

Statement of Esther Calhoun
Resident of Uniontown, Alabama and Complainant in a Civil Rights Complaint

Submitted to the U.S. Commission on Civil Rights

January 22, 2016

On behalf of myself and other residents of Uniontown, Alabama, and particularly my fellow members of Black Belt Citizens Fighting for Health and Justice, I want to thank you for holding this hearing and inviting me to testify today. I want to share with you what it is like to live in Uniontown, a poor black community with a mountain of coal ash right near where people live, a broken sewage system, a prison, a catfish plant, and a cheese plant with sprayfields that smell. See Wathen, John, Photo of Coal Ash in Arrowhead Landfill (2010), Attachment 1. I'm going to tell about this experience honestly and straight because I hope that this Commission will get someone to pay attention to what is happening in poor black communities like Uniontown. We've had all kinds of visitors come and look at that big mountain of coal ash at the Arrowhead Landfill. We've had listening sessions and we've had tours. But nobody is doing anything. We're worried about our lives and no one – not local government, not the state and not EPA – no one, is enforcing our civil rights.

As background, I was born in Uniontown, a town in the Black Belt of Alabama that now has just over 1,600 people. People are poor and elderly, and many are on a fixed income. Many people don't have education. The town is about 87% African American. At 17 I moved to Indiana, where I worked as a nurse's assistant, but I

moved back to Uniontown to take care of my Granddaddy when he had congestive heart failure, and I have lived in Uniontown ever since.

Like many others in Uniontown, my family has been in Uniontown for generations. I am African American and my Daddy and Granddaddy were sharecroppers who grew cotton, corn and okra on the nearby Tate plantation, about 2-3 miles from where Arrowhead Landfill is now. I was born on the Coleman Long plantation, which is also approximately 3 miles from where the Landfill now sits. People have strong ties to their land, their homestead, and they come back to Uniontown to retire, for fresh air, and to have a place, a clean place, for their grandchildren. Or at least they used to. People used to be proud to live on a piece of land in the country.

These days, the stores are boarded up. There's no movie theater and there's one restaurant, Dorothy's Country Kitchen, which closes at 6. It's a ghost town. See Jordan-Block, Chris, Photo of Downtown Uniontown (2013), Attachment 2. People can be friendly but there's still a white church and black churches, and white kids don't go to the Uniontown schools. There are so many issues in Uniontown that I don't know where to start. We just closed a school and the town can't even afford ambulance service.

I have two sons by birth – Jamaris, age 30, and Marqual Johnson, age 26. It's important to understand how black people are treated in Uniontown and so I want to share that I had to send one of my sons to live with other family members out of town for about two years to protect him after the police used a taser on him. This was one of the most painful times of my life and it led me to take a more active role

in fighting injustice. The way people are treated just because they are black and poor just isn't right.

I have also raised another boy in my home since he was 3 months old. He is now 12 years old and continues to live with me. I also live with or near by brother, my sister, and my parents, and I worry about all of them. My home and where my parents stay are located near the Landfill and the railroad tracks, and we are also close to other sources of pollution in Uniontown, including the cheese plant, which is very close to my home. Taken together these sources of pollution cause me to worry about my own health, as well as that of other members of my family and the community. Living in Uniontown is stressful.

I understand that garbage has to go somewhere, but the state of Alabama gave a permit to Arrowhead Landfill to take waste from more than 30 states and dump it in our community. The Landfill sits across the street from where people live, where my friends and neighbors have lived for years. I used to live right there across the same road from where the Landfill is now. I understand this community. You have to understand the rural way of life: people sat on their porch and enjoyed the air, and they talked to each other. Now they live across the street or down the road from the Landfill and it smells. Their property isn't worth what it used to be and their children don't want to come back here. No one wants to buy land near the Landfill. People no longer let their grandchildren play in the yard without fear. The smell, the pollution, and the fear affect all aspects of life – whether we can eat from our gardens, hang our clothes or spent time outside. This isn't right.

When I first heard of the Landfill coming to Uniontown, my understanding was that the proposal was to build a place to put local trash. Then I heard talk about the Landfill taking garbage from 17 counties, and then from 32 states. At some point, I heard about the Landfill taking coal ash, which is when I became involved. I am now president of Black Belt Citizens for Health & Justice, a local grassroots-led organization made up of community members who are working to fight for environmental justice. We are concerned about health and environmental issues affecting our daily lives and we actively pursue remedies to the threats posed by Arrowhead Landfill and the other sources of contamination in the town. We are doing what we can but we need your help, as well.

Our goals are to rid Uniontown of coal ash, close the Landfill, educate citizens about how to protect themselves, ensure that residents receive comprehensive medical evaluations for levels of toxic chemicals and other problems related to the Landfill, have an independent group regularly test the water, air, and soil for contaminants, and also regularly test livestock, catfish, home gardens and other agricultural products.

In 2008, coal ash spilled through a dike and sent a billion gallons of toxic waste across people's property, destroying homes in Kingston, Tennessee, a middle class, predominantly white community. It was the largest coal ash spill in U.S. history. The people in Kingston understandably pressed the government for a clean-up and the area was declared a superfund site. Eventually, the Tennessee Valley Authority chose to ship the coal ash across state lines to our community, to the Arrowhead Landfill in Uniontown. The trains traveled down the very tracks that

pass near my home to take the coal ash on a new spur that was built to deliver the coal ash directly into the Landfill. See Jordan-Block, Chris, Photo of Railroad Spur, Attachment 3. I used to live even closer to the railroad tracks – just about 10 steps away – and I have seen coal ash that had spilled on or near the tracks. I worry that the dust from this coal ash still kicks up into the air, continuing to pollute our air and water. When the coal ash first arrived, the stench of sulfur made people feel ill over a long period of time and coal ash dust was everywhere in the air. I worry that the coal ash continues to get onto our cars and into our homes. The pollution from the Landfill and from the coal ash is a constant worry in our lives.

The Alabama Department of Environmental Management (ADEM) should be the agency that protects the community from health and environmental hazards, but it completely fails to take any responsibility. ADEM reissued the permit for Arrowhead Landfill without proper and enforceable protections for public health despite the dangers of coal ash and the objections of Uniontown residents. ADEM's permit allows the Landfill to take in 15,000 tons of waste each day – by far the largest authorized waste disposal volume in the state. Working with attorney David Ludder and then Earthjustice, many of my neighbors and I filed a civil rights complaint against ADEM because it failed to evaluate whether the permit would have a disproportionate impact on African Americans and it failed to take actions to avoid these impacts. The complaint alleges that ADEM violated Title VI of the Civil Rights Act of 1964 and EPA's regulations by reissuing and modifying Arrowhead Landfill's Solid Waste Disposal Facility Permit in 2011 and 2012 to construct and

operate this enormous municipal solid waste landfill in Uniontown, which has a disproportionate impact on African Americans, who live near the Landfill.

Why did Uniontown become the dumping ground for the eastern half of the country, and then why did it become the dumping ground for coal ash? No one thought that the members of this poor community would fight back or that anyone would listen to us. Planners and decision-makers ignored the fact that people lived directly across County Road 1 from the Landfill, within feet of the Landfill site. In fact, though the Landfill is huge and the railroad spur that they built to bring in coal ash came in through the north side of the site, the Landfill transferred the coal ash to trucks and moved it so that they could pile it up right near where people live. See Wathen, John, Photo of Arrowhead Landfill (2009), Attachment 4. They could have started piling garbage and coal ash anywhere on the Landfill site, but they chose the closest place to people's homes.

Another question that I've asked over and over is why this coal ash was considered hazardous when it left Kingston, Tennessee, and the area of the spill was declared a superfund site, but then was no longer considered hazardous when it arrived in our community, a predominantly black town? We saw pictures of people in hazmat suits loading the coal ash in Kingston, while in Uniontown, workers were provided with little protection and community members with nothing. Workers at the Arrowhead Landfill washed the train cars after unloading, but there was no system for washing the cars of the workers as they came in and out of the site, spreading coal ash across the town. I understand that the laws are different, that the spill falls under the superfund law while the coal ash becomes solid waste and

falls under the Resource Conservation and Recovery Act (RCRA) when it arrives at the Landfill. But coal ash is still coal ash – it still contains exactly the same toxic chemicals whatever name you give it. EPA recently considered whether to regulate coal ash as hazardous waste under RCRA, but it decided instead to regulate the waste as non-hazardous. EPA also decided to exempt coal ash disposed at municipal solid waste facilities such as the Arrowhead Landfill from tighter restrictions. I have to ask again, how can coal ash be “hazardous” in Kingston and not in Uniontown? I can only conclude that EPA could not have given serious consideration to the environmental justice consequences of the treatment of coal ash under RCRA, and I ask this Commission to recommend that EPA reform its consideration of environmental justice in rulemaking. This isn’t fair: with so many landfills in low-income black communities, it is unacceptable that local governments and states are not required to protect communities living near municipal landfills on an equal basis as in Kingston, Tennessee. How is this allowed? And when such inequalities are identified, EPA should use its authority to address and minimize them in rulemaking.

I have to say a few words about the impact of the Landfill on our lives.

First, there’s the smell. It’s terrible, and it wasn’t present before the Landfill arrived. See Jordan-Bloch, Chris, Photo of Coal Ash Mountain at Arrowhead Landfill (2013), Attachment 5. There isn’t air monitoring of hydrogen sulfide gas and the community doesn’t get much information from the Landfill about what it is disposing and what’s going into our air. But experts have said that hydrogen sulfide is a problem.

Second, I go by the Landfill regularly for any number of reasons – to go to church, to visit people, and you can't help but notice the flies and buzzards nearby. Fleas are also a huge problem and it's hard to get rid of them. I breathe in the smell of whatever toxics are in the air. Before she died, I would come to see one of my good friends who lived across the road from the Landfill, Della Dial, regularly, and she also told me about rats that came into her trailer. It didn't happen before the Landfill. Della has now passed away, but in the years since the coal ash arrived, she couldn't sit outside and get fresh air because of the smell and flies. One time she was sitting on the porch and passed out. This was her home, though, and she had nowhere else to go. Her daughter now lives in the house, which is right across the street from the Landfill. See Jordan-Block, Chris, Photo of Landfill from Della Dial's Home (2013), Attachment 6.

Other witnesses at the hearing will testify about what is in coal ash and the health risks posed by coal ash. I can tell you, though, that people in Uniontown have all kinds of health problems that they didn't have before. I am only 51 years old and I have neuropathy. I first noticed it when I got in the tub one day in November, 2013. I put in my right leg and then put the left leg in but I didn't feel the water. I feel pain, which feels at times like fire, up to the hip. I went to a doctor at the University of Alabama at Birmingham, hours away, and he sent me to a neurologist. The neurologist said that I am likely to have this pain in both legs. I am not diabetic, and this disease does not run in my family. The neurologist said that it may be caused by lead, and it is not going to get better. I still take medicine every day for

my legs. I have also had tingling from my right shoulder to my elbow and I still have burning sensations and numbness.

Others in Uniontown have the same problems, either with their legs or arms. I know of at least five other people nearby with neuropathy in the legs. Many children and young people experience nose bleeds, headaches, constant colds and breathing problems like asthma. We're also concerned about our water and people have stopped using well water. Dr. Elizabeth Dobbins volunteered to come to Uniontown to test water running off the Landfill, down through a ditch and into people's yards. Her findings were consistent with evidence of a discharge of coal ash. Cole, T.J, & Dobbins, E.G., "Effects of Surface Runoff From a Landfill Containing Coal Ash on Water Chemistry in Adjacent Surface Water in Perry County, Alabama," Poster, Presented at *75th Annual Meeting of the Association of Southeastern Biologists*, Attachment 7. She sent her findings to the state but ADEM didn't come to Uniontown to test or conduct a thorough investigation of whether toxics from coal ash and other waste are in our water. It shouldn't be up to a volunteer like Dr. Dobbins, who drives hours from Birmingham, to test our water. Even people on fixed incomes now often buy bottled water to drink. This is expensive for us, but people are worried.

It's important to mention that as a result of ADEM's failure to adequately evaluate the impact of Arrowhead Landfill on the health and well-being of the people in Uniontown and its failure to do baseline testing or ongoing testing for the components of coal ash, we may never know exactly what the costs and consequences of placing the Landfill and the coal ash in Uniontown have been.

The Landfill and the arrival of coal ash at the Landfill have also harmed the community in other ways. People are worried about eating fruits from their trees and vegetables from the gardens. People have seen their fruits get smaller and the vegetables shrivel up. People are worried about letting their children play in their yards. Not only are they concerned about dust from the mountain of coal ash piled up at the Landfill blowing toward their homes, but dogs and other animals can easily go onto the Landfill property and then carry coal ash onto their property.

The Landfill is also right next to the historically black New Hope Cemetery where my brother and my great grandparents are buried. My brother, Robert Albert Hudson, died at the age of 2. When the Landfill first opened and placed a well on cemetery grounds, see Wathen, John, Photo of MM 05 Monitor in Weeds at Cemetery (2014), Attachment 8, the owners or operators promised to beautify and maintain access to the cemetery but they failed to do so. The cemetery has been so neglected that now I can't even find my brother's grave, and on some days the smell from the Landfill is overpowering at the cemetery. Do you think that a Landfill would be allowed to be built and to operate this way next to a cemetery if this weren't a poor black town? Now the Landfill has gone in and without notifying me or others with family members in the cemetery, it sent a bulldozer straight through part of the cemetery grounds and straight across my ancestors' graves. Again, where is our local or state government? Why isn't anyone protecting our civil rights?

We've had a lot of controversy in Uniontown about all of the coal ash that was brought in. When it first arrived, it spilled onto the roadways and railroad tracks. Workers who were hired temporarily to unload the coal ash weren't given

adequate protective clothing, and then they went home and took off their clothes, spreading coal ash dust in their homes. Coal ash blew all across town. So we should have been surprised when Green Group Holdings, which owns Arrowhead Landfill, published an advertisement to bring more coal ash to Uniontown. Arrowhead Landfill, "Arrowhead Landfill Provides Safe Haven for Utilities Disposing of Coal Ash" (May 5, 2015), Attachment 9. But nothing surprises me anymore. They think they can get away with it because no one is protecting us and enforcing our civil rights.

I have continuing concerns about ADEM's lack of oversight of the Landfill not only because of the past and continuing effects of the coal ash but also because I don't know what is going into the Landfill today and have no assurance that there won't be more coal ash, especially with coal plants closing down and the Landfill advertising that it is attractive because it doesn't have to comply with the new, stronger regulations. The owner of the Landfill, Green Group Holdings, announced that it is "ready to accept" more coal ash – and it specifically advertised for coal ash, and here I'm quoting from the announcement, "from utility companies looking to avoid civil litigation risks brought on by the new federal regulations." See Attachment 9. The announcement makes clear that as a municipal landfill, Arrowhead "is not subject to the new EPA regulations and is ready to accept coal ash immediately." See Attachment 9. In Uniontown, we have been targeted for receiving this waste. We worry about coal ash and we are also concerned that the Landfill could be accepting other hazards to our health such as asbestos. I want ADEM and EPA to do its job.

I also want to mention that we have a lot of problems in Uniontown – the Landfill, coal ash, the cheese plant, sewage sprayfields that leak into the creek, and the catfish plant. Sometimes when we talk about the effects of one source of contamination such as the Landfill, we're asked, "Well, how do you know that the smell isn't from the cheese plant?" And when we complain about the cheese plant we're asked, "Well how do you know it's not coming from the Landfill?" Of course, we're dealing with all of these problems, collectively, sometimes at once, and they shouldn't be excuses for getting the other off the hook.

Finally, I want to emphasize that the members of this community have been very active, see Jordan-Bloch, Chris, Photo of Residents at Community Meeting (2013), Attachment 10, but we need the federal government to step up and enforce Title VI of the Civil Rights Act of 1964. We've been speaking up but no one seems to be listening. EPA seems to protect people in power, to look out for industry instead of enforcing the law and protecting the people. Early on, in July of 2011, I went with others from the community to a public hearing held by ADEM in Montgomery to speak about the Landfill. I raised concerns about the health of people and residents on County Road 1, where the Landfill is located. I mentioned that the area near the Landfill had wild animals and that there are farms nearby and that people are worried about their animals. I talked about how we have to travel hundreds of miles for health care and that most people in the area have limited incomes. I asked for someone to come to Uniontown and do tests, and to answer questions about whether what goes in the Landfill is hazardous. There was no response.

Then I traveled to the US EPA, Region 4, in Atlanta, and I participated in a “listening session” in Uniontown with EPA about the Landfill and the decision to move coal ash from Kingston, Tennessee to our community. We have hearing after hearing, and it seems that no one really listens. I understand that even without our civil rights complaint, EPA could have opened an investigation because it had reason to believe that people were being discriminated against in Uniontown. Clearly the decision by ADEM to let Arrowhead Landfill operate there – across the street from people’s homes, accepting coal ash, without adequate protections, next to our cemetery – has a disparate impact on African Americans. It’s a disgrace, but the state doesn’t seem to bat an eye when the Landfill advertises for more coal ash. It’s disgusting.

I want to end by asking this Commission to issue recommendations to strengthen civil rights enforcement at EPA and in coordination with the states. This should include, for example:

- EPA should investigate the State of Alabama’s failure to evaluate whether its permitting programs have a disparate impact on the basis of race;
- EPA should investigate whether ADEM’s policies and practices related to environmental enforcement have a disparate impact on the basis of race;
- EPA should use its authority to initiate investigations even in the absence of complaints: in this case, EPA could have opened an

investigation at the time Region 4 staff visited Uniontown for a listening session but, instead, EPA did nothing;

- EPA should strengthen its civil rights enforcement program: EPA has never in the history of its external compliance program made a finding of discrimination and withdrawn federal funds from a program and, as a result, states such as Alabama get the message that they are above the law. This has to change.

Finally, EPA has to reform the way it runs its Office of Civil Rights so that it actually works to protect communities like ours. For example, recently EPA put out a notice of proposed rulemaking and set up five hearings around the country. But the way that the meetings are set up makes clear that EPA is not thinking about people who are living in poverty – people who are on fixed incomes and can't travel at the last minute and people who don't have a lot of education and may not be able to go on the computer to register for a hearing or send in testimony in writing. The time and location of the hearings were announced with almost no time to plan and they are nowhere near where many people who are poor live, like in the Black Belt. Whether it's in the way that EPA conducts investigations or the way they schedule hearings, they aren't creating opportunities for people to participate. This also needs to change.

Thank you for your time and attention. The issues before this Commission are critical for us in Uniontown, for our health and our way of life. From my perspective, there's really no civil rights enforcement protecting our community

from bearing the burden of environmental pollution. I'd be happy to answer any question.