

## Town has hope for a cleaner future

**A jury will decide how much Neodesha, Kan., gets after a refinery polluted the area.**

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NEODESHA, Kan. | The first commercial oil well west of the Mississippi River was drilled here 116 years ago.

Oil still makes Neodesha special – but not in a good way.

Just under this town of 2,800 in southeastern Kansas is a sea of toxic oil that has, from time to time, gurgled to the surface – sometimes by a church, sometimes on the softball field.

The oil contamination comes from a refinery built on the edge of town in 1897 and shuttered in about 1970 without a cleanup.

But after decades of battling the sludge and years of attempting to sue oil giant BP, residents have some hopeful news.

In a surprise turnabout last month, a judge ruled that BP was liable for damages and a jury now must decide if BP should pay what the city wants – a half-billion dollars.

“We are just ecstatic,” said David Edgar, who, with his brother and father, represented the city in court.

BP has appealed the ruling.

Scott Dean, BP spokesman, said the company accepted full responsibility for addressing contamination at the site and has promised remedial action.

Dean said he could not discuss the matter further. “If there is a new trial then it will be discussed,” he said.

For now, the city is hoping it can win the \$480 million it’s asked for.

Why so much?

The contamination underlies a good portion of the town, which

decreases property values, causes a health hazard and prevents development, city officials say.

“Every spring, tar would start oozing from the ground” at Neodesha Plastics, said owner Ted Peitz. “Same thing at the girls softball fields. We had to close them because of the goeey substance oozing out of the ground.”

The girls softball teams now travel 15 miles to Fredonia to play three times a week.

One business, a cabinet maker, has moved to another town because of contaminated buildings, which were near the refinery. The largest employers – Cobalt Boats, a boat maker, and the plastics company – say they will remain but have moved to other parts of town.

Contamination from oil also has poisoned the groundwater under a large part of the town and one of the elementary schools, so some wells have been closed and the city’s main source of drinking water is the Fall River.

Residents now are concerned because experts testified that the oil is migrating toward the river. But BP and the Kansas Department of Health and Environment say that currently there are no health risks.

Recently residents accompanying a reporter saw water running black with an oily sheen in a creek that runs alongside former oil lagoons and flows to the Fall River. KDHE and BP officials said they would investigate.

“That is definitely something that is interesting to us,” said Christopher Carey, a KDHE environmental scientist.

If the jury awards the city damages, much of it will go for cleanup with other money going to pay for property damage, attorneys say.

The residents compare Neodesha to Sugar Creek, the town near Kansas City that successfully sued BP and Amoco in the 1990s for property damages.

The history of Neodesha (nee-O-dashay) is linked to oil. The Norman Number #1 Museum commemorates the west’s first commercial oil derrick. The newspaper is named The Derrick.

Standard Oil originally owned the refinery. In 1970, the company left it almost exactly as it was when it was operating – numerous tanks of oil, large open-pit lagoons of oil leaking into the ground and fumes rising in the air.

Standard Oil was gobbled up by Amoco. In the 1980s at least one oil pit caught fire and there was at least one explosion.

The state forced Amoco in 1990 into a consent decree that required a plan to clean up the property.

BP, which took over Amoco in 1998, told residents it was doing pilot studies to determine where the oil was and how to remove it, but those studies seemed to continue for years.

“We were getting played,” said Julie Lair, a member of the school board. “There would be people in little white suits, gloves. They would be driving around in trucks, then they dug some holes. It would be, ‘See, we are doing something.’”

By 2004, BP still had no final plans or a timeline to complete the cleanup, KDHE says. The town hired the Edgar law firm in Kansas City and sued.

“We just wanted our town back,” said Daryl Pruter, superintendent of the Neodesha school district.

By the time the 17-week trial concluded in January, though, residents had learned that BP was considering one plan that would take about 700 to 1,000 years.

# OIL: Jury to decide how much BP will pay

"We wanted this cleaned up in our lifetime, not in our children's children's lifetimes," Pruter said.

BP argued in court that the company was committed to a cleanup and was already actively doing that.

Edgar said BP attorneys also told the jury that the residents were greedy.

Residents say the legal battle has been fought up a steep hill and without much help from KDHE, the state's environmental regulatory agency.

And their hopes were dashed in January when a jury ruled in favor of BP.

But last month, Allen County Judge Daniel Creitz ruled that he erred in jury instructions, and he, not the jury, should have decided whether BP was strictly liable for damage.

Creitz then ruled the corporation is liable.

"Given the defendants' admissions and evidence here, no rational juror could return a verdict stating that (BP was) not guilty of contaminating the groundwater underneath Neodesha," Creitz wrote in his ruling. "The contaminants in this case are some of the most dangerous known to mankind."

Bitterness is probably the best way to describe how Neodesha residents feel toward KDHE.

"KDHE is charged with protecting the health, safety and environment of Kansans – not polluters," said Doug DePew, city attorney.

One of the most revealing points, residents said, was when Pam Chaffee, then KDHE's project manager for Neodesha's BP site, testified.

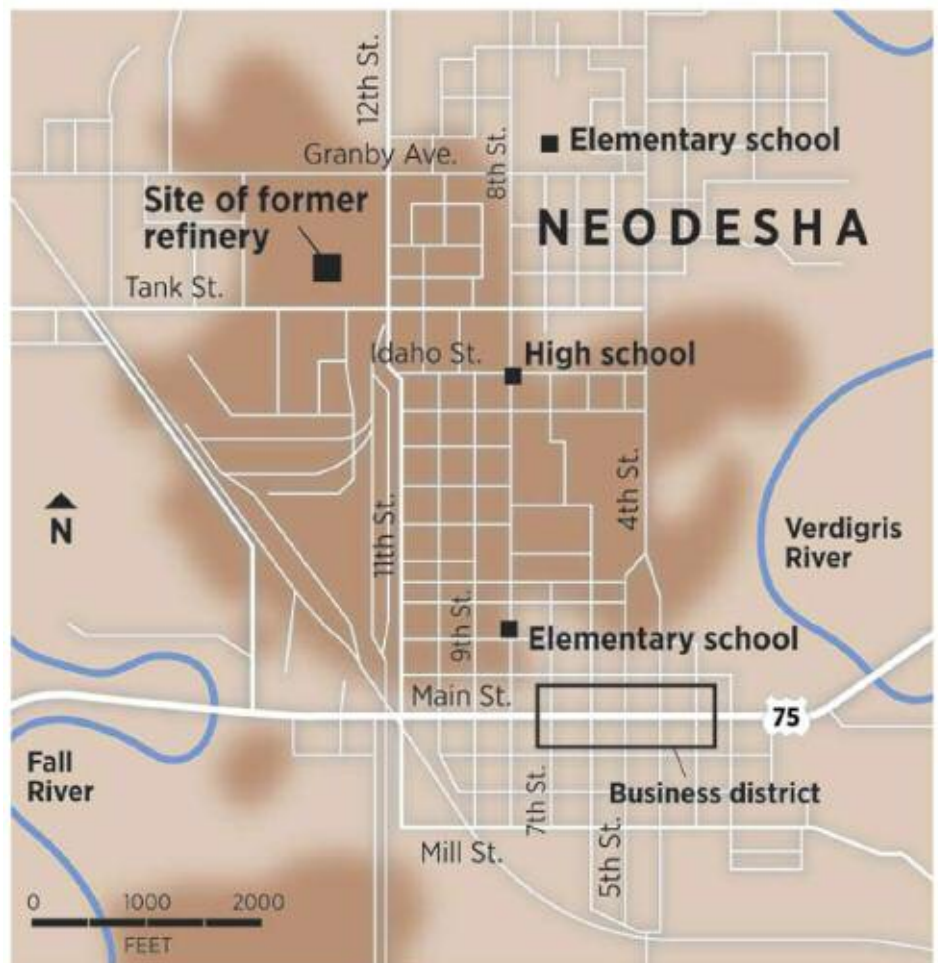
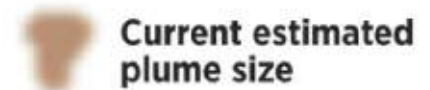
While on the stand, according to the plaintiffs, Chaffee said that the day before she had met with BP attorneys for possibly nine hours. She said the BP attorneys were briefing her on how she would testify.

"We were slack-jawed," said Peitz, the plastics company owner.

KDHE acknowledged in an interview that Chaffee met with BP attorneys but would not make her available for an interview.

## GROUNDWATER CONTAMINATION

Neodesha, Kan. is plagued by underground pollution left by a former refinery. Chemicals, including benzene, threaten the water supply for the area.



In a statement, officials said, "KDHE is not a party to the lawsuit and is only interested in making sure that BP remediates the site cleanup."

Chaffee has been transferred to a different project.

Carey, the new project manager, said KDHE has plans to establish a citizens advisory group so the agency can better inform residents.

KDHE has now ordered BP to do additional sampling and develop a final clean-up plan.

Edgar said BP should have completed it long ago.

"If they started doing this cleanup 37 years ago when they said they were, we'd have a clean town," he said.