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Weiss Lake suit nearer court

By DENNIS LOVE
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BIRMINGHAM — Currently weathering a barrage of legal maneuvers, a class action suit against General Electric Co. (GE) and Monsanto Corp. regarding pollution in Weiss Lake near Centre is inching its way toward the courtroom.

A spokesman in the clerk's office of the U.S. District Court in Birmingham says the suit may be, in actuality, only one step away from the "pretrial" portion of the proceedings, where U.S. Dist. Court Judge James H. Hancock will attempt to ready the case for a courtroom setting.

The suit, a class action seeking more than $1 billion in damages, was filed in late December by 21 persons, most of them Cherokee countians. The plaintiffs say the discharge of polychlorinated hyphenyls (PCBs) into the Coosa River — from which feeds into Weiss Lake — by a GE plant near Rome, Ga., adversely affected their ability to make a living. In laboratory tests, PCBs have been found to cause cancer in rats.

Around the time the suit was filed, lakefront businesses around the Weiss lakefront reported activity at a virtual standstill and blamed it on the PCB controversy. But during recent weeks both fishing and business on the lakefront seem to have picked up.

The suit, which asks perhaps the largest damages of any suit yet filed in Alabama history, also names Monsanto as a defendant. Monsanto is the firm which manufactured and sold the PCBs to GE.

In addition, Hancock has allowed the State of Alabama to intervene in the suit as a plaintiff. In his motion to intervene, Atty. Gen. Bill Baxley has asked compensatory damages of $1 million for the state plus $100,000 in punitive damages.

The clerk's office spokesman says apparently all that is needed for the suit to enter the pretrial stage is a reply from Monsanto's attorneys to an amended complaint filed by the plaintiffs April 22.

In that amended complaint, the plaintiffs defend their suit's class action status by listing all those persons allegedly affected by the PCB discharge. Both defendants are required to respond to the amended charges, but Monsanto has yet to do so, according to the spokesman. The final day to file a response was Thursday, but the spokesman says it is not infrequent for defendants to file late in big-money suits such as this one.

When the proceedings reach the pretrial stage, the spokesman says Hancock will officially recognize attorneys for both sides, specify the charges made, and otherwise "tie up all the loose ends" before the suit goes to court.

After pretrial is completed, courtroom proceedings will probably begin in one to two months, according to the spokesman.

Attempts are still being made by the plaintiffs to have the suit transferred to federal court in Atlanta, where a similar class action — asking another $500 million — has been filed by Georgia citizens against GE and Monsanto. A previous request for transferral was denied by Hancock.

The events leading to the lawsuit began in . . . September, when fish samples taken from Weiss Lake indicated concentrations of PCBs higher than the U.S. Food and Drug Administration's limit of five parts per million.