

Los Angeles Times January 9, 2003

### ***Newhall Land, Oil Firms in Court Over Cleanup***

While seeking approval for the largest subdivision in Los Angeles County, developer Newhall Land & Farming Co. has also been waging a court battle to force two oil companies to clean up "severe and extensive" oil contamination spreading under the property.

The developer estimates the cleanup could cost tens of millions of dollars, according to court records. In the suit, filed in 2001 in Los Angeles Superior Court, Newhall Land accuses Kerr-McGee Corp. and Medallion California Properties Co. of breaking promises to clean oil-contaminated soil on land slated to be part of Newhall Ranch, the proposed 21,600-home subdivision in the Santa Clarita Valley that county supervisors will consider for approval Jan. 28.

Soil contaminated by oil is capable of generating methane gas and other toxic vapors, according to documents filed by the developer with the county in 1996.

The contamination is dotted across 1,300 acres where the company is considering building homes and commercial space, Newhall Land spokeswoman Marlee Lauffer said.

But in documents, the developer maintained any oil contamination on the property could be cleaned to a level that is "safe for development."

"It can be cleaned up," Lauffer said. "It's just a matter of [the oil companies] paying for it."

Oil companies have been pumping crude on the property under a lease agreement with Newhall Land since the mid-1930s. Although the oil company that signed the 1935 lease had a different name, Newhall Land alleges it is essentially Kerr-McGee. In 1990, that company signed the lease over to Medallion.

Newhall Land contends Kerr-McGee officials broke numerous promises to clean up the soil. Now, Newhall Land is holding both companies responsible for returning the land to a "clean and safe" condition, as stipulated in the 1935 agreement. Rich Levy, an attorney for Kerr-McGee, said his client has already cleaned its share of the property. A trial date is set for May 12.

The Denver Post April 13, 2003

### ***Ex-worker says firm dumped chemicals***

In a Denver neighborhood where 900 property owners say toxic vapors seep from the ground below their homes, there are new revelations that a company based there may have dumped chemical waste for years.

The homeowners contend that the chemical releases and leaks by two companies, Brown Retail Group and Redfield Rifle Scopes Inc., have damaged the use and resale of their property and subjected them to potential health risks.

The closely watched lawsuit is scheduled to go to trial Thursday.

Until last week, there had never been allegations of outright dumping of toxic chemicals at the 10.5-acre site at 5800 E. Jewell Ave.

But on Friday, Denver District Judge Herbert Stern, who will preside over the trial, said in an interview with a former employee from Brown - done several years ago but just disclosed to him - indicated that solvents may have been dumped there purposely for years.

'A lot of solvent got dumped on the ground in this area,' Stern quoted the employee as saying. 'He says dumping was a pretty common practice and went on for a number of years, certainly months.'

The employee said he and a colleague disposed of the solvent on orders from a supervisor.

Stern said the revelation was shocking.

'I can't describe the information as anything less than explosive,' he said. 'I have to tell you that when I read this, there was more than one expletive deleted that came out of my mouth.'

Brown has consistently denied that dumping took place there.

But the employee said the practice was 'pretty common knowledge' among the workers at the plant, Stern said.

After reading the witness report, the judge ordered the attorneys for Brown to turn over all witness interviews to lawyers for the residents and lawyers for the companies by 5 p.m. Saturday.

The plaintiffs - 900 residential property owners and more than 100 nonowner residents - aren't seeking damages for health injuries even though they are concerned that health risks exist.

But they do claim damages based on the stigma that has resulted from the alleged contamination of their soil, groundwater and air on their properties and surrounding neighborhoods.

Specifically, they say that chlorinated solvents and other toxic chemicals used at the Redfield site that seeped into the ground dissolved into the groundwater. That caused a plume of toxic chemicals that migrated from the site under the neighborhoods, they say.

As a result, they claim in the suit, the value of their homes has been affected, they've suffered loss of use and enjoyment of property and annoyance and discomfort.

Brown has repeatedly emphasized that its experts believe residents are not being exposed to health risks.

'No human health effects have ever been observed at the concentration levels measured in the homes near the site,' wrote Dr. Scott Phillips, a physician with Toxicology Associates in Denver, on Brown's website.

Problems with the Redfield site were the subject of a Denver Post investigative series in December 2000.

The area affected is bounded by Cherry Creek on the north; East Evans Avenue on the south; South Monaco Parkway on the east and South Holly Street on the west.

From 1967 through 1998, rifle scopes and binoculars were manufactured at the plant by various companies using the Redfield name.

At one point, 160 workers made 125,000 high-quality rifle scopes a year in the 80,000 square-foot facility. Redfield operated on the site between 1984 and 1998.

On Friday, Stern noted that a jury has already been selected for the civil trial, but given the statements about the dumping, a trial delay is now possible.

Stern also said he wants to talk to former Brown employee Ben Noland, who revealed the alleged dumping.

According to motions filed last week by Kevin Hannon, lawyer for the southeast residents, and Karen Wheeler, representing Redfield Rifle Scopes, Noland told investigators for Brown in November 1998 that he personally dumped chemicals in the east field of the Redfield site.

Attorney Karen Wheeler, representing Redfield, noted in a motion that when her office first contacted Noland, he said he wasn't aware of any dumping. But when he was confronted with a map from the Brown Group files, "he gave a detailed account of the dumping that had occurred," Wheeler said.

The Denver Post April 20, 2003

### ***Dumping charges dismay residents Neighborhood stunned that plant may have intentionally polluted***

Newly disclosed allegations that workers for years dumped barrels of chemical waste at a rifle-scope plant in southeast Denver have stunned residents and regulators, reopening painful wounds in a neighborhood long plagued by toxic fumes.

On Friday, Colorado's top hazardous-waste official said the owners of the shuttered Redfield factory may have broken the law by not telling the state about three workers' claims that hazardous chemicals were routinely dumped at the site.

'They certainly had an obligation to inform us of any information that could have focused on the nature of the contamination,' said Howard Roitman, chief of the Colorado Department of Public Health and Environment's hazardous-waste section. 'We need better information about what they knew when.'

For years, regulators say, chemical wastes have seeped beneath the factory at 5800 E. Jewell Ave., creating a 'plume' of solvent-contaminated groundwater that spread into the surrounding neighborhood. The tainted water, they say, filled basements with chemical vapors - in some cases, more than 100 times stronger than levels regulators regard as safe.

Officials of Brown Retail Group Inc. and Redfield Rifle Scopes Inc. maintain that contamination of the 10.5-acre property was the result of inadvertent leaks of chemicals used in manufacturing.

Now the health department plans to ask the company for more details on the dumping allegations. Homeowners, meanwhile, say they are shocked about the newly revealed reports of widespread dumping on the site in the late 1970s and early 1980s.

Former neighborhood resident Alexander Jackson lived with his family directly above the center of the pollution plume from 1981 until 1988.

In 1987, his 34-year-old wife, Susie, died of lymphoma. There was no history of cancer in her family, Jackson said, adding that his wife was a nonsmoker, rarely drank, and was in excellent health.

Brokenhearted, the family moved away. It wasn't until 2001 that Jackson learned they'd been living above a toxic plume.

'Systematically dumping large drums of toxic solvents and chemicals into the earth in the beautiful residential neighborhood where we were raising our family is an atrocious act,' Jackson said.

'My children have been raised without a mother. I believe the pollution was the cause of the lymphoma that took Susie's life.'

The Environmental Protection Agency classifies the chemicals found in the plume, including dichloroethene, or DCE, and trichloroethene, or TCE, as possible carcinogens. Last year, the state health department published two studies that concluded - so far, at least - that cancer incidences and birth defects in the southeast Denver neighborhood are no higher than elsewhere in Denver.

In the week since the dumping allegations came to light, the Denver district judge presiding over a lawsuit filed by nearby residents has begun a sanctions hearing against Brown Retail Group, the plant's owner. And a lawyer for Redfield Rifle Scopes Inc., which once operated the plant and is a co-defendant in the case, wants the judge to let her question Colorado Solicitor General Alan Gilbert.

Gilbert once represented Brown and in 1998 was given a memo describing an interview with former degreasing department employee Ben Noland, who told an investigator working for Brown's lawyers that he participated in dumping, court records show.

The interview was conducted just months after the state issued an emergency order requiring Brown to install ventilation systems in the basements of dozens of homes.

Gilbert said last week that he and Brown had acknowledged that pollution existed and quickly took steps to clean it up. 'They (Brown) had a choice: They could either have stonewalled it, said, 'Forget it. It is not us,' Gilbert said. 'But they did the opposite. They decided we ought to take care of this.'

Among other things, Brown installed monitoring wells on the factory site, built a groundwater wall and installed air-ventilation systems in homes around the neighborhood.

Nonetheless, Roitman of the state health department's hazardous-waste section expressed concern about the just-disclosed allegations of long-term dumping at the site.

'The earlier we had the information, the faster we would have been able to move,' Roitman said. 'Maybe the plume wouldn't have gone so far, or levels in the plume could have been reduced sooner.'

One former Justice Department lawyer said the disclosure of the dumping allegations raises serious issues for Brown and its attorneys.

'If you know of someone who is dumping illegally and creating a hazard, you are supposed to tell authorities about it,' said Anthony Roisman, a former hazardous-waste enforcement attorney in the U.S. Department of Justice. 'If a company lawyer becomes aware that this happened and doesn't report it, he becomes part of the conspiracy.'

The company's efforts to pump polluted air out of basements worked - most of the time. But Wendy Wetherhill's house was a 'two-piper.'

Tests of Wetherhill's South Kearney Street home showed levels of DCE measured at 87 parts per million - more than 170 times higher than the state standard of 0.49 ppm.

The first \$ 1,200 ventilation system Brown paid to have installed at Wetherhill's house proved unable to lower the concentration of fumes to safe levels.

'They said, 'Perhaps we need to dig deeper,' the Denver schools employee recalled. 'They did that. They came back to test, and the readings were still too high. So they put in a second vent pipe.'

When Keith Puckett and his family moved into their South Kearney Street home just a few blocks from the plant, state regulators knew about the Redfield plume but were unaware of the extent of the contamination problem.

When Brown first tested Puckett's house for DCE, the reading was 13 parts per million - 27 times the state standard. The air pump the company installed, which still whirs in Puckett's garage, lowered vapor levels to 0.11 ppm.

But Puckett, who has three school-age children and sells health insurance from an office in his basement, said he's still uneasy.

'The biggest concern I have is for my family,' he said, pointing toward the ventilation pipe that rises from his laundry room. 'I work down there. My kids play there.'

Puckett also worries that stigma over the pollution lurking below could drive down the sales price of his home. He doesn't think he would have any trouble selling his house, but had he known what he does now, he would be living somewhere else.

'All other things being equal, I wouldn't have bought here,' he said.

It's the issue of property values, rather than health risks, that lies at the center of the class-action lawsuit filed against Brown and Redfield in March 2000.

A trial in the matter was scheduled to start last week. But the judge in the case, Herbert Stern, said he wants to take more time so that the dumping allegations can be fully explored.

The reports of dumping include a January 2000 interview by investigators working for Brown's lawyers with Albert Losasso, a former company employee who, like Noland, worked in the degreasing department. Losasso told a company attorney he regularly dumped drums containing smelly chemicals on the ground outside the building.

Losasso added that if Redfield maintenance department employees who worked during the 1970s said they didn't know anything about the dumping, 'they'd be full of B.S.,' though he expected 'many guys will shy away from this.'

'To be real honest with you, you're in a lot of trouble,' he told the attorney.

In March 2003, an investigator for the Brown legal team interviewed Lloyd Walker, a supervisor of the screw machines department. Walker said Lou Collaiannia, who ran the degreasing department, ordered employees to dump spent TCE on the east side of the building approximately once every two to three weeks.

Walker said he thought it was wrong to dump the TCE and told Collaiannia so. 'Collaiannia told him to mind his own business, which he did,' the affidavit reads.

All three of the employees' statements, Brown lawyers say, are protected from disclosure by rules that allow attorney-client work product to remain confidential.

In court filings, Brown's lawyer, Bob Lawrence, said the company had no reason to believe Noland.

Lawrence said that Collaiannia, who died several years ago, said in interviews in 1985 and 1988 that used wastes were hauled away from the rifle-scope factory. Lawrence also said that two of Collaiannia's employees, Rob Bernacchi and Ken Brott, said the chemicals were placed in drums and hauled away.

In fact, Lawrence said, Bernacchi and another employee, Roger Geer, said no dumping took place at Redfield and that any person making such a claim would be a 'liar.'

Lawrence added that the statements of intentional dumping by some former employees simply didn't square with the facts obtained through site inspections and the statements of other employees.

Lawrence also denied that Brown or its lawyers engaged in a 'coverup.'

Business Wire July 15, 2003

***U.S. Army Corps of Engineers to Conduct Further Tests at New Jersey Day Care Center***

The U.S. Army Corps of Engineers announced today it will conduct further tests for Volatile Organic Compounds (VOCs) at buildings 151 and 165 at the former Raritan Arsenal, Edison, NJ.

Tests of contaminated groundwater, whose plume migrated beneath these buildings, reveals a potential pathway for vapors from VOCs to pose a hazard to individuals in these buildings. Air sampling performed in building 151 confirmed low concentrations of VOCs in the indoor air. Samplings at building 165 are inconclusive.

Tenants in building 165 include the Peppermint Tree Nursery (day care center), Rockwell Automation, AMAX Engineering, The Home News and Tribune, Celsis International, and Mackay Communications. WorldPac Corp. occupies building 151.

According to Col. John B. O'Dowd, New York District Engineer for the Corps, "Further testing is warranted based on our preliminary findings. Of particular concern is the welfare of children in the day care center in building 165. As part of the additional investigation, the Corps will determine a method to remediate any problems that might exist. If the property owner agrees, the Corps will begin its pilot tests at the day care center to ensure that children are not exposed to any hazards."

Further investigation of the VOCs in the indoor air is required to determine the source of the VOCs, evaluate vapor intrusion pathways, evaluate the potential hazard to human health, and determine appropriate remedial measures. This investigation will include soil, air, and groundwater sampling in and around the buildings.

Press & Sun-Bulletin August 15, 2003

***THE ENDICOTT SPILLS - Solvent in hundreds of locations;  
Brockovich calls levels of TCE 'very concerning'***

ENDICOTT -- A law firm's investigation into claims related to pollution from IBM Corp. has revealed that residents have been exposed to harmful amounts of TCE, an industrial solvent that has found its way into hundreds of properties, according to environmental advocate Erin Brockovich.

"The results of our investigation thus far are very concerning," Brockovich said Thursday. "The levels found in some of these homes for TCE (trichloroethylene) are thousands of times higher than the target level set by the EPA for cancer risks."

IBM spokesman Todd Martin declined to comment on the claims being made against the company.

"We would refer to the Department of Health," he said. "That's where we take our lead."

Health officials from the state and county said there is no evidence the pollution causes acute health problems, but they are unsure of the effects on people exposed to it for years or decades.

Brockovich is part of a legal team pursuing claims against IBM Corp. related to pollution that has affected hundreds of properties in Endicott and Union. The team includes lawyers from Faraci & Lange, a Rochester firm that specializes in environmental issues; and Masry & Vititoe, a California firm where Brockovich works as director of research.

Brockovich is scheduled to meet with residents at 2 p.m. Sunday in the auditorium of Union-Endicott High School. She will be accompanied by attorneys Edward Masry of Masry & Vititoe and Stephen Schwarz of Faraci & Lang.

Lawyers will be seeking damages related to past, present and potential future health problems they say are related to the pollution. They will also seek damages related to the loss of property values.

"Some residents are suffering from health problems that have been associated with exposure to these ... chemicals," Schwarz said.

He cited a document from the Environmental Protection Agency titled the Draft Guidance for Evaluating Vapor Intrusion to Indoor Pathways from Ground Water and Soils. According to a standard set in that document, he said, people chronically exposed to levels of trichloroethylene similar to those found in Endicott homes have significantly increased risks of developing cancer.

"We're ready to proceed," he said. "We have to find out who is ready to proceed with us. Before we start, we have to make sure everybody who wants to is involved. We don't want to start piecemeal."

About 100 people have signed retainers with the firm, he said. The meeting Sunday will offer more people a chance to learn about the case and join.

The Brockovich team has competition from a second collection of legal experts, coordinated by Levene Gouldin & Thompson of Vestal.

Competing firms offer choices for residents, Schwarz said. But competition can make it more difficult for lawyers because costs involved with litigating cases are duplicated.

"I don't think it (competing firms) is ideal, but as a practical matter, that's the way it might be," he said. "Competition is the American way."

Betty Havel, a 15-year resident of Arthur Avenue and member of a citizens group organized to deal with the pollution, is among those who have hired the Brockovich firm to represent her. She is seeking damages related to loss of property value from her home, which was built by her husband's grandfather. She is also seeking compensation for expenses possibly related to health problems in the future associated with past exposure to the chemicals.

Havel, a founding member of Citizens Acting to Restore Endicott's Environment, said she found the Brockovich team to be responsive, and its "casual atmosphere" comforting.

"You can talk to them," she said. "There is always somebody available to answer your questions."

The Denver Post September 12, 2003

***Redfield factory pollution trial begins 2,000 residents,  
landowners ask \$ 281 million***

About 2,000 southeast Denver residents and property owners should be paid nearly \$ 281 million because of a 'sea of toxic chemicals' that flowed under their homes from the old Redfield Rifle Scopes factory, their lawyer told a state district court jury in Denver on Thursday.

Lawyer Kevin Hannon, representing the residents, said the chemicals came from plant spills and leaks and deliberate dumping by employees, who made thousands of rifle scopes at the plant until it closed in August 1998.

Hannon said the plume of toxic chemicals - extending more than 2 miles - consists of cleaning solvents that employees of Brown Group Retail and Redfield Rifle Scopes Inc. used in the manufacture of the scopes.

Hannon's statements came on the first day of a scheduled eight- week trial.

Hannon claimed that for years, Brown, which bought the property in 1979 and still owns it, knew about the problem but only made 'cosmetic responses' to it, never warning neighbors and the state until much later.

Hannon said that the plume of solvent-contaminated groundwater spread under the neighborhood. From the tainted water, vapors spread upward into basements, he said. In some homes, he claimed, the vapors were more than 100 times stronger than levels regulators regard as safe.

But lawyers for Brown and Redfield said the allegations are not true - that Redfield and Brown had little to do with any contamination, the great majority of it coming from a nearby Colorado Department of Transportation facility.

Tom Johnson, Brown's attorney, said the chemicals had the same ingredients as household cleaners and caused no injuries, illnesses or property damage.

Johnson denied any foot-dragging by Brown and said that Brown has already spent \$ 10 million, and will spend another \$ 2 million, to clean the water and vapors.

More than 15 million gallons of water have been treated by a specially built plant, and ventilation systems have been installed in affected homes, he said.

And he denied that dumping took place.

The Redfield plant, built to look like a school to blend in with the Cook Park neighborhood, sits on a 10.5-acre site at 5800 E. Jewell Ave.

Hannon said that Brown's experts have characterized the area as 'the largest toxic gas contamination in the United States.'

After buying the property in 1979, Brown operated the rifle scope factory for five years before leasing it in 1984 to Redfield Rifle Scopes, which continued to manufacture scopes until 1998.

Hannon said the breakdown of the \$ 281 million sought by residents includes:

\$ 13,264,000 for an aggressive cleanup.

\$ 67,679,000 for loss of property value.

\$ 100,000 per person for the loss of enjoyment of the property by each of 2,000 people involved.

Hannon said the residents also should be awarded punitive damages - an amount awarded when a defendant acts with recklessness, malice or deceit.

Punitive damages would be appropriate because Brown purposely delayed investigation of the pollution contamination and hid the contamination after it was discovered, Hannon alleged.

Karen Wheeler, an attorney for Redfield, said that Redfield employees handled the solvents at the site with extreme care and weren't the cause of the pollution.

The Philadelphia Inquirer SEPTEMBER 24, 2003

***Bitter, seeking answers; A gas plume under Hazleton has residents at odds with the EPA over whether their houses are safe.***

HAZLETON, Pa. -When John and Laura Pauline built their house here in 1991, they picked the lot right next to the baseball field so they could watch their grandchildren play. They didn't know that a 50,000-gallon river of gasoline ran beneath the field, filling the tunnels of an abandoned coal mine and sending fumes seeping into their basement.

Now Laura, 80, has cancer, which the Paulines blame on the vapors. Their house is worthless. And they want the government they accuse of selling them out to buy them out.

"I'm very bitter," she said. "We never would have moved down there if we had known. I wouldn't have gotten sick. . . . I don't want money. Money means nothing to me. I just want my health back, and that I can't get."

The Paulines are among residents of more than 350 houses in the Laurel Gardens neighborhood who have lived with the gasoline plume, one of the largest spills ever in Pennsylvania, for more than a decade.

Monday, they presented U.S. Sen. Arlen Specter (R., Pa.) with a petition signed by 250 residents, asking for an investigation into the handling of the cleanup at the Luzerne County site. Specter cannot personally authorize relocation of the residents but hopes to find a resolution, a spokesman said.

(An earlier review of the U.S. Environmental Protection Agency's actions, conducted by its own inspector general in 2001, concluded that the primary failing was a lack of communication between the agency and the residents.)

The townspeople liken their community's plight to that of Centralia, the Pennsylvania town whose residents were relocated by the federal government at a cost of \$42 million because of an underground coal fire that has burned since 1962.

State and federal officials say there will be no buyout and no relocation from Laurel Gardens. In 2001, the EPA cleaned up the site, replacing sewers, removing tons of contaminated soil, and installing hundreds of vents to remove the toxic vapors.

"Clearly, they're not upset over nothing," said Steve Jarvela, the EPA coordinator for the spill cleanup. "But from my perspective, the homes are not contaminated. While they may have been in the past, there is no current or future exposure from the site."

Leaking underground storage tanks are a big problem throughout Pennsylvania. There have been more than 12,450 spills since the state started keeping records in 1989. Since gasoline stations were required to upgrade all underground storage tanks in 1998, spills have dropped from 1,100 a year to about 400 last year, said Charles Swokel, chief of the

storage-tanks and hazardous-site corrective-action section of the Pennsylvania Department of Environmental Protection.

In Pennsylvania, the state does not inspect gas stations. Gas-station owners are required to have their tanks inspected and turn in those results to the state every five to 10 years, depending on the type of tank. In New Jersey, tanks must be registered every three years, and leak-detection monitoring is conducted every month. Counties conduct health inspections of underground tanks on a sporadic basis.

Laurel Gardens' worries began in 1993, when residents started noticing the odor of gasoline in their basements. The state confirmed the odors in 48 houses, and evacuated one man who had gasoline in his basement.

Officials eventually identified tanks of four nearby gas stations as sources of the leak. Early estimates by the state put the total spill at 900,000 gallons, but EPA officials now say they believe the amount was 50,000 gallons.

"Who knows how big the spill really is," said Swokel of the DEP. "Let's just say it was 50,000. To my knowledge, that's one of the largest spills we've experienced."

The state identified one station, Tranguch Tire Service, as a major source of the spill. The station had six underground storage tanks with a combined capacity of 18,000 gallons of gasoline. Although the station had passed a 1993 "tank-tightness test," when the DEP closed the station in 1995 and dug up the tanks, fist-sized holes were found in them.

The company went bankrupt seven months later.

The EPA took over the site in 1996 as the plume spread and the state ran out of cleanup money. When it rained, gasoline seeped into the cracks in the sewer lines. The vapors wafted from the sewers into the neat rows of more than 350 suburban homes.

Although the agency started testing for vapors that year, Steve Jarvela, the site coordinator, said high levels of benzene did not appear until 2001.

Benzene, a compound in gasoline, is known to cause cancer, including leukemia, in humans.

A number of homes, 25 percent to 28 percent of them, tested significantly above 32 micrograms of benzene per cubic meter of air. For homes above that "action level," Jarvela said, the EPA installed vapor-extraction systems and sewer traps.

Testing shows that only the residue of the plume remains underground, and that the soil vapor-extraction system is working, Jarvela said. However, he said the ground would never be completely clean of every drop of gasoline residue.

Four homes directly above the plume continue to be tested yearly for benzene and other chemicals, and residents say air monitoring needs to be more frequent and widespread. In a lawsuit filed in November 2001 against the gas stations and their owners, residents have asked for medical monitoring for the rest of their lives. The lawsuit is now in the discovery phase to determine whether it will get class-action status.

"We don't feel safe," said Jean Walker, who lives a block from the main spill site. "They can tell us we're safe all they want, but we're the ones living above a plume of gasoline."

Some local residents believe that more people in the area have died of cancer - including brain and thyroid cancer - and that this is directly related to the plume.

Residents point to a University of Pittsburgh study in May reporting that "the entire affected population experienced an approximately 4.5-fold excess of leukemia compared to the Pennsylvania population," and that more cases "might be expected to manifest within the next several years."

"Within the context of this study, it is difficult to definitively identify the gasoline spill as the source of the excess leukemia," the authors said. But "it is equally difficult to discount the gasoline spill, as either a causal or contributory source of the excess leukemia."

And residents look at their property values, set at zero by the Luzerne County Board of Commissioners, making it difficult for them to obtain home-equity loans. They say they are unable to move because no one will buy their houses.

State Rep. Todd Eachus (D., Luzerne) said the government needed to relocate only about 20 people who lived directly above the plume. Luzerne County officials say all the residents who want to leave Laurel Gardens should be relocated.

"These people didn't contaminate the land. The right thing to do is move them out," said Steve Urban, a county commissioner who testified before the U.S. House of Representatives' Financial Services Committee last September about the community's challenges.

In 2001, then-Gov. Tom Ridge asked then-EPA Administrator Christie Whitman to "work together with other federal agencies to permanently relocate those residents whose homes cannot be made safe."

None of this satisfies local oncologist Paul Roda, whose practice has four patients with leukemia and 20 with myelodysplasia who live on or near the gas plume. Myelodysplasia is a blood disorder often seen in elderly patients that sometimes turns into leukemia, Roda said.

"I wouldn't live there, and I wouldn't let anyone I know move there," said Roda.

Because of possible low-level benzene exposure, he does not think Laura Pauline, one of his patients, should live in her old house. So the Paulines rent a house in Pardee, about 130 miles away. But their grandchildren still live next door to their old place, directly next to the baseball field.

"My son wants to move, but he's got a mortgage and no one wants to buy that house," said John Pauline. "The government could care less if we live or die, that's what it comes down to."

Last week, Laura Pauline had a third recurrence of the cancer. She is now receiving chemotherapy at Hazleton Hospital.

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**Press & Sun-Bulletin September 14, 2003**

***THE UNTOLD STORY: THE IBM SPILL;  
More than two decades of unasked questions, missing documents***

ENDICOTT -- During Christmas week of 1979, village trustees accepted a special gift from IBM Corp.: a \$150,000 fire truck.

In return, the village gave IBM a declaration signed by Mayor Wendall Soltis that stated: "Endicott village board members and local IBM officials agree that the increased use and storage of chemicals on IBM property poses no immediate threat to either IBM property or neighboring properties."

As trustees offered a vote of confidence for IBM's handling of a large and growing chemical inventory on Dec. 26, facilities managers at the plant, less than half a mile from village hall, were struggling with a crisis: 4,100 gallons of methyl chloroform had leaked from a distribution system 12 days earlier and soaked into the ground. The solvent was pooling with tens of thousands of gallons of other dangerous chemicals and flowing underground toward neighborhood homes and businesses.

Now, as the public and IBM wrestle with issues surrounding the spill, a Press & Sun-Bulletin investigation into the history of the pollution reveals a legacy of sleeping watchdogs, missing documents and simple questions that went unasked by public officials and a community with unshakable confidence in IBM.

Among the findings:

\* IBM executives did not release a report detailing pollution threatening the village until at least a year after they discovered a problem in 1979. Even after initial reports of the

pollution and its threats to municipal drinking wells began to appear in local newspapers in the first quarter of 1980, there was no mention of the problem in village board minutes.

\* Officials from the state Department of Environmental Conservation cannot produce public documents, including written reports of the methyl chloroform spill that eventually alerted officials to the problem, or explanation of a decision to reclassify the site in June 1986 from Class 2 (posing a threat to health and the environment) to Class 4 (properly closed).

\* Drafts of negotiations between IBM and the DEC regarding the cleanup were removed from public files after a reporter photocopied them last month. A DEC attorney said they are "privileged and confidential." The documents include notes from a DEC engineer frustrated about getting information about the pollution from IBM.

\* A brochure by the IBM Employee Communications Department in 1988 stated "today, solvents are found in an area only half the original size." The statement and an accompanying diagram contradict DEC files that show the areas encompassed by the pollution have not changed significantly, and in some instances have gotten larger.

\* Lack of specific information about the pollution complicates efforts to clean it, according to DEC officials.

A simple question

Since 1980, when IBM began measures to contain the pollution flowing from its North Street campus, more than 70,000 gallons of raw solvent has been pumped from the ground. In an effort to retrieve the rest, operations have continued, for decades, to pump and treat 350,000 gallons of polluted water a day, with no end to the task in sight.

Chemical solvents are difficult to extract from the ground, and there is a lot of ground -- about 300 acres encompassing the heart of the Endicott, its homes and businesses, and part of the Town of Union.

The pollution's effect on the community might not have come to light if not for a simple question from a California resident who raised a hand at a public meeting.

In 1998, in Redfield, Colo., scientists and residents were dealing with pollution similar to Endicott's. A class of chemicals called volatile organic compounds from local industry had polluted soil in an adjoining neighborhood.

"We were at a briefing of a neighborhood association when somebody said, 'How do you know it's not coming into our homes?'" recounts Marion Galant, community relations manager of the Colorado Department of Public Health. "The answer was, 'We have all this science that tells us so.'"

The scientists, confident in their analysis, agreed to sample the air in a home to ease the public's anxiety -- to "make a demonstration," as Galant recalls.

They ended up demonstrating the importance of public involvement in health and environmental matters. Contrary to expectations, the test showed fumes from the chemicals, which had sunk deep in the ground, were rising toward the surface and entering homes. The vapors were following underground conduits and crawl spaces as they pushed their way into buildings.

Colorado state scientists notified the federal Environmental Protection Agency, which in turn began gathering its own data from other sites confirming the phenomenon, known as "vapor intrusion."

The ramifications were monumental. The EPA began establishing new guidelines for dealing with solvent-tainted soil as scientists around the country started looking at this type of pollution in a new light.

In the spring of 2002, the state DEC ordered a new round of tests in Endicott and found what others already knew in Redfield, Colo. -- people were literally living with pollution that health officials had long considered to be trapped deep in the ground.

#### Sleeping watchdogs

For decades, state and county health officials stated the pollution in Endicott posed no public health threat. In scientific terms, there was no "exposure pathway," no means by which people would encounter it.

Today, they say they have no evidence the fumes, with concentrations in the realm of what could be expected from an open can of paint, are causing acute health problems. They are designing studies to investigate health effects of people breathing tainted air for years or decades. IBM has begun a precautionary program to vent 480 houses and businesses in the pollution's pathway.

Although many residents do not recall being informed of the spill, cracked and yellowing clips from the newspaper archives offer piecemeal documentation of its long history.

The Evening Press and the Sun-Bulletin reported in January 1980 that state health officials were concerned industrial solvents threatened municipal drinking wells, several weeks after the December 1979 methyl chloroform tipped environmental officials to a problem.

While the reports were finding their way into the newspaper, village officials were weeks, months and sometimes years behind in acknowledging the pervasiveness of the problem. The board minutes from 1979 and the first four months of 1980 hold no mention of the pollution, for example.

Wendall Soltis was outgoing mayor on Dec. 26, 1979, when the board drafted the vote of confidence for IBM's storage and handling of chemicals. Like some elected village officials then and after, he was also an IBM employee.

Did any village officials know of the spill that happened just nine days earlier, a portent of the looming environmental disaster?

"No. There was no talk of it," Soltis said in a recent interview. Nor had he heard about it at work.

IBM's 1979 gift of the fire truck, which was specially equipped to handle chemical fires, settled a dispute between Endicott Fire Chief Andrew Sedor and IBM engineers, who had differing views on fire hazards associated with chemical tank farms at the site, according to news reports from the time.

A review of the minutes suggests that once the firefighting issue was settled, trustees ignored the pollution issue and busied themselves with parking and traffic problems, park projects and a proclamation honoring former mayor, coach and Boy Scout leader Burdette Parker. The spill finally appeared on the village record when IBM sought and received the board's permission to drill monitoring wells on village property in May 1980 to track the pollution's advance into neighborhoods.

As the extent of the problem gradually surfaced, the village worked to address it, said Marion Corino, who succeeded Soltis as mayor in 1980 and served until 1992.

"At the time, we did the best we could. We did a lot of work and worked very hard," Corino said. "Just as hard as they are today."

Corino hired Eugene Kudges, superintendent of public works, who kept up with IBM's plans to stanch the subterranean flow. Those efforts led to the installation of three large pumping stations nestled in the village landscape of working-class homes and apartments, shops and now-vacant parking lots between the sprawling IBM campus and the Susquehanna River.

"At this time, this was the latest state-of-the-art technology," Corino said.

After tests in 1980 showed the drinking water was safe, public awareness of the threat faded. IBM's Endicott operations were playing a defining role in the company's global domination of the computer market at the advent of the information age. The local payroll would swell to 11,000. The company was a lavish provider to the village and its economy, and its esteemed management and work force were woven into the all aspects of village life -- governing boards, recreational clubs and charitable organizations.

'Legacy of trust'

In years to come, the state and the village would offer renewed votes of confidence regarding IBM's handling of the pollution.

In 1988, Corino posed with IBM Endicott General Manager Richard Cole for a portrait featured in a booklet published by IBM promoting the company's "legacy of trust" in protecting the environment.

"As a long-standing partner with the community, we feel a special responsibility to keep the local environment safe, clean and free of hazard," read the glossy publication.

It featured a dew-covered circuit board framed with wild flowers on its cover. On the inside, Cole and Corino were pictured in the foreground of a lush, rolling countryside.

One page of the 28-page booklet addresses IBM's "ground water protection program":

"In keeping with its commitment to the highest safety standards and its reputation for going beyond what is expected, IBM initiated a ground water program prior to regulatory involvement by government agencies."

Contrary to scientific data and maps filed with the DEC, a diagram in the booklet shows the area affected by the pollution being reduced by half in the eight years since the company started the program.

"It depicted our understanding of conditions at the time," Todd Martin, a spokesman for IBM, said in a recent interview.

The booklet is emblematic of IBM's assertion, then and now, that it is a cooperative and benevolent corporate neighbor and protector of the environment.

"Ground water in Endicott has been impacted by industrial activities of many businesses for a long time, and not just since 1979, when IBM regrettably experienced the spill," Mitchell Meyers, IBM manager in charge of the cleanup, reported in a letter to current Mayor Michael Colella dated May 27 this year. "In fact, IBM's ground water treatment system has been cleaning up contamination which emanated from others."

Neither Meyers nor Martin will state names of the other companies. But by citing the industrial legacy in the valley, they implicate shoe manufacturer Endicott Johnson, whose tanneries along North Street predated IBM operations.

Another view

Mario M. Nirchi, an environmental engineer for the village, flatly disagrees with IBM's insistence that other sources could be accountable for more than 70,000 gallons of raw solvent pumped from the ground north of IBM's Building 18.

"That's silly. That defies logic. That was IBM waste," said Nirchi, who has firsthand knowledge through his experience as a DEC engineer overseeing the IBM site at the time. "That wasn't a dry cleaner on Monroe Avenue that caused that. That's not from the (Endicott Johnson) tanneries."

Looking back over 25 years of environmental regulatory issues, Nirchi and others from the village and DEC acknowledge IBM, with its extensive resources, scientific wherewithal and ethic of community involvement, has been responsive in addressing pollution issues. The company did not wait for the DEC's involvement to begin extensive studies and plans to address the crises discovered sometime in 1979.

But getting information regarding details and scope of the problem has not been easy, Nirchi said. He was the first outsider to inspect the site, after getting a call about the methyl chloroform spill.

"They were very obtuse about where things were," he said. "I had asked them how far it (the pollution) traveled and they couldn't tell me. It went beyond monitoring wells."

The monitoring wells were providing information for scientists from Dames & Moore, a New Jersey firm IBM hired to investigate the problem earlier in 1979.

Nirchi was eager to see the results. They would offer insights into the extent and nature of the problem.

That data was slow in coming.

"I sent a registered letter to IBM. It indicated they had documentation relating to the contamination of groundwater that threatened wells, and I would like a copy," he said.

In December 1980, a year after the methyl chloroform spill, IBM released the report. The DEC, taking Nirchi's lead, had threatened legal action. The report offered the first comprehensive details about the pervasiveness of the problem.

It was far more extensive than methyl chloroform. It included tens of thousands of gallons of nine different solvents pooled under the IBM campus.

A primary constituent of the chemical cocktail was trichloroethylene, or TCE, the solvent found most widely entering homes today.

The DEC and IBM agree most of the pollution predates the 1979 methyl chloroform spill. But there is little consensus about where it came from.

"We know of no releases of TCE, yet I will tell you, as I have before, the chemical handling standards of the '50s and '60s are not what they are today," Martin said recently.

Once DEC scientists began to understand the scope of the pollution, they felt it was necessary to hold IBM accountable with a legal mandate, even though the company had already begun efforts to address it.

In January 1982, DEC attorney Richard Brickwedde wrote to IBM Counsel Edward Burke: "With regard to the ground water situation, the Department's position is, no matter how cooperative the industry, because of the magnitude of the problem it is necessary to enter into a consent order, whereby the industry agrees to continue the clean-up."

#### Missing documents

Unsuccessful drafts of that order are buried in a quarter of a century of regulatory files in the department's Region Seven office in Syracuse.

"As you can see, we have different views as the content of an appropriate consent order," Burke wrote to Brickwedde in June 1982.

He enclosed a draft that stated IBM had informed authorities about the pollution.

Notes in the margins from DEC engineer Leland Flocke tell a different story.

"Not told us until later -- only after we knew," the notes state.

In red ink, Flocke penned violations that could apply to the delay.

Then the paper trail ends. There is no signed order on file that would mark a resolution to the matter.

Flocke's notes and the draft order were removed from public files in August after the DEC determined they are "privileged and confidential," according to a Sept. 5 letter to the Press & Sun-Bulletin from DEC attorney Bruce S. Fein.

There are other complicating factors.

Nirchi explains that oversight of the IBM spill and cleanup was transferred from local DEC offices to Albany as part of a program shift in 1983, the year Mario Cuomo began his first term as governor and appointed Henry Williams as DEC commissioner. At that time, the regulatory environment was changing. Oversight of the spill, and the broader issue of IBM's storage and handling of hazardous chemicals, would now be administered through the newly implemented Resource Conservation and Recovery Act.

Based on the available documents, a decade would pass before a legal mandate regarding a cleanup was finalized under that act. In 1992, the mandate was incorporated into a comprehensive regulatory permit that applied to IBM operations in Endicott and elsewhere.

Before that date, the picture remains incomplete.

There are no records available to explain, for example, the decision in 1986 to downgrade the urgency of the problem on the state's hazardous waste registry from Class 2 to Class 4. Without the records, DEC officials cannot explain why the pollution was no longer considered a threat.

Representatives from IBM and the DEC said they could not produce other documents. They include a preliminary investigation, sometime in 1979, from Dames & Moore, the New Jersey environmental company hired by IBM. While Dames & Moore's follow-up report, released in late 1980 at the DEC's insistence, offered insights into the scope of the pollution, copies of the missing preliminary report might offer clues about when IBM executives became aware of a problem.

Nor is there available documentation of the 1979 methyl chloroform spill, even though other spills were itemized down to the gallon and filed with the DEC. The source of other chemicals, primarily trichloroethylene, flowing from under the IBM site, remains a mystery.

'I feel sorry'

The lack of information presents problems on several fronts. It is unsettling to a public looking for answers. It also confounds efforts to address it.

Ideally, the more thorough the understanding of what was spilled, how much, and where, the easier it is for scientists to develop a plan to recover it. In Endicott, scientists have to work backward, as they drill test wells in a hit-and-miss search for the affected area.

Stephen Schwarz, an environmental attorney pursuing residents' claims against IBM related to the pollution, said the lack of documentation is unusual.

"It's fascinating to me there was not more oversight of the cleanup and the source issue, other than referring in an off-handed way to all the various industry that might have contributed," he said.

DEC officials have characterized the IBM cleanup as one step ahead of environmental regulations. Until now, IBM's commitment to clean the contamination has made where it came from less of a concern than what to do about it, according to Mary Jane Peachey, a regional engineer with the DEC.

Yet, 24 years later, the lack of specific information is proving to be a hindrance, as DEC officials order yet another round of drilling to see whether chemicals still might be flowing from an undetermined spot on the former IBM campus.

Long-retired village officials express disbelief and regret.

"I never thought it would happen with IBM," Wendall Soltis said, echoing a sentiment often heard in the community.

"I feel sorry for the people it affects, and it affects a lot of people," Corino said.

The Denver Post September 16, 2003

***Redfield spills, dumping cited Ex-employee testifies in toxic-chemical suit***

A veteran employee of the Redfield rifle scopes factory testified Monday that spills of hazardous chemicals occurred almost daily and he was present when employees dumped chemicals in a field on orders from the plant's operations manager.

Ben Noland worked at the plant from 1970 to 1998.

Noland was the first witness in a lawsuit brought on behalf of 2,000 southeast Denver residents and property owners who claim a 'sea of toxic chemicals' flowed from the plant under their homes.

The residents are asking the jury to award them nearly \$ 281 million for loss of use and enjoyment of their homes and loss of market value of their homes, and to order implementation of an aggressive cleanup plan.

They claim a plume of toxic chemicals - extending more than 2 miles - consists of cleaning solvents that employees of Brown Group Retail and Redfield Rifle Scopes Inc. used in the manufacture of the scopes.

But lawyers for Brown, which bought the 10.5-acre site at 5800 E. Jewell Ave. in 1979, ran the plant for five years, and then leased it in 1984 to Redfield Rifle Scopes Inc., claim no dumping took place.

Instead they say the plume was caused by pollution from a nearby Colorado Department of Transportation lab facility, a dry cleaner, a service station and a dairy.

They and Karen Wheeler, lawyer for Redfield, contend the plume has caused no injuries, illnesses or property damage.

Noland said chemicals were spilled in various stages of the degreasing process, used to remove grease that accumulated during the scope's manufacture. And he said he was present three times when chemicals and sludge were dumped in a nearby field on the orders of operations manager Lou Collaianna.

He said they were poured from 55-gallon drums into the plant's east field, next to the plant's boundary fence, across the street from a residential neighborhood.

Noland said the drums were about half full when dumped.

Noland said he thought the dumping was wrong and told Joe Medina and Al Losasso, the two employees he claimed actually did the dumping, that 'someone will get their ass in a sling over this.'

'I didn't want anything to do with it. It wasn't ethical or right,' he testified.

Noland said he had no doubt the solvents were hazardous because of the labels on the chemicals.

He said he believed the dumping occurred for 12 to 18 months until Collaiannia, now deceased, left in March 1983.

On cross-examination by Lee Foreman, a Brown lawyer, Noland admitted that many spills were often small amounts that sloshed out of 5-gallon buckets or coffee cans.

Other spills, almost on a daily basis, came when filters were changed on the degreaser, he said.

While he only witnessed dumping three times, he said, he was sure it happened more often because employees stuck to the same routine in moving barrels out of the plant as they had when they dumped.

He said that while the common practice had been to ship the solvents out of the plant to an official disposal facility, once Collaiannia took over they 'were dumped on site.'

Another employee, Robert Fisher, who worked at the plant as a machinist from 1973 to 1997, testified that employees used to pour solvents down a drain at the plant, something he did once every three or four months. He also said he once saw a couple of employees in one of the plant's fields with a barrel, but had no idea what they were doing.

Lawyer Kevin Hannon, who represents the residents, claims the plume of solvent-contaminated groundwater spread under the Cook Park neighborhood. From the tainted water, vapors spread upward into basements, where he says the vapors sometimes reached levels 100 times stronger than regulators regard as safe.

However, Brown said it has instituted a \$ 12 million plan to clean the water and air and says the air is safe. More than 15 million gallons of water have been treated.

The Denver Post September 23, 2003

***Redfield neighbor testifies about fears Toxins first hinted at in 1998, woman says***

A Denver mother described Monday how she and other Cook Park residents were 'outraged' when they learned their homes were contaminated by vapors from a toxic plume of groundwater and that the alleged polluter delayed informing them for years.

'My neighbors were livid,' Carol Antolovich told a Denver jury. 'They worried about the health risks. We wondered how this could have happened.'

The Antoloviches' three-bedroom 'California contemporary' home is across from the former Redfield rifle scope factory, property that Brown Group Retail bought in 1979 and still owns. Antolovich is one of about 2,000 Cook Park residents suing Brown and Redfield.

Brown ran the factory for five years before leasing it to Redfield Rifle Scopes Inc. in 1984. Redfield ceased scope production in 1998.

Brown denies dumping chemicals but says they may have seeped into the groundwater from the factory's degreaser.

Lawyers for about 2,000 southeast Denver residents are asking for nearly \$ 281 million, and unspecified punitive damages, because of what they allege is a 'sea of toxic chemicals' that allegedly flowed from the plant. The lawyers claim punitive damages should be imposed because Brown allegedly delayed investigation of contamination and then failed to promptly reveal it.

Antolovich took the stand on the eighth day of testimony in the trial.

She said the first hint of trouble came in April 1998, when two people came to her home in the 1800 block of South Jasmine Street, where she has lived for 33 years. Antolovich said the visitors said they were doing a study of indoor air. They never told her they were looking for chemicals, she said, or that there might be potential health concerns.

Antolovich said she soon learned that the level in her home of a chemical called DCE was 200 times the acceptable or 'action' level recommended and that a ventilation system would have to be installed.

She said DCE can cause liver, heart and kidney disorders.

'I'm embarrassed that I live in a contaminated house,' Antolovich testified. 'It is an awful situation to be in. It is a sad thing in my life that never goes away.'

Earlier this year, she said, it was revealed that factory employees allegedly had dumped toxic chemicals in the plant's east field - the field closest to her home.

'Again, it was just a horrible thing that I found out had been going on across the street,' she said.

She said she worries about the health of her family and the resale value of the home. She said the routine testing of the air is a nuisance and that she is never sure if the ventilation is working. Between 20 and 25 tests have been conducted in the house.

Antolovich acknowledged that various forms she signed in 1998 giving permission for Brown to check the air and install the ventilation system spelled out why Brown was investigating. She also said that the ventilation system has reduced the amount of chemicals to below action levels.

Antolovich said that, as a matter of routine, when the air-testing personnel arrive, they ask her whether anyone in the household is pregnant or if there is a change in anyone's health.

Although the vapors are now within acceptable limits, she said, the readings still fluctuate, and the questions make her queasy.

"It makes me wonder if there is still a health risk," she said.

Connecticut Post October 25, 2003

### *Solvent fouls wells behind Bic facility*

MILFORD - Two wells behind Bic Corp.'s lighter production facility have high concentrations of the solvent trichloroethylene, a company spokeswoman said.

The lighter plant is next to the Milford Power Co. plant, where elevated levels of TCE contamination were found in 1999 and first made public this summer.

Three former construction workers at the plant have contracted cancer they blame on TCE exposure there, and a fourth has a rare immune-system disorder that he believes is also related to this, said Catherine Mollica, the attorney for the four men.

The Bic lighter plant is across the street from the company's office complex.

Groundwater monitoring wells were installed as part of a pollution abatement order issued by the state Department of Environmental Protection.

"The first well, installed directly behind the lighter production facility, showed TCE contamination of 340 parts per billion and the second well, closest to the power company, showed 990 ppb," said Linda Kwong, the Bic spokeswoman.

Bic's health and safety officials met with employees Thursday evening to discuss the results, and the company will provide employee monitoring that meets U.S. Occupational Safety and Health Administration standards, she said.

Bic is connected to public water supplies, so there is no drinking-water risk from the contaminated wells, Kwong said. The safe drinking water standard for TCE is 5 ppb, officials said.

"Although we are very confident that our employees are safe from exposure, we want to provide additional assurances," said Ken Branin, Bic's vice-president of production.

From Nov. 3 to 12, employees will wear badges that will measure any exposure to TCE from vapors that may be entering the building from the soil and groundwater, Kwong said.

The chemical, which acts similarly to radon, can seep into structures through porous rock and foundation materials and its vapors can be trapped, concentrating them, according to OSHA.

Mayor James L. Richetelli Jr. said that Bic officials informed him of the tainted wells on the company's property, and that Dr. A. Dennis McBride, the city's health director, also consulted with Bic executives.

"My concern is that the people who work there be protected, and I have every confidence in Bic," he said.

Kwong said an environmental consultant hired by the company is continuing to investigate, and that more test results will be available by mid-November.

Connecticut Post November 7, 2003

***Testing shows traces of TCE-tainted gases;  
More TCE in water discovered Condo owners want air tested***

MILFORD-State environmental regulators have found more evidence of ground-water contamination around the Caswell Cove condominium complex.

However, the new test results, released Thursday, show the problem is decreasing in magnitude.

The state Department of Environmental Protection report states that high levels of trichloroethylene, a chemical compound also called TCE, were found in ground water near the complex's Building 500, and between Building 600 and Building 800.

Since Caswell's units are linked to public water systems, the findings have no immediate health implications for residents, officials said.

The DEP is more concerned about TCE vapor seeping into residential structures. No such problem has been reported yet in any of the complex's 11 buildings, which contain 203 units.

Residents learned of the new report at a town-hall-style meeting Thursday. Condominium owners asked why the DEP was not conducting air quality tests inside their units.

DEP Commissioner Arthur Rocque pledged that his agency would do all it can to solve the problem. But he said that air quality tests inside residences would not be practical because testers would be flooded with compounds found in everyday household products and materials.

"We think there may be multiple sources behind it," Rocque said of the contamination. "We will continue to investigate it. We are in it for the long haul."

The contamination may have come from illegal discharge, a "spill" or a "midnight dump," he said.

Legislators, including state Rep. James Amann, D-Milford and House majority leader, and Sen. Win Smith Jr., R-Milford, are conducting hearings into serious mistakes the DEP apparently made in dealing with contamination in northwest Milford.

The DEP first found elevated TCE levels as part of a probe of ground water and soil contamination in a 1-mile radius around the Milford Power Plant site.

The probe began after a former plant worker claimed his rare form of cancer is related to exposure to toxic chemicals at the site.

After his concerns became public, city officials learned that DEP knew of the environmental problem there in 1999 but failed to notify them about it. DEP ordered four businesses around the property to design pollution abatement plans.

Resident Dottie Johns believes homeowners have a right to indoor air tests. "I think it is a good thing because there are so many things they don't know. I think we should be given a choice," she said.

The test results showed no signs of vapors with high amounts of TCE near seven buildings tested recently.

Benign traces of TCE-tainted gases were found near Building 500, Building 600, Building 700, Building 800 and Building 1100.

Two buildings at the complex's southern end had no signs of contamination around them. The state is placing depressurization systems below four of Caswell Cove's most northern buildings after suspicious vapors were found near them.

The Denver Post December 2, 2003

### ***Redfield jury mulls pollution, firms' role***

Thousands of southeast Denver residents should be awarded \$ 381 million because the owner of a 10.5-acre industrial site near their homes put profits above concern for the neighborhood, a lawyer for the residents said Monday.

Kevin Hannon, who represents residents of the Cook Park neighborhood, told a Denver District Court jury that for years, spills, leaks and deliberate dumping at a rifle scope factory at 5800 E. Jewell Ave. contaminated the water under the neighborhood and that **toxic vapors** flowed into the neighbors' homes from the polluted water.

The neighbors' class-action lawsuit names the owner of the property, St. Louis-based Brown Group Retail, and Redfield Rifle Scopes Inc. as defendants.

Brown bought the property in 1979, operated a rifle scope factory for five years, and then leased the property to Redfield, which continued to operate the plant until 1998.

The jury, which has listened to testimony in the case for three months, could reach a verdict later this week.

In his closing arguments, Hannon asked the jury to award the residents \$ 200 million for loss of property value and loss of enjoyment.

He also asked for another \$ 181 in punitive damages, alleging that Brown Group failed to investigate the 2-mile plume of pollution and then failed to promptly inform officials and the community after the pollution was discovered.

'You are the voice of the community,' Hannon said. 'As the voice of the community, say what you have seen is unacceptable and should never happen again.'

He charged that the company failed to promptly inform authorities because it would have triggered costly cleanup activities.

'The Redfield site was a financial issue, not an issue of protecting neighbors,' Hannon said in asking for the punitive damages.

Punitive damages are awarded when a defendant acts with recklessness, malice or deceit.

But in his closing arguments, Tom Johnson, lawyer for Brown, said that the property owners and residents were never adversely affected. They didn't drink the groundwater and didn't use it to water their yards, Johnson said. And the vapors from the contamination that flowed into the homes never caused any health problems, he added.

'Not one person has suffered any illness, sickness or personal injury and isn't entitled to hundreds of millions of dollars,' Johnson said. He said Brown acted properly.

He said other entities that operated at the factory and still others with facilities nearby -

including the Colorado Department of Transportation, a dry cleaner and a service station - contributed more to the underground pollution than Brown. When Brown discovered the pollution, it went to work.

'Brown has shown more responsibility - rolling up its sleeves and cleaning up the neighborhood when no one else did,' he said.

He said the company has spent \$ 10 million on the cleanup and set aside another \$ 8 million.

Karen Wheeler, lawyer for Redfield, said in her closing arguments that there was no evidence that Redfield employees caused the pollution. She said that when Redfield took over operations from Brown, it conducted a highly professional operation, treating the chemicals with care. The chemicals were cleaning solvents used in the manufacture of the scopes.

But she pointed at Brown as a culprit, saying intentional dumping occurred under the direction of Lou Collaianna, plant operations manager for Brown, who left before Redfield started operating. Collaianna has since died.

She said employees testified that at Collaianna's direction, they engaged in dumping.

"It was 'hush hush,'" Wheeler said. "It was Brown's secret and they weren't sharing. "Hush hush,' that was the party line.

Press & Sun-Bulletin December 1, 2003

***50 more sites may need venting;  
Final round of tests planned for this winter***

ENDICOTT -- More than 50 additional properties may need systems to vent chemical fumes from underground pollution, based on numbers offered by IBM Corp. and the state Department of Environmental Conservation.

Ray Neira, of 13 Arthur Ave., hopes his house is one.

"Right now, I'd feel safer with a vent," said Neira, moments before his 2-year-old grandson burst into his home for a visit. "Everybody around me has one."

Like hundreds of other homeowners, Neira lives on the fringes of a plume of trichloroethylene, or TCE, moving from the ground to the air and entering buildings. The pollution, south of the former IBM campus on North Street, covers about 300 acres, but scientists will not know the exact boundaries until they complete a final round of tests this winter.

While some might see the testing as a stigma to be avoided, many welcome it and are even frustrated when they can't be tested.

Neira lives on the fringe of the plume's irregular and inexact contour. When he called IBM to ask that his residence be included, he was told his name was added to a list of people seeking tests, he said.

IBM is responsible for cleaning the cocktail of industrial solvents, including TCE, seeping into the neighborhood from its former microelectronics plant.

Over the course of the last year, researchers working for IBM, and overseen by the state environmental and health departments, determined 480 properties needed systems to keep out the subterranean vapors.

Based on available data, researchers estimate that's about 90 percent of the total buildings that will need ventilators, said Todd Martin, a spokesman for IBM. But researchers won't know the exact number until they collect more indoor air samples in a final round of tests planned for this winter.

Scientists say tests for vapor intrusion -- a phenomenon where gases from underground chemicals enter homes -- are most accurate during the winter, when houses are sealed and heating systems circulate air from basements, the most common point of entry for chemicals.

Neither Martin nor DEC officials could say Wednesday when they would begin the final round of tests, how many properties would be selected, or where.

The DEC is awaiting a written proposal from IBM detailing plans for the final testing, said Mary Jane Peachey, a regional engineer with the DEC.

The lack of information upset some residents, who have been eager to find out exactly what is happening in their neighborhood.

"I think IBM has to continue to communicate with us, and they haven't been," said Betty Havel, a member of an advocacy group organized in the wake of the pollution and a trustee-elect for the village.

She cited the unexpected arrival of giant black carbon filters, delivered on flatbed trucks and barricaded by an 8-foot chain-link fence, near the doorsteps of startled villagers Oct. 24. The filters, which Martin said arrived ahead of schedule, are being used to test new ways to clean pollution from the ground.

Finishing the job of sampling homes and installing vents where needed is "a priority" for IBM, Martin said.

As of Wednesday, contractors had installed systems on 356 of the 480 homes. Some homes being fitted with ventilators have not been tested, because results from samples taken from nearby properties suggest they need them.

This type of extrapolation speeds the process and gives residents the benefit of the doubt, Martin said.

But some residents want the benefit of the tests.

"I think I have the right to know what my children were breathing," said Jeanette Mirra, who lives with her children, ages 7 and 13, in a home on Adams Avenue that has been fitted with a vent.

IBM contractors refused to test her house.

"I still hate it," she said. "Every time the furnace kicks on (and circulates air from the basement) I feel I have to open a window. And I can't afford to do that."