

**VIRGINIA: IN THE CIRCUIT COURT FOR PRINCE WILLIAM COUNTY**

Daniel Marrow,  
Patty Marrow,  
Kathleen Marrow, and  
Rachel Marrow  
18303 Possum Point Road  
Dumfries, VA 22026

*Plaintiffs*

v.

Virginia Electric and  
Power Company  
d/b/a Dominion Virginia Power  
120 Tredegar Street  
Richmond, Virginia 23261

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060

and

Dominion Resources, Inc.  
P.O. Box 26532  
Richmond, Virginia 23261-6532

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060

and

Dominion Virginia Power  
120 Tredegar Street  
Richmond, Virginia 23261

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301

CL17-3151

BY DIG DEPUTY  
CIRCUIT COURT CLERKS OFFICE  
PRINCE WILLIAM COUNTY, VA

2017 APR 13 AM 11:54

**FILED**

Glen Allen, Virginia 23060

and

Virginia Power  
d/b/a Dominion Virginia Power  
120 Tredegar Street  
Richmond, Virginia 23261

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060

and

Dominion Generation Corporation  
120 Tredegar Street  
Richmond, Virginia 23261

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060

and

Dominion Energy  
P.O. Box 26666  
Richmond, Virginia 23261

SERVE ON:  
CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060

*Defendants.*

**COMPLAINT**

**(JURY TRIAL DEMANDED)**

COME NOW, the Plaintiffs, by counsel, and file the within Complaint against Defendants Virginia Electric and Power Company, d/b/a Dominion Virginia Power, Dominion Resources, Inc., Dominion Virginia Power, Virginia Power d/b/a Dominion Virginia Power,

Dominion Generation Corporation and Dominion Energy (collectively "Dominion"); and in support thereof state the following:

### INTRODUCTION

1. The Defendant, Dominion, owns and operates the Possum Point Power Station, a 650-acre Site about 30 miles south of Washington D.C., located on a peninsula between Quantico Creek and the Potomac River.

2. The Possum Point Power Station, hereafter ("Power Station") burned coal from 1955 to 2003. Currently there are four generating units; two of which are natural gas fired, one is oil fired, and the other is a dual fired combined-cycle unit. The Defendant retired the oldest two units.

3. Despite the switch to natural gas, the Power Station still contains billions of gallons of coal ash, the waste produced from burning coal. The coal ash is disposed of at the Power Station in five "ponds" that hold over a billion gallons of toxic coal ash and contaminated water.

4. Coal ash contains a range of metals that are toxic at high levels, including lead, aluminum, arsenic, barium, boron, chromium, copper, selenium, mercury, nickel, antimony and hexavalent chromium.

5. Many of the constituents of coal ash, such as arsenic, cadmium and antimony, and hexavalent chromium are known carcinogens.

6. Per the National Institutes of Health, hexavalent chromium (VI), present in the coal ash and kiln dust used here, is also a known carcinogen when it is inhaled or ingested. Other adverse health effects associated with hexavalent chromium exposure include cancers, chromosomal disruption and damage, fetal brain damage and other birth defects, kidney damage, liver damage, pulmonary congestion and edema, epigastric pain, and erosion and discoloration of the teeth.

7. The coal ash at the Power Station is held in large unlined ponds that cause the coal ash to mix with water creating a slurry that seeps into the groundwater.

8. Upon information and belief, in May of 2015 the Defendants dumped 27.5 million gallons of untreated coal ash waste water from its Power Station coal ash Pond E into Quantico Creek.

9. The Plaintiffs' property is adjacent to the Power Station and approximately 1300 feet from coal ash Pond E. They own a private well for their potable water. The toxic slurry has migrated into the groundwater and has contaminated the Plaintiffs' property and potable well.

10. Upon information and belief, there has been a continuous discharge of coal ash contaminated water into the groundwater which has then contaminated nearby potable wells, property, and soil.

11. The Plaintiffs were made aware of the possibility that their well was contaminated in February 2016 while they were watching a Dumfries Town Hall Meeting on TV.

12. As of February 2016, the Plaintiffs began drinking bottled water.

13. On March 1, 2016, Environmental Consultants and Contractors, Incorporated (ECC), collected water samples from the Plaintiffs' potable well. On April 6, 2016, the analytical results showed elevated levels of barium, boron, cobalt, copper, lead and nickel – constituents of coal ash. ECC concluded, based on a review of the collected data, that untreated water from the Plaintiffs' well should not be used for potable purposes.

14. As of late May 2016, the Plaintiffs began bathing in bottled water.

15. In August 2016, the Plaintiffs spent about \$40,000 to be hooked up to City water.

16. The Plaintiffs are consistently anxious about the impact that using the well water has had on their personal health.

## JURISDICTION, VENUE AND PARTIES

17. This Court has exclusive general jurisdiction over this claim which exceeds \$25,000.

18. The Plaintiffs are residents of Prince William County Virginia. The Plaintiffs Daniel and Patty Marrow purchased the property 18303 Possum Point Road, Dumfries, Virginia on May 1, 1996. At all relevant times the Plaintiffs have resided at 18303 Possum Point Road, Dumfries, Virginia.

19. Defendants Virginia Electric and Power Company, d/b/a Dominion Virginia Power, Dominion Resources, Inc., Dominion Virginia Power, Virginia Power d/b/a Dominion Virginia Power, Dominion Generation and Dominion Energy (collectively "Dominion") are regulated public entities, providing among other things electric power, and are located in, or doing business in, the Commonwealth of Virginia and Prince William County.

20. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261 because the Plaintiffs reside in Prince William County, Virginia, and the Defendants regularly and systematically conduct affairs and substantial business activity in Prince William County, Virginia.

### COUNT I

(Trespass)

21. The Plaintiffs incorporate the preceding paragraphs as if they were fully restated herein.

22. The Plaintiffs were all relevant times in possession of land that they owned and occupied located at 18303 Possum Point Road, Dumfries Virginia.

23. The Defendant knew or should have known that placing multiple unlined coal ash ponds near a residential community that relied on well water would cause groundwater contamination that would then contaminate the nearby properties and potable wells.

24. The discharge, which Defendant knew or should have known was migrating into Plaintiffs' drinking water supply, property, and soil constitutes an actual and/or constructive trespass, because the discharge interfered with, continues to interfere with, and will interfere in the future with the Plaintiffs' interests in the exclusive possession of their land.

25. As a result of Defendant's misconduct, the Plaintiffs were forced to purchase a new primary water source.

26. Upon information and belief, Plaintiffs' real property and the neighborhood surrounding Plaintiffs' real property continues to be exposed to harm, and/or harmed as a consequence of migration of coal ash constituents through the groundwater.

27. The Defendant's conduct has resulted in an entry and intrusion onto Plaintiffs' property without privilege, permission, invitation, or justification.

28. Defendant's conduct directly and proximately caused Plaintiffs' injuries, including actual harm to his property and economic interests and injuries to his person.

**WHEREFORE**, the Plaintiff prays for relief as follows:

- a. An Order requiring the Defendant to pay all future costs and reimburse the Plaintiffs for costs incurred for connection public water and/or private water, including the cost of installation and maintenance of water filtration systems and continued water testing;
- b. An order for injunctive relief requiring the Defendant to properly maintain and restore the Power Station to prevent and further discharge of coal ash laden water into the groundwater;
- c. Compensatory damages in the amount of TWO MILLION DOLLARS (\$2,000,000.00) for economic losses as well as for past, present, and future

pain and suffering, inconvenience, reduction in quality of life, loss of use and enjoyment of his property, diminution of property value, reasonable medical expenses and medical monitoring;

- d. All costs, attorneys' fees and interest recoverable by law; and
- e. Such other and further relief as the Court deems appropriate.

## COUNT II

(Nuisance)

29. The Plaintiffs incorporate the preceding paragraphs as if they were fully restated herein.

30. At all times material hereto, the Plaintiffs were in lawful possession of their land. By their conduct, the Defendant has caused an unreasonable and continuous invasion of the area around and including Plaintiffs' property, soil and well, which has materially diminished the value of Plaintiffs' property and substantially interfered with his right to use and enjoy his property.

31. Defendant's storage of coal ash has caused contamination to the Plaintiffs' drinking water supply and property in a manner that is substantially offensive, discomforting, and annoying to persons of ordinary sensibilities, tastes, and habits. The Plaintiffs can no longer use their potable well for drinking, cooking or brushing their teeth. This damage will occur in the future until the source of the nuisance is removed in its entirety.

32. The Defendant's interference with Plaintiffs' rights has been so unusual and excessive that it necessarily caused and continues to cause injury, damage, harm, and inconvenience to the Plaintiffs. Plaintiffs' specific damages include, but are not limited to, reimbursement for connection to an alternate water supply for their personal use, the further diminution of their property value, and remediation costs attributable to the presence of coal ash contaminated water

on his property. The Plaintiffs as a result of the Defendant's conduct needed a new primary water source and require reimbursement by the Defendant of all costs associated with the creation, installation, and maintenance of alternative water sources.

33. The Defendant's conduct has resulted in an entry and intrusion, and the continued entry and intrusion, onto the property of Plaintiffs' without privilege, permission, invitation, or justification.

34. The Defendant's conduct directly and proximately caused and continues to cause Plaintiffs' injuries, including actual harm to their property and economic interests and injuries to their persons.

**WHEREFORE**, the Plaintiffs pray for relief as follows:

- a. An Order requiring the Defendant to pay all future costs and reimburse the Plaintiffs for costs incurred for connection public water and/or private water, including the cost of installation and maintenance of water filtration systems and continued water testing;
- b. An order for injunctive relief requiring the Defendant to properly maintain and restore the Power Station to prevent and further discharge of coal ash laden water into the groundwater;
- c. Compensatory damages in the amount of TWO MILLION DOLLARS (\$2,000,000.00) for economic losses as well as for past, present, and future pain and suffering, inconvenience, reduction in quality of life, loss of use and enjoyment of his property, diminution of property value, reasonable medical expenses and medical monitoring;
- d. All costs, attorneys' fees and interest recoverable by law; and



e. Such other and further relief as the Court deems appropriate.

**COUNT III**

(Negligence)

35. The Plaintiffs incorporate the proceeding paragraphs as if they were fully restated herein.

36. Defendant was and continues to be negligence in its storage of millions of gallons of coal ash in unlined pits near residential wells.

37. The Defendant knew or should have known that its conduct could and would cause substantial injury to the Plaintiffs and other area residents if coal ash migrated or was released into nearby groundwater contaminating the Plaintiffs' property and well.

38. The Defendant owed the Plaintiffs a duty of due care with regard to its storage, and management of its coal ash waste. The Defendant likewise owed the Plaintiffs a reasonable duty of due care with regard to maintaining and repairing the Power Station's coal ash storage system to prevent the migration of toxic coal ash onto the Plaintiffs' property.

39. The Defendant owed the Plaintiffs a duty of due care and with regard to communication of appropriate and accurate information regarding test results and remediation efforts once the existence of the discharge had belatedly been disclosed.

40. The Defendant had a specific duty to prevent the discharge and release of coal ash that might harm the persons, property, or economic interests of the Plaintiffs. The Defendant also had a specific duty to warn or notify the Plaintiffs of the potential hazards of exposure to coal ash and coal ash laden water and to warn or notify the Plaintiffs and government officials that discharges or releases of had occurred, or were likely to occur in the future and threaten the Plaintiffs.

41. The Defendant breached these duties by its negligent and reckless management and storage of coal ash and negligent and reckless reporting of the contamination. The Defendant's conduct resulted in the actual dangerous releases of coal ash contaminated water into the Plaintiffs' property and water supply. These actual and continued releases and discharges have subjected the Plaintiffs to unreasonable risks of harm, threats of future harm, and actual injuries to their property and persons.

42. The Defendant failed to warn the Plaintiffs of the actual and threatened releases of coal ash into the groundwater and of the reasonably foreseeable effects of such releases, an omission that was reckless, grossly negligent and/or negligent. The Defendant likewise failed to, and continue to fail to, act to prevent the release of coal ash from causing additional harm to the Plaintiffs.

43. The Defendant's negligence was a direct and proximate cause of injuries to the Plaintiffs causing both actual present harm to Plaintiffs' property and economic interests and creating an increased risk of personal harm to the Plaintiffs.

**WHEREFORE**, the Plaintiffs pray for relief as follows:

- a. An Order requiring the Defendants to pay all future costs and reimburse the Plaintiffs for costs incurred for connection public water and/or private water, including the cost of installation and maintenance of water filtration systems and continued water testing;
- b. An order for injunctive relief requiring the Defendants to properly maintain and restore the Power Station to prevent and further discharge of coal ash laden water into the groundwater;
- c. Compensatory damages in the amount of TWO MILLION DOLLARS (\$2,000,000.00) for economic losses as well as for past, present, and future

pain and suffering, inconvenience, reduction in quality of life, loss of use and enjoyment of his property, diminution of property value, reasonable medical expenses and medical monitoring;

- d. All costs, attorneys' fees and interest recoverable by law; and
- e. Such other and further relief as the Court deems appropriate.

A Jury trial is demanded.



---

Mark J. Favaloro, Esq. (VSB #77672)

Favaloro Law

295 Bendix Road, Suite 210

Virginia Beach, Virginia 23452

Telephone: (757) 390-4370

Facsimile: (888) 581-6129