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Wednesday, January 7, 2009

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Shell Loses Suit on Cleanup Cost

AP
Published: December 20, 1988

LEAD: A jury ruled today that the Shell Oil Company is responsible for cleaning up three decades worth of pesticide pollution at the Rocky Mountain Arsenal, a project that could cost up to \$2 billion.

A jury ruled today that the Shell Oil Company is responsible for cleaning up three decades worth of pesticide pollution at the Rocky Mountain Arsenal, a project that could cost up to \$2 billion.

The verdict was a victory for 250 insurance companies, which argued that Shell knew of the pollution at the plant northeast of Denver and was therefore not covered by its 800 policies any more than a person who burns his own house.

Lawyers for the insurers whooped for joy when the verdict was read in San Mateo County Superior Court. The trial, which began in October 1987, was held in a makeshift courtroom at a former high school gymnasium to accommodate all the lawyers.

A Shell spokeswoman said the company would appeal the verdict.

A jury in a civil suit does not have to reach a unanimous verdict, and 11 of the 12 jurors here voted for the insurers. Jurors declined to comment on their decision. Drinking Water Polluted

From 1959 to 1982 Shell leased Army land at the arsenal next to Stapleton International Airport for a pesticide production plant. The soil and ground water was polluted by Shell and Army operations, and the pollution seeped into nearby wells for drinking water.

Attorneys for Shell argued that the liability should be mainly with the Army because it provided the leaking pipes and ponds used by the oil company.

"Naturally, we're extremely disappointed with the outcome of this lengthy trial." said Betty Lynn McHam, a Shell spokeswoman at the company's headquarters in Houston. "We believe there are sound legal grounds for appealing to a higher court and we will appeal."

Ms. McHam said she could not estimate the cost of the cleanup. Estimates by the insurance industry put it at \$2 billion.

The Army sued Shell in 1983 to force it to help pay for cleaning up the arsenal land. A settlement, which needs court approval, would require Shell to pay at least \$500 million toward the cleanup and for the Government to pay at least that much.

But when Shell sought reimbursement from its insurance carriers, they refused to pay, and Shell sued them.

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