

Coal Plant Neighbors Say Georgia Power Pollutes Community

Law360 (November 12, 2021, 4:35 PM EST) — Georgia Power Co. is accused of negligently building and operating the country's largest coal power plant, allowing deadly toxins to leach into the nearby environment, according to a trio of complaints recently removed to a Georgia federal court.

The Atlanta-based company faces three separate, but related, lawsuits from a dozen residents of Juliette, Georgia, where it has operated the 12,000-acre Robert W. Scherer Power Plant since 1982. Georgia Power removed the cases Thursday to the Middle District of Georgia, from a state trial court in Monroe County, where they were filed in October.

The plaintiffs claimed that Georgia Power buys from Wyoming the "cheapest and dirtiest coal available" to heat water from its manmade Lake Juliette at the Scherer plant, then dumps the residual coal ash in a 776-acre unlined pond on the site. Toxins, including uranium, from the more than 15 million tons of stored coal ash leach into the surrounding soil and infiltrate the groundwater on which the plaintiffs rely, they said.

"The plant is a known and extreme polluter," the residents said in their complaints. "According to the U.S. Environmental Protection Agency, plant Scherer is the top single emitter of greenhouse gas emissions among all United States power plants, averaging over 20 million tons per year through at least 2018."

The harmful toxins allegedly emitted into the air by the coal plant are also cited in the cases.

One complaint was brought by the sons of a lifelong Juliette resident who inherited their father's property a few miles from the plant after his death from colon cancer in February. Benjamin and William Bowdoin said their dad, Tony Bowdoin, spent his entire life in Juliette, using well water for drinking, bathing, cleaning and irrigation.

"The coal ash poisoned Tony Bowdoin and damaged the Bowdoin property," the brothers said in their complaint. "Tony Bowdoin obtained his drinking water from the groundwater wells where unsafe levels of contaminants are found. Tony Bowdoin also used water from these wells to cook, clean, water his gardens and lawns, and in other household activities."

Georgia Power said in removing the cases to federal court that the allegations, which it denies, fall under the scope of the Price-Anderson Act, which relates to nuclear incidents. The company said uranium is defined as a source material under the federal law and, therefore, the plaintiffs' claims about uranium-based pollution arise from a nuclear incident, constituting a public liability action.

Georgia Power said it complies with the rigorous environmental, safety and financial oversight it is subjected to by state and federal agencies. It states on its website that it is committed to permanently closing almost 30

coal ash ponds in Georgia, including the one at the Scherer plant.

But the plaintiffs claim Georgia Power has insufficient monitoring of groundwater toxin levels around the plant, using too-shallow wells in the wrong places.

They say studies in the 1970s, before the plant was built, showed wells in Monroe County had low concentrations of uranium, the source of which was a naturally-occurring mineral deposit.

Georgia Power disrupted the environment around its Scherer plant by creating Lake Juliette, which increased the pH in the groundwater and the solubility of the naturally-occurring uranium, the plaintiffs said.

"The release, discharge and deposits of toxins into the environment and onto plaintiffs' properties was foreseeable and preventable," the plaintiffs said. "The discharges, releases and deposits caused by the acts and omissions of Georgia Power have caused plaintiffs, their well water and their residences to be exposed to highly toxic and hazardous coal ash, and have caused damage to the natural resources and environment in and around plaintiffs' residences."

Plaintiffs claimed negligence, failure to warn, nuisance, trespass, attorney fees and costs, and punitive damages of at least \$250,000. The 12 plaintiffs own eight properties near the plant in Juliette.

The Scherer plant is the most powerful coal-fired power plant in the U.S. and the nation's fourth-largest electric generating plant, case filings show. It is the largest to be fueled exclusively by coal, according to the U.S. Energy Information Administration.

Counsel for the plaintiffs told Law360 the plaintiffs look forward to sharing their stories with a jury, wherever that jury may be.

"The bottom line is that Georgia Power must be held accountable," Stacey Godfrey Evans of Stacey Evans Law said Friday. "Georgia Power is a bad neighbor. When you hurt your neighbor, you should take responsibility for it."

A Georgia Power spokesman told Law360 the company "continues to stand firm behind its employees and the safe operations" at the Scherer plant.

"The company believes the lawsuits have no merit," Georgia Power spokesman Jacob Hawkins said Friday.

The plaintiffs are represented by Stacey G. Evans, Tiffany N. Watkins and John A. Johnson of Stacey Evans Law, Cale H. Conley and James T. Cox of Conley Griggs Partin LLP, and Brian P. Adams and Mary B. Hand of Adams Law Firm.

Georgia Power is represented by Meaghan G. Boyd, Douglas S. Arnold, Jenny A. Hergenrother, Lee Ann Anand and Sara M. Warren of Alston & Bird LLP, Duke R. Groover and Lee M. Gillis Jr. of James Bates Brannan Groover LLP, and **Richard Robbins and Josh Belinfante of Robbins Alloy Belinfante Littlefield LLC.**

The cases are Cansler et al. v. Georgia Power Company, case number 5:21-cv-00401, Bowdoin et al. v. Georgia Power Company, case number 5:21-cv-00402, and Quinn v. Georgia Power Company, case number 5:21-cv-00403, in the U.S. District Court for the Middle District of Georgia.