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Fly ash lawsuit expected

By RAYMOND PEFFERMAN , Daily News Staff Writer

An attorney representing residents affected by a fly ash landslide in Forward Twp. said he plans to file a lawsuit concerning the slide's cleanup.

A press release dated Feb. 9 from the office of Villari, Brandes and Kline, P.C., in Conshohocken, states, "Peter Villari, attorney for a group of Forward Twp. residents, is preparing to file a lawsuit one goal of which is to seek mandate requiring a safe and complete cleanup of a western Pennsylvania neighborhood."

The release doesn't specify who will be named as defendants in the suit.

In response, Helen Humphreys, community relations coordinator for the state Department of Environmental Protection, said Monday the DEP will continue to concentrate on ash removal.

"We're going to complete the work we've begun, to remove as much ash as possible from the site," she said. "We'll have to wait and see what lawsuit (Villari) brings. But our primary goal is to get that ash removed as quickly as possible, and a lawsuit doesn't distract from that."

At a public hearing last week, DEP allowed residents to speak on the record concerning the cleanup, a measure usually required under the state Hazardous Sites Cleanup Act before cleanup can occur.

The law allows an exception for an emergency situation, in which interim action can be taken before the hearing. This provision allowed DEP to stabilize the slide embankment prior to the hearing.

In the release Villari said: "The legal flaw is that this need for emergency response was not noted for more than a year after the catastrophic event."

He also questions "why it took DEP over a year to stabilize the embankment and ... when the Pennsylvania DEP intends to move from 'interim' and incomplete response to a full remedial response."

DEP initially attempted to determine a responsible party, but eventually decided to remove the ash themselves, Humphreys said.

"The department has an obligation to look for a responsible party," she explained. "Because the department could not determine a responsible party at this time, the department decided to step in and remove the unstable ash from the embankment."

She also said she disagrees the department has taken an incomplete response.

"We do agree that as much of the ash as possible should be removed," Humphreys said, "and we've done that."

Conflicting results about what, if any, health risks the remaining ash poses has been a topic of discussion for months.

DEP continues to cite results from Allegheny County Health Department, which found through urinalysis and hair and nail samples that levels of arsenic in the ash were not high enough to pose significant health risks.

Villari, on the other hand, still refers to findings by Neumeyer Environmental Services that area soils are contaminated to the extent that contaminants in the soil average three times the acceptable limit.

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Humphreys said while DEP has met with Neumeier, the department has yet to see the NES study.

DEP's current plan for cleanup includes moving the ash near the embankment area along River Hill Road via truck to fill a mine subsidence void in Chartiers Twp. in Washington County. The action doesn't apply to remaining fly ash along the Rostosky Ridge residential area. Humphreys, said only a small amount of ash exists on those properties and it poses no health risks.

Villari's associate attorney, Deanna Tanner, states in the release: "We are talking about a toxic contamination. It is not enough that 'so of the fly ash has been removed. The soil and stream remain contaminated and therefore present a danger to the neighborhood."



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