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Law firms prepare suit against refinery Doctors will examine potential plaintiffs in 2002 Newcastle spill



GILLETTE - Attorneys here have recruited the help of a New York City law firm to build a potential class-action lawsuit against the Wyoming Refining Co. in Newcastle.

Gillette-based law firms Michaels & Michaels and the Carter Law Office are working with Kreindler & Kreindler, the firm that represented families of passengers of the 1996 TWA Flight 800 disaster off Long Island, N.Y., and in the 1988 Pan Am Lockerbie disaster.

No lawsuit has been filed so far, but the firms' attorneys say they are scheduling interviews and medical examinations for Newcastle residents experiencing symptoms that may be related to a 2002 chemical spill from the oil refinery. About 60 to 70 individuals and families from Newcastle have indicated interest in pursuing legal action, according the Carter Law Office.

In March 2002, the refinery accidentally spewed some 20 tons of silica catalyst out of a smokestack during a 12-hour period, blanketing a large portion of the town's residential neighborhoods with a fine, brown dust. Dozens of residents reported skin rashes and respiratory ailments immediately following the spill, and now many suspect their exposure to the chemical spill may have long-term health implications.

"I think, in this case, liability is abundantly clear because there was a failure in the equipment at the refinery," said attorney Jeremy Michaels of Michaels & Michaels.

Responding to Michaels' statement, Bob Neufeld, environmental manager for Wyoming Refining Co., said he could not comment on legal liability. However, Neufeld said, "The fact is there was a malfunction at our refinery and as a result, catalyst was released from the refinery and settled in the neighborhoods northwest of the refinery."

Less clear are the potential long-term health effects to the people who were exposed to the catalyst spill. Michaels said there's never been an exposure comparable to the one experienced by the Newcastle residents.

A licensed physician from Kreindler & Kreindler will perform examinations this week in Gillette. Part of the goal of the medical examinations is to correlate symptoms with an analysis of toxins in the spill.

"I think with careful medical research our people will be able to extrapolate what the (health) damages are," Michaels said.

Michaels said the firms' potential clients report recurring skin rashes, weeping sores, irritated throats and nasal passages, a host of respiratory ailments and, in a few cases, various forms of cancer.

Neufeld said he could only respond to specific complaints brought to the company. Several people did take up an offer by the company to pay for visits to doctors immediately following the spill, he said. But so far, no one has made a formal request to the refinery to pay for ongoing medical costs.

Attorneys must sort out which symptoms and ailments are likely the direct result of an exposure to the catalyst spill. To do that, plaintiffs must point to an analysis of the chemicals involved in the spill. They must also extrapolate the potential future health impacts of an exposure to make a claim for future health-care costs.

EPA analysis

One piece of evidence attorneys for the potential plaintiffs may rely on is laboratory analysis conducted by the Environmental Protection Agency and reviewed by a representative of the Agency for Toxic Substances and Disease Register, a division of the Centers for Disease Control and Prevention. That analysis indicated the released catalyst contained vanadium pentoxide, which can potentially induce asthma, chronic bronchitis and airway fibrosis - all symptoms consistent with complaints from Newcastle residents exposed to the refinery spill, according to ATSDR documents.

Paul McKechnie, acting ombudsman for ATSDR, estimated the concentration of vanadium in the catalyst spill might have exceeded ATSDR's "minimum risk level" for acute inhalation by a factor of a 100 times, according to documents.

Based on that analysis, McKechnie recommended a public health assessment in Newcastle to determine actual exposures and effects of the inhalation. No assessment has been conducted so far, and ATSDR officials could not be reached this week to determine if an assessment is planned.

In the meantime, Newcastle residents can participate in the Kreindler & Kreindler assessment.

Attorneys haven't estimated how much money their clients might ask for in a case against the refinery, but they do not aim to shut down the refinery, said Nick Carter of the Carter Law Office.

"We want to get our clients compensated, both for the cost of their future health care to make sure they get the best possible health care to combat these difficulties that they're having, and secondly to compensate them for their quality of life for being sick," Carter said.

Any lawsuit will focus on toxicology and medical evidence. Neufeld said he believes those questions are largely unanswered. He pointed to an on-site investigation by the EPA that indicated the released catalyst did not contain metals or organic petroleum compounds at levels hazardous to human health.

"People who did come to us, we paid for their bills to go see their local doctors," Neufeld said. "That process has largely not been active lately, and we have not heard from these people, so I don't have any information about whether they might or might not be related to the catalyst release."

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