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## Freeport to pay \$54 million settlement

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Don Shandy, who represented the City of Blackwell as an environmental attorney, announces a partial settlement with Freeport of \$54 million.

Freeport McMoran has agreed to pay the city of Blackwell \$54 million to settle the Oct. 15 lawsuit dealing with pollution from the Blackwell Zinc smelter.

Speaking before a standing-room only crowd at City Hall Thursday night, Blackwell environmental attorney Don Shandy said the money will result in a net of \$36 million to the town after attorney fees and other costs.

“This sum will address soil, smelter material and, to some extent, the groundwater the city owns as well as leases or any soil on rights of ways or easements.”

When the dollar amount was announced there was a muffled gasp by the spectators.

Shandy said the lawsuit was, “the lynchpin that obviously encouraged both sides to come to the table and more intensely engage the issue.”

He was speaking following a 20-minute executive session that was called by the council at the opening of the special meeting. When that executive session was announced, some of the audience voiced discontent and even some profanity was heard.

“Consideration of this settlement is the culmination of months of work by lawyers on both sides and the result of individuals and the collective efforts of the city manager and council,” Shandy pointed out.

“This has been very difficult and the council provided a lot of wisdom. We have addressed some of the most complex issues I have seen in my 25 years of law practice. Blackwell provided some of the biggest challenges.”

Shandy said the key points to the settlement included:

Any soil excavated by the city that tests above contaminated levels will be disposed of at Freeport expense;

Groundwater collected in the plume area will be taken to the Freeport treatment plant expected to be operational in April;

Freeport will continue to have responsibility for conducting soil, groundwater and visible waste cleanup required by the Oklahoma Department of Environmental Quality. “Yard cleanup does not become responsible by the city,” Shandy said.’

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The current lawsuit filed by the city will be dismissed subject to the right for the city to renew it in groundwater claims.

"There are compelling reasons why we decided to carve out the groundwater issues," he added.

"We have had significant problems at the sewer plant because of infiltration of contaminated water into sewer lines when it hits the digester system." He went on to explain that repairs to that system have cost between \$200,000 and \$300,000.

"All groundwater claims related to the sewer lines and the plant have been reserved by the city of Blackwell until July 1, 2012 to determine if the Freeport program is successful. We can refile the lawsuit if it doesn't work."

Explaining the date, Shandy said there was a belief by attorneys working on the case that it would, "be difficult to get a jury convinced to give damages if the city doesn't give Freeport a chance to see if it works."

He went on to explain that, "stringent testing is going to be needed," to determine how successful treatment of the groundwater is going to be that leaves the Freeport facility to be dumped into the Chickaskia River.

"We are going to evaluate that during a two year period to see if the cadmium and zinc does not get into the system."

Shandy went on to say, "Freeport will continue to reimburse the city for certain groundwater costs. They have reimbursed the city over \$2 million in years past and we want to protect the city's interest going forward."

Just because the city settled with Freeport, Shandy pointed out this has no impact on other lawsuits. "Nothing in this settlement affects any citizen's right to pursue legal claims to property or injury," he said alluding to two other lawsuits currently in the court system.

"This settlement is a true blessing to the community as long as it is managed properly. It could benefit the community for many generations to come," said councilman Brad Bechtel. "I challenge this and future council and citizens to make this happen. Not many communities facing this situation have this opportunity."

Following the meeting, Freeport officials issued the following statement:

The legacy of the Blackwell Zinc Smelter is unique. It was a cornerstone of Blackwell industry and employment for 58 years before closing in 1974. Although Freeport-McMoRan never operated the smelter, the company is committed to working with the City of Blackwell and state and federal regulatory authorities to address historical environmental issues. Working closely with city officials, Freeport-McMoRan is implementing soil and groundwater remedies determined by the Oklahoma Department of Environmental Quality to be protective of human health and the environment.

As a result of constructive dialogue with City of Blackwell leaders, we have come to an agreeable framework for settling the City's claims related to historical smelter operations. This framework affirms that negotiations outside the courtroom, rather than protracted litigation, is in the mutual best interest of the Blackwell community and Freeport-McMoRan. We appreciate the spirit of cooperation that enabled us to resolve this matter, and we look forward to working with city leaders and residents as we devote our focus and attention to the completion of our soil and groundwater projects in Blackwell.

Almost 90% of all residential property owners in Blackwell are participating in Freeport -McMoRan's soil cleanup project, and we have completed approximately 70% of the scheduled cleanups of eligible residential properties. Our construction of the new groundwater collection and treatment system is also proceeding according to plan and is scheduled to be operational this summer. Both projects are being conducted pursuant to work plans approved by the Oklahoma Department of Environmental Quality.



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