



## THE PONCA CITY NEWS

PONCA CITY, OKLAHOMA

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### Public Hearing Held On Blackwell Lawsuit



By SHARON ROWEN

News Staff Writer

**BLACKWELL** — It was standing room only in the Kay Room Thursday night as over 200 hundred Blackwell residents turned out for a question and answer session with attorneys from the Nix Patterson and Roach law firm based in Texas.

The firm represents Bob Coffey, Loretta Corn, Larry Jones and Mary Ellen Jones in a suit filed against Freeport-McMoRan Copper and Gold; Phelps Dodge Cyprus Amax Minerals Co.; Blackwell Zinc Co.; and BNSF Railway Co., the current owners of the former smelter property in Blackwell.

Attorney Keith Langston reviewed the time line of the case which consists of what he calls 15 months of delays caused by Freeport-McMoRan.

The suit was filed in April of 2008 in Kay County.

Shortly after the case was moved to Federal Court in Oklahoma City on a motion filed by Freeport-McMoRan.

Six weeks later the Texas firm filed a motion to move the case back to Kay County.

On April 17, 2009, a six-hour hearing was held in Oklahoma City and 10 days later a judge agreed to send the case back to Kay County.

"Freeport then requested a stay of the case because they wanted to file appeal," said Langston. "They then asked for the case to be sent to 10th Court Circuit of Appeals in Denver, Colo."

On Aug. 18, a hearing was held in Denver and the circuit

court ruled to send the case back to Kay County.

Stillwater Judge Donald L. Worthington was assigned to the case on Sept. 16.

On Feb. 16 Worthington granted a motion to the defendants, throwing out a request for medical monitoring.

Langston said medical monitoring could determine if a citizen suffers from overexposure to lead contaminants at that they are appealing the judge's decision.

Langston said the two main points of the lawsuit is to force Freeport-McMoRan to meet specific standards when cleaning up the soil and to force the company to pay citizens for the devaluation of their property.

He said discovery in the case is under way and that he believes tens of thousands of documents will have to be reviewed along with hundreds of depositions.

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"A motion has to be filed on Sept. 10 with the court seeking class certification," said Langston. "If the judge certifies the class then all citizens become a part of the suit unless they sign paperwork declining to be a part of it."

Property owners located within five miles of the smelter site currently can be included.

Langston anticipates a mediation hearing on Dec. 1, a certification hearing by spring and trial by fall 2011.

Langston commented on the city's recent \$54 million settlement with Freeport-McMoRan.

"I have spoken to Don Shandy. I think his firm did a wonderful job for the city and city officials and the mayor did a good job getting what the city was owed and all residents should be happy," he said. "That money will be used to make improvements in the community."

That comment brought chuckles from the crowd and comments were made that city officials will pocket the money.

Langston pointed out that the city owns 493 acres in Blackwell and that 20,000 acres are owned by residents.

"The city got \$54 million for their 493 acres," said Langston. "Do the math. There is never an admission of liability in a settlement. Would you pay \$54 million if you did nothing wrong?" he asked.

Langston showed research figures that call Freeport the world's largest mining company and that it is worth \$32 billion. He showed a graph that shows the company's stock has gone up 300 percent in the last year and that Jim Bob Moffett, current chairman, made over \$284 million in 2008.

The crowd grumbled and then began to ask questions.

One lady said she moved to Blackwell four years ago with her autistic child not knowing about the contamination issues.

"How do I get out of here?" she asked.

Many citizens questioned how one part of their yard could be fine while the rest of it tests positive for contamination.

Langston told residents that the Blackwell Outreach Project has nothing to do with the community and called them a corporate polluter.

Others spoke of diseases they suffer from including rare cancers, blood diseases, organ diseases, learning disabilities and breathing issues.

One lady said her family bought her home in July and by September she was sick. "My yard is contaminated," she said.

Langston said these are the reasons why they are fighting to get medical monitoring back into the lawsuit.

Others complained that their properties have no value and can't be sold.

One family said their house has been on the market for two years and that they have had no inquires.

Others questioned water contamination.

Langston said it would be nearly impossible and very expensive to test every house in town, and that the purpose of the testing was to get an overview of the entire town. He added that drinking water was tested and that all of the tests showed no contamination.

Langston spoke of the groundwater contamination which is mostly cadmium.

"Some of you have been receiving letters offering \$1,000 settlement on groundwater. If you sign the release and take the money then that will hurt you in the class action suit," said Langston.

Another letter residents are receiving touches on picking up smelter debris from properties.

"If you want to allow them to clean this up that is fine, but I suggest you take pictures of the debris and date the photo and send the photos to us," said Langston.

One resident asked if Blackwell could become a Superfund site.

Langston said he didn't believe that would happen.

Dionne Horinek said she wants an unbiased opinion on the contamination issues claiming that the attorneys want contamination and Freeport does not want contamination.

Langston said he does not have a bias and that he came to Blackwell on a suspicion based on the history of the town. "I'm basing my statements on what constitutes contamination such as the EPA," he said.

A message was left with Candy Thomas, Blackwell Community Outreach Coordinator, for comment. As of press time the call had not been returned.

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