



HISTORIC BLACK COMMUNITY CONDEMNS EPA FOR FAILING TO ENFORCE CIVIL RIGHTS

After Neglecting Investigation for 14 Years, EPA Closes Civil Rights Complaint

Filed Against an Alabama State Agency

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Today, the Ashurst Bar/Smith Community Organization (ABSCO) denounced the Environmental Protection Agency (EPA) for closing a long neglected civil rights complaint filed in 2003 against the Alabama Department of Environmental Management (ADEM). The complaint alleged that ADEM, a recipient of federal funding, discriminated on the basis of race by permitting a landfill to operate in the middle of a historic Black community – one where many residents today can trace their land ownership back to newly freed enslaved people who settled the land soon after the Civil War.

ABSCO's complaint had been pending before the EPA for over a decade, while ADEM allowed the landfill to continue to operate and increase the dumping of trash—potentially from all of Alabama's counties and three areas in Georgia—essentially in the front and back yards of the majority-Black Ashurst Bar/Smith community. All the while, members of the community experienced years of mounting negative impacts on their quality of life such as:

- the inability to garden or fish from the waterways, or use well water, springs, and streams because of the fear of water contamination;
- increased safety risks to school-age children and damaged rural, residential roads flowing from the speeding garbage truck-traffic that travel in and out of their community to access the landfill, beginning in the early morning through to the early evening;
- health impacts such as cancer, respiratory problems, migraines, and dizziness, which residents have reason to believe are related to contamination from the landfill; and,

- the inability to retire to their family land, sell it (often to anyone but the landfill), or enjoy it because of the psychological and physical impacts of living in proximity to the landfill).

“I believe these negative impacts are allowed to happen by EPA, ADEM and other officials who are supposed to protect us but don't because we are Black people,” said Phyllis Gosa, whose family has, for over six generations, lived in the Ashurst Bar/Smith community. “The landfill is running Black people off of their property and leading to Black land-loss. To me, this is blatant racism.”

“It's hard to believe that after allowing ABSCO's complaint to languish for 14 years, EPA would simply shut the door on the community. After all this time, EPA didn't even visit the community to conduct a full investigation,” said Marianne Engelman Lado of the Environmental Justice Clinic at Yale Law School, one of the attorneys representing ABSCO. “We keep hoping that EPA will turn around its poor record of civil rights enforcement, but it's clear that the agency lacks the political will to hold agencies that receive federal funds accountable for violating the law.”

In 2016, ABSCO and other communities across the country with similar neglected civil rights complaints – including residents of Flint, Michigan, Chaves County, New Mexico, Beaumont Texas, and Pittsburg, California – filed a federal lawsuit against the EPA, challenging the agency's failure to fulfill its obligation to complete civil rights investigations. On April 28, 2017, EPA abruptly closed ABSCO's complaint, raising serious concerns about *whether and when* the EPA will enforce civil rights law. ***In its nearly 25-year history of receiving environmental discrimination complaints, the EPA has made a formal finding of discrimination only twice, both during the Obama Administration.***

Suzanne Novak, from Earthjustice, who also represents ABSCO, said, “To our knowledge, the EPA *never* visited the Ashurst Bar/Smith community or tested its water, air, soil, or dust; instead the EPA has relied on the notion that the landfill's self-reported efforts to control its effects were adequate. Nor did the EPA consider concerns related to decreased property values or the displacement of Black landowners, which were of high importance to the community given that many residents are descendants of formerly enslaved people who were able—incredibly—to purchase this land.”

“The shameful failure of the EPA to, yet again, protect a historic Black community like the Ashurst Bar/Smith community from environmental hazards and Black land-loss unacceptably spans multiple political administrations,” said Leah Aden, Senior Counsel for the NAACP Legal Defense and Educational Fund (LDF). “But the opportunity to enjoy Black-owned land and live in a safe community with clean water and air is a civil right.” continued Aden. “LDF will not stop continuing to pursue relief for the Tallassee community, who rightfully deserve more than a pro forma investigation into the longstanding damaging effects of a landfill that they have fought against for at least 15 years.”

“The Ashurst/Bar Smith community was created through pioneering Black landowners like my ancestors,” says Ron Smith, who leads ABSCO. He, like other residents of the tight-knit Ashurst Bar/Smith community are “deeply concerned that the ever-expanding landfill will do away with the hundreds of years of history here.”

The EPA has indicated that although it did not find ADEM in violation of Title VI in this instance, it will contact ADEM to discuss “systemic issues regarding ADEM’s methods of administering its solid-waste permitting process in general, as well as its non-discrimination program.” Indeed, Black communities across Alabama, from Tallassee, to Uniontown, to Dothan, and others are challenging environmental racism in their communities.

ABSCO is represented by Earthjustice, the NAACP Legal Defense & Educational Fund, Inc. and the Environmental Justice Clinic at Yale Law School.

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Who we are

Earthjustice, the nation’s premier nonprofit environmental law organization, wields the power of law and the strength of partnership to protect people’s health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change. Because the earth needs a good lawyer.

The NAACP LDF has been a leading advocate for racial justice in the United States, fighting to make the promise of equal opportunity in all areas of life for Black Americans a reality, including the right to clean air, water, land, public transportation, and other human necessities, recognizing that environmental justice is requisite to a democratic and just society.

The Environmental Justice Clinic at Yale Law School was launched in 2017. The EJ Clinic seeks to serve the environmental justice movement by enforcing civil rights in the environmental context. To that end, the clinic trains students to be ethical and effective advocates for their clients.

ABSCO is a community group in Tallassee, Alabama, that advocates on behalf of Ashurst Bar/Smith residents, particularly against the reopening and continued expansion of a Landfill in close proximity to them. Many Ashurst Bar/Smith residents are descendants of Black Americans who were enslaved and who, following Emancipation, bought land that has remained in their family for several generations.