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Lawsuit alleges poor cleanup of Blackwell smelter site has left some with high lead levels

By John David Sutter Staff Writer



BLACKWELL — Kim Jernigan believed the local rumors of cancer and early death. But she wasn't convinced they were connected to this northern Oklahoma town's former zinc smelter — not until she got a phone call in 2006.

On that morning, school officials told Jernigan, 35, that Kaylee, her then-5-year-old daughter, had tested for dangerous levels of lead in her blood — 3.5 times the amount the federal government says can be harmful, according to testing records.

"It's like a bullet in your head. What do you do?" she said of the news. "I feel trapped."

Jernigan is one of 7,000 people attorneys are seeking to represent in a class-action lawsuit filed Monday in Kay County against the smelter's current owner, Freeport-McMoRan Copper & Gold Inc., and six previous owners.

The lawsuit alleges the multinational mining company hid an environmental disaster from the people of Blackwell. Cleanup actions undertaken by the company and overseen by the state Department of Environmental Quality were "woefully inadequate and further jeopardized the safety and welfare of all individuals residing in Blackwell," the complaint alleges.

The smelter operated for 58 years, from 1916 to 1974, and at its peak employed nearly 900 people.

Attorneys from Nix, Patterson and Roach of Texas filed the lawsuit. They seek full remediation of the site, court-supervised medical monitoring for residents and compensation for damage to property values.

The lawsuit also asks that proceeds from a proposed groundwater treatment facility go to the cleanup, not to the company.

The lawsuit doesn't seek damages for personal injuries, like the ones claimed by Jernigan.

Some say lawsuit exaggerates

A spokesman for a defendant and an official from the state Environmental Quality Department each say the suit exaggerates risks in Blackwell.

Steve Lewis, spokesman for Phelps-Dodge, one of the smelter's previous owners, said there is "no evidence that there is any health risk whatsoever to the citizens of Blackwell."

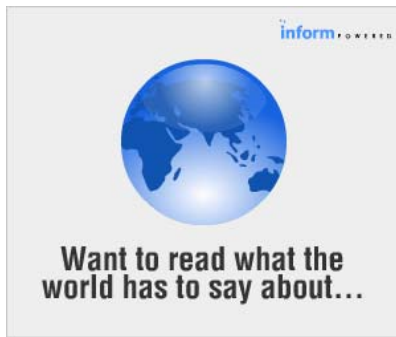
Scott Thompson, director of the land protection division at the Environmental Quality Department, said current cleanup efforts are ongoing and are adequate.

State environmental documents say the smelter appears to be the primary source of heavy metals — such as lead, zinc and arsenic — in the town. In the process of melting down zinc for use in metal products, the smelter spewed the toxic metals into the air. They fell onto the soil and made their way into the groundwater, which is not used for drinking.

How lead exposure harms children

Part of the discrepancy over the health risks is how they are measured.

Plaintiff attorneys said they conducted their own testing — and used different standards for what is considered dangerous.



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"One of three kids (in Blackwell) has a blood lead level higher than 5 micrograms per deciliter, and that's an indication that they're losing about five to seven IQ points — that's a pretty big deal," said Nelson Roach, one of the attorneys bringing the suit.

The Centers for Disease Control and Prevention say children are at risk if they have 10 micrograms of lead for every deciliter of blood. Roach said that standard is inadequate, as more current research shows any level of lead exposure is dangerous for children. Based on the CDC's safety levels, about 10 percent of Blackwell children are at risk for high blood-lead levels, Roach said.

Environmental Quality Department documents from 1996 show 3 percent of children in Blackwell suffer from elevated blood lead levels. Thompson, from the state Environmental Quality Department, said all state standards for pollution cleanup are adequate.

Thompson also said arsenic is found naturally in Oklahoma soil, so it would be difficult to tie high readings to the former smelter. Roach said attorneys have found contaminations many times the levels recommended by the U.S. Environmental Protection Agency.

**Blackwell residents respond**

Despite the fact the lawsuit seeks to represent all Blackwell residents, how locals feel about the issue is as complicated as the science behind the lawsuit.

Behind a house where Jernigan grew up is a field where Blackwell's smelter once stood.

At her current home, down the street, soil tests didn't warrant a cleanup. Kaylee's blood-lead levels have gone down since her blood was first tested. But Jernigan worries the exposure could have damaged her brain.

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