Judge's ruling may bump Keystone from Superfund list

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Silver Run plaintiff ponders possible appeal

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SILVER RUN — A federal court decision that found the Keystone Landfill did not cause water contamination at two neighboring homes could be used to remove the polluted landfill from the federal Superfund list, environmental officials said Tuesday night.

That news was the latest setback for Maryland and Pennsylvania residents who believe hazardous materials leaking from the landfill have contaminated their water supply and caused health problems in their families.

Marcia Brown, plaintiff in the lawsuit, said she still can't believe the decision, which says that contamination found on her Silver Run farm has nothing to do with the pollution problems at the adjacent 40-acre landfill. Brown said she and her husband are considering appealing the ruling.

U.S. District Court Judge Sylvia A. Rambo released her 85-page decision Friday.

Hal Yates, community relations spokesman for the U.S. Environmental Protection Agency (EPA), stressed Tuesday night there is no indication the recent court decision will be used to overturn the landfill's Superfund classification.

But similar lawsuits have produced such results at other Superfund sites, Yates said.

"We have had a number of sites where a site was basically delisted" after a lawsuit, he said. "That is a possibility" in this case.

Yates said his agency does not yet have a position on the judge's findings. EPA attorneys just received a copy of Rambo's ruling Tuesday afternoon, he said.

"Like everybody else, we've had any number of setbacks in court," Yates said.

In some cases, the agency has successfully appealed, he said.

Marcia Brown and her husband Tim brought suit against the land-

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From A1

fill and its owners, Kenneth and Anne Noel, in 1987. The Browns had operated a cow-calf operation on their farm next to the landfill. The couple believed — and alleged in their lawsuit — that their water was contaminated by metals and volatile organic compounds leaking from the landfill. The couple trucked water into their cattle for five years until 1990 when they moved to Littlestown, Pa.

The Browns just got a complete copy of the decision Tuesday afternoon. They remain surprised at the outcome of their lawsuit, Marcia Brown said.

"From a scientific standpoint, we just felt we presented all the facts we needed to, to prove the case," she said. "I've seen the leachate coming out of the ground. I've seen the places where the plants don't grow.

"And yet they still say it's not from the landfill."

Brown said the judge ruled on other legal facets of the case a few years back — something which may have hurt the final outcome.

"We had to go at this piecemeal. If we could have presented it all in one nice picture, it would have come out differently," she said.

Mike Morrill, aide to U.S. Sen. Barbara Mikulski, said he thinks the ruling will ultimately test how successful the Superfund cleanup process is.

Mikulski's office was the guiding force behind the formation of the Keystone Landfill Task Force last year. The group of local and state politicians, environmental and health officials — along with some neighboring residents — meets monthly to discuss Keystone cleanup with Yates and other EPA staffers.

"Will the community continue to be able to get a response from EPA given a court decision the citizens may disagree with?" Morrill said.

It's too early to tell.

But in Mikulski's eyes, the lawsuit is not a setback because her goal has been to get EPA officials to work with the community on its concerns, Morrill said.

Mikulski's staff will continue to monitor task force meetings to make sure that is being accomplished, Morrill said.

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