scherer in Monroe County, seen across an ash pond in 2006, is facing 13 pollution lawsuits, with dozens more expected to be filed.

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Gary Sharp had lived in Juliette near Plant Scherer almost 15 years when he was diagnosed with lung cancer last year. He's never smoked.

But he's seen something like light gray mud hauled out of the plant and slopped all over Ga. 87 in front of his house. He wonders about that mud now.

Sharp is in Tennessee receiving chemotherapy for his cancer, but his lawyer filed suit against the owners of Plant Scherer and the nearby Vulcan Materials rock quarry on Thursday. The lawsuit -- one of 13 filed by a team of Macon and New York attorneys in DeKalb County State Court -- accuses the companies of knowingly releasing pollution that contributed to Sharp's cancer and devalued his property.

Sharp said he is sad and angry about his situation since his lung cancer diagnosis. "It's turned my life upside down," said Sharp, who said he lost his trucking company and electrical contracting business when he stopped being able to work. He has a rental property on his land, but it generates no income because he feels he must warn potential tenants that the water could be contaminated.

"I've lost my income and my livelihood. It could be that I lose my life," Sharp said. "Regardless of how (the lawsuit) turns out, the damage it's caused me physically is unrecoverable."

All the suits target Scherer and its unlined coal ash waste pond, and a handful also name Vulcan, said Brian Adams, partner with Gautreaux & Adams in Macon. All the lawsuits accuse Plant Scherer and its owners of harming its neighbors' health and property.

"Their lives have been changed because of this," Adams said. "They're angry and they're disturbed. And at the end of the day, we know it's just not right."

The lawsuits allege that the named companies engaged in racketeering, battery, fraud and negligence. The racketeering charge is based on claims that Plant Scherer owners, including Georgia Power and its parent company, Southern Co., conspired to avoid the cost of putting a lining in the 750-acre coal ash pond.

Georgia Power spokesman Mark Williams said in an e-mail Thursday that the company has not seen the lawsuits. He said Georgia Power complies with all state and federal air and water quality regulations and that water tests around the plant have indicated the water is safe.

Jimmy Fleming, vice president of human resources for Vulcan Materials Co.'s east region, said in an e-mail that the quarry meets or exceeds all state and federal regulations. "There is no evidence of causation, and the lawsuit is without merit," he wrote.

Adams' firm is partnering with New York-based Napoli Bern Ripka Shkolnik LLP on the lawsuits, which represent 23 people. Napoli Bern has handled high-profile environmental and personal injury lawsuits across the country, including a suit settled for \$850 million on behalf of workers sickened during recovery efforts after the World Trade Center attacks.

The legal team has about 100 clients in Juliette and expects to eventually file around 50 lawsuits, including another batch in the next few weeks, Adams said.

Outside the DeKalb courthouse Thursday, Adams said that venue was chosen partly because it's the location for many of the registered agents of the companies being sued. The suits are being filed separately rather than as a class-action complaint.

Adams said his clients seek unspecified damages for personal injury, property damage and medical expenses, as well as punitive damages.

A history of concern

Over the last several years, dozens of Juliette residents have found unsafe levels of uranium in their well water, and some have been diagnosed with uranium poisoning.

Uranium occurs naturally in the underground rocks of the region, but residents have questioned whether Plant Scherer's coal ash pond, which contains many toxic heavy metals, could be worsening the problem. Georgia Power has been quietly buying and demolishing nearby homes and capping wells in recent years, although company officials say it's a routine effort to increase the buffer around the ever-expanding plant.

Some Juliette residents have also long complained about dust and blasting from the Vulcan quarry on Pea Ridge Road. The lawsuits of residents who live near the quarry claim that quarry activities also stir up dust containing toxic materials and wash them into groundwater with the quarry's runoff.

"Hazardous leachate from the site into groundwater poses serious health threats to humans living in proximity to the quarry," one of the lawsuits states.

The content of the lawsuits vary, but their broad allegations are similar, Adams said.

He said one of the complaints, filed on behalf of Robert Maddox, includes a wrongful death claim involving Maddox's mother. The other suits cite a range of health problems, from asthma and chronic breathing problems to kidney and liver problems, Adams said.

In one example, Ronald and Traci Bedenbaugh, who live on Old Dames Ferry Road, are suing Georgia Power, Southern Co., Florida Power & Light, Gulf Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, Jacksonville Electric Authority, Dalton Utilities, Vulcan Materials Co. and Vulcan Construction Materials, LP.

According to allegations in the lawsuit, the Bedenbaughs have both suffered nosebleeds and muscle spasms. Ronald Bedenbaugh has also had joint pain, aches, fatigue and stomach problems, while his wife developed endometriosis, fibromyalgia and seizures, the lawsuit states.

The battery claim relates to the companies' releasing pollutants they knew would leave their property, Adams said, which allegedly caused the Bedenbaughs to breathe and swallow hazardous or radioactive substances.

Sharp said he believes Scherer contaminated his well water, contributing to or causing his cancer.

Adams declined to answer questions about the results of any tests on Sharp's well water. But the legal team has conducted its own testing of residents and their wells, Adams said, finding arsenic, lead, chromium, thallium, selenium, uranium and radon. All those can occur naturally, but they are also by-products of burning coal.

"Some of these elements are naturally occurring, but the levels we've found are not naturally occurring," Adams said, not even in a granite-rich area like Juliette.

Radon, a derivative of uranium, has been found in high concentrations in the water of some Juliette residents. When it is vaporized into the air by showers and washers, it can be breathed into the lungs. According to the federal Environmental Protection Agency, airborne radon is the second leading cause of lung cancer in the U.S. after smoking.

Telegraph writer Maggie Lee contributed to this report.

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