

By: Shapleigh

S.R. No. 944

SENATE RESOLUTION

WHEREAS, Over 1,800 people in Mission, Texas, have filed a lawsuit because of exposure to pesticides left by the former Hayes-Sammons pesticide mixing plant that operated in the middle of their neighborhood from 1945 until 1968; and

WHEREAS, Of the 1,800 plaintiffs, hundreds are complaining of health effects known to be associated with long-term exposure to pesticides, including cancer; these health effects include bladder cancer, breast cancer, cervical cancer, colon cancer, esophageal cancer, lymphoma, Hodgkin's disease, multiple myeloma, non-Hodgkin's lymphoma, bone cancer, kidney cancer, liver disease, including liver cancer, lung cancer, pancreatic cancer, skin cancer, stomach cancer, thyroid cancer, and uterine cancer; and

WHEREAS, The pesticides formulated at the plant by Hayes-Sammons included DDT, Toxaphene, Chlordane, BHC, and Dieldrin; and

WHEREAS, DDT, Toxaphene, Chlordane, BHC, and Dieldrin have been banned in the United States because of their effects on human health and the environment; and

WHEREAS, These pesticides are still present today in the plaintiffs' neighborhood; and

WHEREAS, In 1980, the United States Environmental Protection Agency found pesticide contamination in the Mission

neighborhood left from the Hayes-Sammons operations, both on the plant site and on the plaintiffs' properties; and

WHEREAS, Hundreds of people live next to or in very close proximity to the former Hayes-Sammons plant; and

WHEREAS, The United States Environmental Protection Agency stated in pleadings filed with the United States district court in 1980 that the "concentrations [of pesticides] found on the [Hayes-Sammons site] are so high that spending one day on the [Hayes-Sammons site] would be more harmful than a year of agricultural work in the fields which had in the past been regularly sprayed with these chemicals"; and

WHEREAS, The United States Environmental Protection Agency stated in pleadings filed with the United States district court that "[b]ecause inhaling these chemicals is far more dangerous than swallowing them, a day on the [Hayes-Sammons site] would be more injurious than years of drinking water which had the maximum water quality standards levels of these chemicals"; and

WHEREAS, The United States Environmental Protection Agency stated in pleadings filed with the United States district court in reference to the Hayes-Sammons site that "these chemicals are all banned, so that in fact a person would be well advised to avoid them totally"; and

WHEREAS, The United States Environmental Protection Agency stated in pleadings filed with the United States district court that the chemicals found on the Hayes-Sammons site, in their strongest concentrations, exceeded water quality standards

by millions of times, and never less than by 75,000 times; and

WHEREAS, The neighborhood and properties are still contaminated from the pesticides today, nearly 40 years after Hayes-Sammons stopped its operations; and

WHEREAS, A United States Environmental Protection Agency memorandum released in July, 2006, warned that, if the contaminants are not removed, the release of contaminants from the former Hayes-Sammons site "may present an imminent and substantial endangerment to the public health, welfare, or the environment"; and

WHEREAS, The affected residents of Mission filed a lawsuit in 1998 against the manufacturers of the DDT, Toxaphene, Chlordane, BHC, and Dieldrin claiming that the manufacturers did not properly warn Hayes-Sammons about the dangers of the pesticides and the dangers of exposing residents by operating in the middle of their neighborhood; jury trial was set for June 6, 2005, in Hidalgo County to hear the case of five of the residents who had all developed non-Hodgkin's lymphoma and had all been exposed to pesticides while living in close proximity to the Hayes-Sammons plant; Allied Chemical Corporation, one of the pesticide manufacturers, appealed the consolidation of the five cases to the Supreme Court of Texas; the sole issue was whether the trial court could consolidate the cases of five plaintiffs in one trial; and

WHEREAS, The plaintiffs have agreed to proceed with only one plaintiff at a time and have asked to proceed with the case of Guadalupe Garza only; Mrs. Garza was diagnosed with

non-Hodgkin's lymphoma and had lived in Mission all of her life; the appeal before the Supreme Court of Texas was therefore rendered moot; and

WHEREAS, The Supreme Court of Texas has not yet made a decision on whether Mrs. Garza's case can proceed to trial; while awaiting a decision from the supreme court, the plaintiffs are prohibited from taking any further action in the case; the supreme court has stopped any further proceedings in the lawsuit, not only for Mrs. Garza's case but also for all 1,800 plaintiffs; and

WHEREAS, The Supreme Court of Texas has stayed all proceedings for more than two years, since March 28, 2005; and

WHEREAS, The 1,800 affected residents are being denied their day in court and have already been denied the use of the judicial system for more than two years; at the same time, many of them are gravely sick and some are dying; the affected residents are appealing to the Supreme Court of Texas to rule in the immediate future before many more residents die and are unable to see their case come to trial; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby request that the Supreme Court of Texas, in the interest of justice, rule on the pending mandamus appeal filed by Allied Chemical Corporation, et al. so that justice may be done.