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Lawsuit Alleges Power-Plant Work Damaged Painters' Health
By Sandra Lowe

San Antonio, TX, US --

More than 200 people have sued several major companies involved with construction of the South Texas Project nuclear plant in Bay City and the Comanche Peak Steam Electric Station in Glen Rose.

The lawsuit, Ismael Iglesias et al. vs. Southern Imperial Coatings Corp. et al., alleges product liability, negligence and intentional injury to the workers who painted the facilities. The plaintiffs include family members of the painters.

The case was filed in Bexar County State District Court, and is the largest of 16 related lawsuits filed with the court.

Among the companies named are Houston Lighting & Power Co., which owns the plant along with City Public Service of San Antonio, Central Power & Light of Corpus Christi and the city of Austin; Contractors Brown & Root Inc. of Houston, Ebasco Services Inc., New York, and H.B. Zachry Co., San Antonio; Exxon Corp.; Dow Chemical Co.; vendors such as Southern Imperial Coatings Co.; and others.

Houston Lighting & Power is now the managing partner for the South Texas Project. CPS, which owns 28 percent of the plant, and the other two owners likely would have to share in any damage award if the court rules the defendants are liable, according to R. Laurence Macon, an attorney for the Houston utility.

The lawsuit claims that the power company failed to provide a safe work environment.

Brown & Root and Ebasco Services were contractors for the South Texas plant. San Antonio-based H.B. Zachry and Brown & Root were contractors for the Comanche Peak plant.

The 16 related lawsuits involve approximately 2,500 plaintiffs, more than 95 percent of whom are Hispanic. The cases have been consolidated by District Court Judge Rose Spector for discovery

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PLAINTIFF'S
EXHIBIT
B&R-128

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purposes.

Before this week's filing, 443 of the plaintiffs in the related cases had worked at the Comanche Peak plant, 354 worked at the South Texas plant, and 97 worked at both.

Judge Spector had set a cutoff date of last Wednesday for the filing of any more cases to be consolidated with the original 1989 case.

David Liebowitz, an attorney with Liebowitz and Yanta of San Antonio, represents the plaintiffs in all of the suits. He alleges that his clients used industrial paints where the containers were not properly labeled, including paint that contained asbestos.

Many of the labels that he claims should have been on the containers warn of brain and central nervous system damage, respiratory impairments, reproductive disorders, internal organ damage, and death.

"This is scary stuff," he says. "This is not Kool-Aid."

Indeed, Liebowitz claims that some of his clients, at age 35, have symptoms of Alzheimer's disease. Some of the plaintiffs reside in San Antonio, but would travel to their construction jobs and live outside the city for the work week.

Liebowitz alleges that his clients include the families of five men who have died from injuries that resulted at the plants.

But attorney Macon discounts a large percentage of the complaints, and disavows any connection between the complaints and power plants. "There are a few people that have serious health problems," he says. "We don't think it's as a result of the (actions of the) defendants."

Macon contends that if the population is examined as a whole, the death rate is no higher than it is for others who work in the painting industry. And he contends that many of the plaintiffs had been painting before they worked at the power plants.

Though none of the attorneys representing the contractors would comment for the story, Macon argues that the containers were always labeled and that workers were given protective gear.

"There's no question we followed the law," he says.

In fact, he contends that even before the Hazardous Communications Act went into effect in the mid-1980s, the company was providing all the available documentation for the employees on

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Macon contends that in depositions, some of the plaintiffs have admitted that they did not wear respirators even though they were made available.

One plaintiff, Sam Keiling, admits that's true. The Palacios resident worked at the South Texas Nuclear Project from 1977 to 1985 under both Brown & Root and Ebasco, which took over the construction contract in the early 1980s.

Keiling says that workers were given respirators, but management put little emphasis on the importance of wearing them.

"If not enough emphasis is placed on something, people tend to ignore it, Keiling says. "I'm afraid I've done the same thing."

Workers at the plant contend that the respirators were uncomfortable and smelled bad. The respirators' cartridges were difficult to clean, and filled up with particles quickly. Therefore, workers would remove the devices in an effort to improve their breathing.

Raul Villareal, another plaintiff now living in Palacios, contends that there were few respirator cartridges to go around.

And only in the later part of the 1980s were wash areas provided, Villareal asserts. Workers would clean the paint from hands with paint thinner and then eat lunch.

Keiling also says that while the paint containers shipped to the plant may have been labeled, the containers they were placed in after being mixed were not. Workers, therefore, were not aware of the hazards.

And Villareal contends that he frequently translated for Spanish-speaking workers when management outlined procedures because no written materials were provided in Spanish.

Meanwhile, Liebowitz alleges that although the workers have similar symptoms, few other similarities exist among them other than having worked at the plants.

He contends that half of the workers are receiving workers' compensation benefits from Brown & Root's insurance carrier. "That's why Highlands (Insurance Co.) is paying 500 people weekly compensation, for something that's not right," says Liebowitz. Highlands and Brown & Root are owned by the same parent company, Haliburton Corp. of Dallas.

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Liebowitz is trying to get workers' compensation benefits for other workers involved in the suit. In fact, an official with the Texas Workers Compensation Commission says that the board is now setting up a medical panel in an attempt to review the cases more quickly.

But workers' compensation insurance agents and attorneys caution that the fact that the employers carried workers' compensation--and the workers are receiving it--could make it difficult for the plaintiffs to win their case against the contractors.

Pam Beachley, executive director and general counsel for the Texas Association of Compensation Consumers, says workers' compensation protects the employer from further liability, except in the case of gross negligence involving a death and an intentional act. "The employer would have to have intended to harm the employee," she says.

Macon, who does not represent any of the employers, contends that will be difficult to prove.

But Liebowitz thinks differently. And so do his clients.

Linda Porter, an Argyle resident who worked at the Comanche Peak nuclear plant, alleges that **Brown & Root** management retaliated against her personally shortly after she learned that some paints allegedly contained **asbestos** and silica.

Since working at the plant, she says she has had one tumor removed from her voice box and continually has headaches, dizziness and diarrhea. "I'm sick when I get up in the morning. I'm sick when I go to bed at night."

Liebowitz argues that the families of the workers are entitled to compensation from the employers as well as the chemical companies, regardless of workers' compensation benefits they receive because they have lost their earning potential.

"When you've been making \$15 an hour getting, \$238 a week just doesn't cut it," he says.

----- INDEX REFERENCES -----

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