

Judge Approves \$54 million Coal Fly Ash Settlement

By CostBenefit on Jan 12, 2009

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A Baltimore judge has approved the sweeping settlement a **Constellation Energy Group** subsidiary reached two months ago with Anne Arundel County residents who alleged their groundwater was tainted by coal ash — including an attorneys' fees award of \$10 million to be paid by the power company to the plaintiffs' lawyers at The Murphy Firm and The Law Offices of Peter G. Angelos P.C.

After hearing from plaintiffs' attorney Richard V. Falcon and with no objections from Constellation's lawyers or any of the plaintiffs gathered in the courtroom Tuesday morning, Judge Alfred Nance signed off on the proposed resolution to the year-old class action.

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Including the attorneys' fees, the settlement will cost Constellation more than \$54 million, Falcon, of The Murphy Firm, announced in court.

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From 1995 until September 2007, the Baltimore-based energy giant deposited millions of tons of fly ash — a byproduct of burning coal — from two of its Anne Arundel County power plants into two Gambrills quarries.

In their November 2007 lawsuit, the representative plaintiffs alleged Constellation Power Source Generation should have known the ash contained toxins and carcinogens such as arsenic, lead and mercury and that it would leach into the groundwater through the quarries' porous floor. They also alleged Constellation had "actively engaged in a campaign of deception to mislead" the plaintiffs as to the health threat.

Under the terms of the agreement, Constellation has agreed to connect 84 Gambrills households, which had previously relied on private wells, to public water over the course of the next two years. The company will also pay for their water bills for 10 years or until they move out, whichever comes first.

Constellation will pay \$9.5 million into a trust fund for those residents and \$500,000 into a separate fund for a second class of plaintiffs — people who lived near the dump sites north of Route 3 between Waugh Chapel and Evergreen Roads but who did not use well water.

William H. "Hassan" Murphy III estimated the class at 700 people, two-thirds of which are in the "Adjoining Properties" subclass....

Constellation has also agreed to spend at least \$10 million on remediation of the former sand and gravel quarries and beautifying the acreage, which is now largely an open, grassy field. And, maybe most importantly, according to Murphy, the energy company will never dump ash in Gambrills again, at an estimated cost of \$17.5 million to Constellation.

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by Brendan Kearney

