

Monday, February 13, 2017 | HoustonChronicle.com and Chron.com |

Fishermen, landowners allege harm from waste pits in suit against owners of San Jacinto River Superfund site

Locals with cancer blame sludge fouling San Jacinto River

By Lise Olsen,
February 13, 2017

Rick Kornele and Charles Rayburn fished and crabbed as small boys on a sand bar near a popular boat ramp on the San Jacinto River - a site today blocked off by an imposing chain-link fence that's plastered with warning signs in three languages.

Rayburn remembers walking barefoot along the sand and wading into the murky water to catch crabs. Kornele's family often drove to the water's edge in a station wagon and spent days long lazy days camping in the shadow of the highway bridge.

As adults, both fished, boated and bought land near the river they loved. It wasn't until 2005 that both men separately discovered that their favorite 1960s childhood fishing hole sat next to hidden pits where a Pasadena paper mill and its partners had deposited sludge laced with cancer-causing dioxins and PCBs.

The pair met for the very first time late last year in a lawyer's office in downtown Houston, united by the crushing belief that their life-long love for the river and its fish may be killing them. Rayburn, 57, and Kornele, 58, have both been diagnosed with cancer.

Kornele has seen his strength sapped from a lengthy battle with stage IV lymphoma. Rayburn, who married a local girl, got a job in the plants and stayed in Highlands, has



Photo: Yi-Chin Lee, Houston Chronicle

Charles Rayburn, 57, wipes away tears while sharing stories of fighting against right parotid gland cancer, which was surgically removed in 2012 after a 19-hour surgery, Thursday, Dec. 15, 2016, in Houston.

seen his face ravaged and rebuilt in a fight against salivary gland cancer. They are among 100 people whose claims that they were sickened after a lifetime of consuming toxic seafood from the fouled San Jacinto River are expected to take center stage in a legal showdown that pits residents and property owners mostly from Channelview, Highlands, Baytown and Houston against the companies that inherited the dioxin and PCB-tainted dumping grounds.

In all, more than 600 people are part of the ongoing legal dispute in Harris County. Filed in 2012, the

case has grown into one of the largest environmental class action lawsuits in Texas history, according to county leaders and Richard Mithoff, the civil lawyer who is representing the plaintiffs in their fight to hold the current business owners accountable for their losses. They include home and business owners along the river.

In the next few months as part of the civil lawsuit, about 39 of the 600 plaintiffs - Kornele, Rayburn and others selected as the "lead cases" - will be asked to provide proof about how either their health, property or livelihood specifically was damaged

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Photo: Yi-Chin Lee, Houston Chronicle

Ricky Kornele, 58, shares stories of living along San Jacinto River Thursday, Dec. 15, 2016, in Houston. Kornele grew up along the river and he was a prolific recreational fisherman. He and his wife, Rebecca, owned two bait shops near the river and were living in their American dream until the signs warning against eating fish from the river went up. Kornele was diagnosed with stage IV lymphoma in 2007, and he has moved away from the river.



Photo: Melissa Phillip, Houston Chronicle

Gina Fields walks near a sign along Market St. Tuesday, Jan. 3, 2017, in Channelview that states No Unauthorized Entry into the U.S. EPA Superfund Site at the San Jacinto River Waste Pits. Before the area was closed she and family members fished, crabbed, swam and camped in this area of the river. She also worked at a bait shop with family members, Ricky and Rebecca Kornele, who are now involved in the waste pit related lawsuit. Because of dioxin and PCB contamination in the San Jacinto River there are now advisories on the dangers of eating crab and fish from the area.

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by contact with polluted waters and fish. Each family will be asked to reveal detailed medical and personal information so that ultimately a Harris County judge can determine whether their waste pit case proceeds or dies.

"We believe there will be testimony from those who have lived there and have fished in the river and engaged in recreational sports such as swimming and water skiing and who have eaten the fish and who we believe the evidence will show have been very seriously harmed," Mithoff said.

Notorious Superfund site

This is the third of three San Jacinto waste pits lawsuits to have been filed in Harris County civil district courts. But it is the first suit filed on behalf of residents who in many cases lived their entire lives along the river or owned businesses along its banks. Many argue their health was compromised by unknowingly eating toxic fish, while others are focused on the damages to their property

values from the contamination.

"This case is about the handling and storage of waste - waste that we think includes components like dioxin and various PCBs that are very, very harmful to health and in some cases have caused cancers that are fatal," Mithoff said. "The focus of the trial will be on who had that responsibility and in what period of time and what could have been done differently."

The companies being sued in this case, International Paper, McGinnes Industrial and Waste Management Inc., are not the original owners of either the paper mill or of the waste pits but their successors. In court filings, the corporate defendants have argued that they inherited a historic pollution problem created in the 1960s that only 40 years later became Texas' most notorious Superfund site.

Attorneys acting for those companies have blamed the government for failing to act more quickly to protect public health and have asked for the case to be dismissed. None responded to requests for comment.

State health workers first discovered poisoned fish in the San Jacinto River in 1990 near what is now Interstate 10. Over two decades, the state's fishing warning and ban areas grew by 2013 to swallow up the entire lower stretch of the San Jacinto River from the Lake Houston dam to where the river, which flows into the Houston Ship Channel, empties into Galveston Bay. Today the waste pit sites are marked with buoys visible to motorists passing on the I-10 East Freeway bridge - yet people still fish and boat nearby.

Central to the case is just how much the poisons leached into the fish and the water and how they harmed people who spent their lives as riverfolk frequenting the river's beaches, marinas and piers. Many like Rayburn and Kornele were avid boaters who spent carefree years regularly catching and eating the river's fish, now banned as too dangerous for consumption by pregnant women and children under 12.

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'All he did was fish'

Long before he knew of the dangers, Kornele settled in Channelview and eventually opened a bait shop to serve local anglers. In 1994, he and his wife, Rebecca, sunk their retirement savings into the Lazy R&R bait shop on a busy road just minutes from the river and the Lake Houston dam. The couple's business expanded into a wholesale retail operation that supplied bait all around the river. To read this article in one of Houston's most-spoken languages, click on the button below.

Then, in 2007, Rick suffered a grand mal seizure. He was rushed to the hospital and quickly diagnosed with lymphoma. "All he did was fish on that river and we thought we could retire there. That's not going to happen," said his wife. They sold the shop. These days, they spend much of their time driving to treatments and to doctor's appointments.

Despite the notorious waste pits - and two other Superfund sites on the banks upstream - the river remains home to surprisingly popular county parks, public and private marinas and beaches as well as the San Jacinto Monument and State Historic Park.

Fishermen can still be spotted along its banks on sunny days - despite warning signs placed on public access sites by the Galveston Bay Foundation. Along with the ban for pregnant women and children, everyone else is warned to limit consumption to a single meal per month. It irks easygoing Kornele on his frequent drives to Houston hospitals to spot anglers standing near those warning signs, which are often vandalized and stolen. He thinks the wording should be stronger and

signs should be posted at all marinas public and private.

"I think that other people should be warned," Kornele said in a rush of emotion. "I think the signs should say no fishing or catch and release only. On the way here today I saw people fishing and crabbing on the river. They need to heed the warning."

The case follows two similar environmental damage cases brought by

Harris County and by Vietnamese commercial fishermen, both of which ended in partial settlements. The size of the commercial fishermen's 2015 agreement has never been disclosed. But last year, Harris County won a \$29.2 million settlement from McGinnes Industrial Maintenance Corp. and Houston-based Waste Management to help address environmental damages.

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Records show the county is spending several million dollars of its settlement money on well monitoring, public health education and pollution control. But both county and state officials also have dedicated more than \$10 million in settlement money and other funds to improving riverfront recreation areas -including money to revamp Harris County's Riverfront Terrace park, which has the closest public boat ramp to the waste pits and \$3 million for a new park just downstream from the pits.

Dave Walden, who is a spokesman for Harris County's Precinct 2 Commissioner Jack Mormon, argues that improving the Riverfront park by adding a walking trail and waterfront viewing area - as well as building a brand new park just downstream - will give something back to eastern Harris County residents who have most suffered from the contamination. The boat ramp remains popular, though it's adjacent to the Superfund site, and is used by government officials as well as locals, he says. And the new park, named for Texas revolutionary Juan Seguin, will be further downstream and will help attract tourists, he says.

Clusters of cancer cases

Kornele and Rayburn both worries the park investments will only encourage more people to catch and eat San Jacinto fish - and sicken just like they did.

Rayburn still loves the river, but he quit fishing near the pits more than a decade ago. He switched exclusively saltwater fishing further downstream because he worried about contamination near his Highlands home. By then, though, he believes his health was already affected. He struggled



Photo: Korenele Family Photos

A popular camping area and public pier that was near where the paper mill's waste ponds were located back in the 1960s - a Superfund site today.

for years with a popping jaw that irritated him, though he'd repeatedly been assured the condition wasn't serious.

Then in 2010 a new doctor recommended a series of invasive and painful tests that diagnosed cancer in the paratid gland - a large salivary gland. To remove the cancer and then to rebuild his jaw and face, he's undergone five different surgeries. Rayburn knows many factors can cause cancer - but blames the fish he consumed for decades before he knew it contained dioxin.

In 2015, Department of State Health Services officials released an investigation that identified greater than expected incidences of certain kinds of cancers in pockets of east Harris County, including apparent clusters of childhood cancers of the eyes and brain. But the state hasn't linked those clusters to the pits.

Nationwide, only a handful of residential cancer cluster investigations prompted by community concerns

resulted in the identification of a specific environmental trigger, according to a 2012 study by an Emory University professor.

More general health risks of cancer-causing PCBs and dioxins have been established for decades. The EPA's latest clean-up plan calls for spending \$87 million to remove about 152,000 cubic yards of contaminated material in pits just north of the Interstate 10 bridge and to install systems to monitor the area during what the feds are describing as the recovery period.

A public comment period on that proposal just ended -and the fate of that plan too remains under review.