

# Who'll pay to clean up the Hematite plant ?

Peter Shinkle Post-Dispatch  
updated: 10/13/2003 07:29 PM

Over decades, a string of companies made nuclear fuel rods at a plant in Jefferson County. Now, with the plant shut down, the stage has been set for a legal melee over who should pay for the contamination left behind.

The state of Missouri filed a lawsuit recently that joined an array of court cases seeking to recover money from companies that operated the plant, in Hematite. The state's suit, filed Sept. 26 in federal court at St. Louis, seeks damages from the current owner, Westinghouse Electric Co. LLC; the former owners; and the U.S. government.

9.26.03  
St. Louis filed  
Law suit

The suit alleges negligence in allowing radioactive and chemical wastes to penetrate the groundwater.

GW

Joseph Bindbeutel, chief counsel for the Missouri attorney general's environmental division, expects a complicated web of litigation. "Everybody's going to claim every defense possible under the sun," he said. "They will bring other potentially responsible parties into the litigation. We're going to go through the whole nine yards."

today's newspaper ads
Medical (101)
Real Estate & Rentals (98)
Dining & Entertainment (94)
Home Improvement & Gardening (73)
Automotive & Vehicles (72)
Services (61)
Furniture (54)
Finance (50)
Movies (49)
Department Store (38)
...more on Ad Zone
<b>ADZONE</b>

Bindbeutel said suing now seemed the wise move, rather than waiting until the extent of contamination is known better and risking the case getting thrown out for being filed too late.

The plant turned uranium into fuel rods for nuclear power plants from 1956 to 2001. It closed shortly after Westinghouse bought it.

From the late 1950s through the early 1960s, while the plant was owned by Mallinckrodt and another company, radioactive material was dumped in 40 unlined pits, the state's suit says, including nearly 60 pounds of uranium-235, a potentially dangerous radioactive material.

In 1982, a study found radiation levels in groundwater there that exceeded federal standards for drinking water. At the time, officials concluded that there was no threat to human health.

'82 GW results

But testing of a well at a nearby home in December 2001 found cancer-causing chemicals of the kind used at the plant. More testing discovered the chemicals in seven other private wells used for drinking water.

GW testing

One family's well had trichloroethylene, or TCE, a cancer-causing chemical used as a solvent, in concentrations as high as 2,880 parts per billion, or 576 times the amount considered safe under federal standards. Subsequent tests have shown that the level fell to about 250 parts per billion.

~ 5 Ppb is limit

In response, Westinghouse supplied neighbors with bottled water and filtration systems. It has spent more than \$2 million to connect about 25 families to a public water system, the company says.

GW

Kevin Hayes, an environmental manager for Westinghouse, said the company has tried to react rapidly and appropriately. "The expectation was that the contamination was on-site. It was very much of a surprise to find there was anything off-site.

"You don't want to be in this kind of a situation. But we're in it, and we're with it."

Westinghouse's efforts to clean up and decommission the closed plant halted in July when it was discovered that nuclear fuel pellets had been shipped accidentally from the factory to a metal-recycling company in Canada. Westinghouse and the U.S. Nuclear Regulatory Commission said nobody was at risk of harm or injury, but the company decided to stop the decommissioning process temporarily to sort out what went wrong. It expects to resume shipping waste and scrap off-site by the end of the year.

### "Hot potato"

Officials are trying to determine where the waste is and how it moved off-site, said Ben Moore, project manager at the site for the Missouri Department of Natural Resources.

The possibility of long-term damage to underground streams, or aquifers, is of particular concern. Uranium-235 loses half its radioactivity every 713 years. TCE doesn't have such staying power, but it breaks down slowly, too, Bindbeutel said.

AGOs  
suit

"Once you release it into that aquifer, kiss (the aquifer) goodbye," he said.

Westinghouse has filed suit in federal court against the U.S. government and previous owners, including Mallinckrodt Inc. and Chevron U.S.A. Inc.

W/S  
suit

The plant made fuel rods for the military and the Atomic Energy Commission for about two decades, ending in the mid-1970s, and the government can't escape liability for what happened there, Hayes said.

"The government exercised enough control over the site's operation that they were essentially the operator," Hayes said. "That's why we think they have responsibility here."

In a reply filed in court Sept. 29, the Justice Department said the government can't be held responsible for the damages. An official declined to comment further.

086 9/29/03  
reply to  
W's  
lawsuit

Mallinckrodt, which built the plant in 1956 and ran it until May 1961, has filed a reply to the Westinghouse suit, denying liability and making claims against the other defendants.

Mallinckrodt, a subsidiary of Tyco International Ltd., said Westinghouse bears liability because it knew of the waste and was "not an innocent purchaser."

Another defendant, United Nuclear Corp. of Waterford Corp., which owned and operated the plant from 1961 to 1971, has denied liability. It listed 21 defenses against Westinghouse's claims and filed counterclaims against the other defendants.

UNL  
21 defenses  
+ counter  
claims

On another front, Hematite residents have filed suits saying the companies fouled their land and water while failing to inform them.

local  
suits

"It's something that's been neglected for a long time, and now I don't think they know how to handle it," said Clarissa Eaton, who has filed a lawsuit.

"They kept playing hot potato. Someone would move in and sell the stuff and make a lot of money. Well, the music stopped, and Westinghouse ended up with the hot potato."

### Hedging costs

Maurice Graham, an attorney who represents <sup>Clarissa</sup> Eaton and her husband in Jefferson County Circuit Court, said the case arose from a fundamental flaw: "They buried a lot of the nuclear waste and didn't tell anybody about it."

*Maurice Graham*  
*Eaton's lawyer*

At this point, the Eatons aren't saying the waste harmed their health, but they're monitoring their health closely, Graham said.

Westinghouse spokesman Gilbert Vaughn, at the company's headquarters in Pittsburgh, declined to comment on the resident suits, though he noted that the company is trying to respond to the problems by providing them with drinking water.

*W's spokesman*

At least one former owner of the plant, Combustion Engineering Inc., arranged a way to hedge its costs.

A subsidiary of Swiss conglomerate ABB Ltd., it bought the plant in 1974 and ran it until April 2000, when Westinghouse Electric Co. bought ABB's nuclear operations. Days after the deal closed, Westinghouse said it was shutting down the Hematite plant because of oversupply in the industry.

As part of the sale, Westinghouse and ABB made a confidential agreement on how to calculate and divide cleanup costs at the Hematite plant.

*(A)*

Efforts to shift liabilities in the nuclear industry have sparked criticism in the past. In 1998, CBS Corp. sold Westinghouse for \$1.2 billion to a British government-owned company, British Nuclear Fuels Ltd., or BNFL. The deal prompted some members of Parliament to warn that Britons might end up paying for nuclear cleanups involving Westinghouse.

*(A)*  
*CBS + BNFL deal*

One of the critics, Matthew Taylor, a member of Britain's Liberal Democrat Party, expressed concern over the Hematite plant in an e-mail to the Post-Dispatch.

"This reinforces the concern that BNFL could land British taxpayers with unquantifiable liabilities," he said.

**Reporter Peter Shinkle:**  
**E-mail: pshinkle@post-dispatch.com**  
**Phone: 314-621-5804**