

Thomaston resident files new complaint against Dragon

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THOMASTON — Neighbors of Dragon Products have reinforced their court action against the cement plant, citing recent air sampling data released by the Maine Department of Environmental Protection.

On Feb. 1, Thomaston residents Stephen and Kathy Darney filed a new complaint against Dragon in Knox County Superior Court, saying dust and vibrations from cement plant operations have invaded the Darneys' property on Old County Road on a continuing basis, causing physical harm and property damage, and disturbing peace of mind.

"The earthquake-like vibrations and booming sounds shake their walls, glassware and light fixtures," wrote the Darneys' attorney, Peggy McGehee of the Portland firm Perkins, Thompson, Hinckley and Keddy. "The most recent blast was on Jan. 25, 2008, as to which Dragon gave the Darneys no notice."

The complaint said that the dust from the plant, including the quarry, the cement manufacturing facility, the waste piles and the roads, migrates off Dragon property to residential property, including that of the Darneys. The new data shows that the dust at the Darneys' property includes high levels of lime and silicon, said McGehee.

"I have not seen the complaint, so I can't comment on it," said Michael Kuhns, environmental manager at Dragon, on Monday.

Kuhns did say, however, that Dragon maintains a blasting notification list that anyone can get on simply by calling the company. Kuhns said three people/businesses are on the list, including the Darneys.

Kuhns said that records of the Jan. 25 blasting indicate that Dragon tried calling the Darneys for 15 minutes that day but their phone line was consistently busy.

This latest complaint follows a previous 2004 suit that had been filed by the Darneys in Knox County Superior Court. Last October, Judge Jeffrey Hjelm dismissed three of the suit's six counts - nuisance, strict liability and personal injury - leaving two remaining counts in the suit - trespass and injunction - to proceed to trial.

Trial is scheduled for March, however, McGehee said Monday that she has asked the court to consolidate the two cases. If the judge refuses, she will request that the recent DEP data showing that the dust at the Darneys' property is consistent with Dragon dust, plus a contractor's estimate of Darney property damage, be admitted as evidence.

McGehee said the Darneys obtained last fall, "expert testimony on the structural damage to their home and barn from Dragon's approaching blasting operations since Nov. 12, 2004, and the cost (in the range of \$80,000) to repair such damage."

Dragon mines and processes limestone from its quarry that lies between Old County Road and Route 1 in Thomaston, trucking the material through a tunnel that lies beneath the highway to the plant. According to Dragon, the Thomaston plant is the only cement manufacturing facility in New England.

Dragon is owned by Giant Cement of South Carolina, which in turn is owned by Spanish company Cementos Portland Valder-



Dragon Products quarries lime from its mining operation in Thomaston. IMAGE COURTESY OF RICHARD REMSEN

rivas. It has been converted to a limited liability company, as McGehee pointed out in the latest suit, subsequent to the 2004 Darney suit.

Dragon has been operating in Thomaston since 1928 and has grown in operation and size over the last decade. In 2004, the Maine State Chamber of Commerce bestowed its annual Maine Investor Award on Dragon, commending the company for its \$50 million plant modernization, which began in 2003 and included environmental improvements.

That same year, the grassroots Neighbors for a Safe Dragon began pressuring the state's environmental agency following a blast of fugitive dust from the plant's stack, and heightened its questioning of the DEP's slow processing of Dragon waste permits. That issue was resolved

last year when the state gave conditional approval to the company to close its two waste piles.

Kuhns said this week that the life expectancy of the Dragon mining pit is estimated to be more than 20 years.

But the Darneys maintain that the company continues to commit new acts of trespass, negligence and nuisance.

"The continuing noise, vibration and dust generated by Dragon's operations at the plant constitute a nuisance, and shows actual or implied malice toward the Darneys, being outrageous toward them," the complaint reads.

The Darneys have been building a record of evidence about Dragon operations for several years, filming, photographing and documenting operations at the plant, as well as at their Old County Road property, near Dragon's mining pit.

"The Darneys have worked for years on behalf of the community," said McGehee on Monday. "They want Dragon to stop the migrant dust and reduce the level of blasting. They are working to reduce the effect on the community and if we have damage, we will take care of it."

Steve Darney said he is concerned about the silica contained in the mined quartz, which has jagged edges that stick to the in-

side of the lungs.

"It's a very serious aspect of quarrying and cement manufacturing," he said. "They [Dragon] know what is going on is wrong. They have been evasive about the dust."

McGehee considers the DEP data important for the Dragon suit.

"I do feel a lot better from this because of the significant work of the DEP to get information," she said.

Richard Marriner, head of the DEP's air sampling division for Central Maine, said that the test data from mid-June through November indicated that total suspended particulates in the air occasionally exceeded the 24-hour nuisance levels set by state statute. Those higher levels were recorded once at the Darneys' property, but more often on Route 1 in Thomaston.

"Based upon the analyses we've done of the material, there are a number of possible parties who may have contributed to exceeding the nuisance standard," said Bryce Sproul, director of licensing and enforcement for the DEP's air bureau.

Roadwork was under way last summer on Route 1 with the Lowe's construction project and the rock crusher pit behind Midas.

"It was a fairly dusty town this past summer," said Marriner.

Marriner said seven samples of particulates collected during those nuisance incidents were analyzed for content and were found to contain pollen, spores, plant material, silica and limestone.

"Whether that comes from the quarry or the side of the road, I can't say," said Marriner.

McGehee said the goal remains as it was in 2004: to get Dragon to be a good neighbor.

"Dragon has to survey the damage that people have had and take care of it," she said. "This has flummoxed me. Why has this wealthy corporation never replaced a window?"

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— Stephen and Kathy Darneys' attorney, Peggy McGehee of the Portland firm Perkins, Thompson, Hinckley and Keddy.

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