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PCB plaintiffs to decide action on dismissed suit

Lake Hartwell property owners who brought a $1 billion damage suit against Sangamo Electric Co. of Pickens and Monsanto Co. will meet next week to decide whether or not to press the case which was dismissed yesterday, their attorney, G. Ross Anderson said this morning.

There is a question of whether the suit will be pressed, Anderson said. "Sangamo has really cleaned up." With the reduction in PCB levels, he said, there may now be a serious question of Permanent damages to property owners. "So the question now becomes temporary damages," he added.

The suit charging damage to property value and businesses because of polychlorinated biphenyl (PCB) pollution in the lake was dismissed — in its present form — by a U.S. District Court judge in Greenville.

The dismissal was requested in a joint motion by Sangamo (now Sangamo Weston Inc.) and Monsanto — who have previously denied the property owner's damage claims — because the suit did not meet federal requirements for a class action.

Judge Robert Chapman ordered the suit dismissed because the federal court requires each member in a class action claim to have damages in excess of $10,000. According to attorney Anderson, many Lake Hartwell property owners involved in the suit claimed damage of less than $10,000.

The court order dismissed the property owners suit "without prejudice" to the rights of plaintiffs or "any members of the purported class or classes to institute such further action as they may deem advisable."

The court did not deal with the merit of the case, Anderson said. "All the order says is not everybody in there had damages in excess of $10,000 ... We tried to lump them all together and get one total, but the judge said no..."

The ruling will substantially reduce the number of plaintiffs and the size of the judgment sought, the attorney said. He gave no figure of that reduction, but said property owners who paid less than $10,000 for their lakeside real estate would be excluded from any new suit.

Anderson said the plaintiffs now have three alternative courses of action if they still want to sue: The action can be brought again in U.S. District Court, with a group of plaintiffs limited to those who can satisfy the jurisdictional requirements on dollars' worth of damages; a class-action suit could be brought in state Circuit Court in Pickens County; or the plaintiffs could bring suit individually in Circuit Court in Pickens County.

"Our clients will be coming in next week to say if the suit should still be pursued," Anderson said. The chances for success have not been impaired by the order, he added.

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