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Harlem Groups File Suit To Fight Sewage Odors

By MICHAEL SPECTER

Embittered by what they see as years of indifference and questionable promises, a consortium of New York environmental groups, community organizations and Harlem residents will file suit against the city today, seeking to force an end to overpowering odors that have become the hallmark of the city's newest sewage plant on the Hudson River in Harlem.

The lawsuit, to be filed in State Supreme Court, marks the first time in the city's history that it has been sued for creating a nuisance caused by smells. A victory could force New York to spend as much as \$100 million in immediate repairs to the \$1.3 billion North River Sewage Treatment Plant and millions more in compensation for the severe "physical and psychological discomfort it has caused" residents in nearby Harlem neighborhoods.

Nobody seems to doubt that the discomfort has been real. Mayor David N. Dinkins, who spent 20 years fighting the plant, has said it was dumped on the minority community of western Harlem when richer, more politically powerful neighborhoods in Manhattan rejected it. Earlier this year, he promised to do all he could to correct the design flaws that cause the odors at the plant, which runs along the Hudson shore between 137th and 145th Streets.

But good intentions no longer mean much to the groups involved in the suit, which include the Natural Resources Defense Council, West Harlem Environmental Action, a local day-care center and many individuals living in the community. 'We Need Legal Commitment'

"We have just had all we can take," said Peggy M. Shepard, a Democratic district leader and a founder of West Harlem Environmental Action. The group was organized to battle the plant but quickly became committed to pointing out how often and unfairly environmental hazards end up in lower-income communities like hers. "Mayor Dinkins may mean what he says. But can you tell me where he is going to be in five years? We need legal commitment and the only way to get it is through the courts."

The suit says the odors, which often force residents to keep their windows shut on the hottest days of the year and prevent people from even trying to visit the nearby sections of Riverside Park, are a result of "intentional, unreasonable, negligent, reckless and abnormally dangerous siting, design, construction and operation of the plant."

The suit also points out that early studies, completed decades ago, suggested the best site for the plant was along the Hudson between 57th and 63d Streets; that the plant's 29 1/2-foot treatment tanks are the deepest such tanks in the United States, and that the design of the plant was pared down when the city decided not to spend the money it had intended to use to enclose the plant entirely.

It points to Federal and state laws that assure residents the right to breathe acceptably clean air and charges that in Harlem, those laws have been violated for many years.

"We are doing all that we can to resolve these problems," said Albert F. Appleton, the Environmental Protection Commissioner, who has frequently acknowledged the flaws in the plant and his desire to overcome them. "We have spent the last two years reaching out to that community. For a suit to name the Mayor -- who has opposed this plant so publicly -- and myself, seems a little silly. But we will do what I wish they had done before suing us: sit down and see what it is they are trying to accomplish." Inflamed by Development

The neighborhood's fury over the smells has intensified as a commercial and residential development planned for the Upper West Side by Donald J. Trump, Riverside South, moves through the city planning approval process. Although it is far from construction, the new neighborhood -- to be built between 59th and 72d Streets -- would put strong additional pressure on the capacity of the Harlem plant. Although capacity problems are not technically related to the odors, the western Harlem community has responded angrily to any suggestion that new development downtown could somehow occur without worsening the situation.

"A resolution of these issues should have an important effect on all sewage treatment issues in the city," said Eric A. Goldstein, the senior attorney at the Natural Resources Defense Council, who helped create the suit. "This plant and this neighborhood have not been a priority for the city. And that can no longer be acceptable behavior."

Most environmentalists -- including at the natural resources council -- say they support treatment plants in general as a way of improving the quality of the city's rivers and harbors. But the plants have become nearly impossible to place, because few residents are willing to live near them. The state of New York even agreed to construct a \$30 million park, now nearing completion, on top of the Harlem plant as a political sweetener to the neighborhood.

"It wasn't worth it," said Ms. Shepard. "Believe me, it wasn't worth it."