

Jurors say Grace settlement is just

By DAN KENNEDY

WOBURN — Two of the six jurors who found that W.R. Grace & Co. had negligently contaminated municipal wells in East Woburn expressed satisfaction Monday night at news that Grace would pay the plaintiffs an estimated \$8 million.

Both Jean Coulsey of Norton, a part-time forklift operator, and Harriett Clarke of Pembroke, a church organist, told the Daily Times Chronicle in telephone interviews they believe the out-of-court settlement is just.

"You can't bring back a life," Coulsey said. "I'm sure they (the plaintiffs) feel the same way — that they can't replace what they lost. I feel that they won — I feel that they made a point."

Coulsey added she hopes the eight East Woburn families who sued Grace will use the money for a worthwhile purpose, such as cleaning up toxic wastes in the area.

Clarke said she believes Grace is responsible for contaminating the neighborhood's water supply — but only in part.

"I think the city of Woburn has had water problems in the Aberjona River valley for quite awhile," she said, adding that if city officials had tested the well water earlier, problems might have been averted.

Clarke said that, on several occasions during the five-month-long first phase of the trial, she wondered why the plaintiffs had not sued the city in addition to Grace and Beatrice Foods Co.

The plaintiffs had charged that chemicals dumped at Grace's Cryovac manufacturing plant, 369 Washington St., and in back of the Riley Leather Co. tannery, 228 Salem St., had contaminated municipal wells G and H, which were closed in 1979 after 15 years of use. Beatrice is the former owner of the tannery.

On July 28 in U.S. District Court, the three-man, three-woman jury, after nine days of deliberations, dismissed the complaint against Beatrice and found that Grace had negligently contaminated the wells sometime before 1979.

On Monday morning, Judge Walter Jay Skinner told the jurors, who had been prepared to begin the second phase of the trial, that a settlement had been reached and that the trial was over.

Had a settlement not been reached, he added, a new first phase with a new jury would have been necessary, since he had granted a motion by Grace for a new trial on the basis that the jury's verdict was inconsistent.

The jury, in reaching its verdict, answered a question posed by the judge that it could not determine when chemicals dumped at the Cryovac site had reached wells G and H.

But, in answer to a similarly worded question, the jurors said the wells first became contaminated with trichloroethylene (TCE) as a result of Grace negligence in September 1973. They added they could not give an answer for tetrachloroethylene (PCE), the other chemical.

Monday was the first opportunity for news reporters to speak with jurors, since they had been prohibited from any contact with the press as long as the trial was active.

Outside the courtroom Monday morning, juror Robert Fox of Marblehead, a painting contractor, said that, as far as the jury was concerned, September 1973 was the first time there was enough TCE contamination on the Cryovac site to pose a threat to wells G and H.

Fox added the jurors could not decide when TCE had arrived at the wells, except they believed both TCE and PCE had arrived by the time the wells were closed in 1979, since tests taken then indicated the presence of both chemicals.

Fox expressed surprise when a reporter told him the jurors had apparently misinterpreted Judge Skinner's question. The question had pertained to the time of well contamination rather than to the time the Cryovac site had been contaminated.

Neither Coulsey nor Clarke could remember what the September 1973 date pertained to.

"Honest to goodness, I cannot answer that question, to be truthful," Clarke said. "Throwing dates in there really confused us all."

Coulsey said she remembers September 1973 as a date cited by one of the expert witnesses, but added she could not remember which one.

A fourth juror, Vincent O'Rourke of Hull, a postal worker, declined to comment when contacted Monday night.

Neither the foreman, William Vogel of Quincy, a supervisor for NYNEX, nor Linda Kaplan of Revere, an employee in the accounting department of John Hancock Mutual Life Insurance Co., could be reached for comment.

Coulsey and Clarke said that, when the jurors first entered deliberations, they were split, with four in favor of finding both Beatrice and Grace liable and two in favor of dismissing the complaint against both companies.

They said that, as the days wore on, a consensus began to emerge, as they realized there was far more evidence against Grace than there was against Beatrice.

Nevertheless, both women said there were some tense moments — especially on July 24 when, after eight days of deliberations, the jurors announced they were deadlocked and could not reach a verdict.

"We were banging heads together, yelling back and forth, and we said the heck with it," Clarke said.

"When it started to get a little rough, there was a little name-calling," Coulsey added.

Coulsey said that, when Judge Skinner urged them to keep trying — especially when it was revealed that Vogel would have to leave because of scheduled surgery, necessitating new deliberations with an alternate juror — the jurors redoubled their efforts and reached a verdict.

"I don't feel a new jury could do any better," Coulsey said, describing the verdict as a "compromise."



FRIENDS AND FAMILY embrace Donna Robbins.

(Barbara Kennedy photo)

The jurors said they were impressed with the scientific witnesses presented by all parties in the case, but added that, as nontechnical people, they found it nearly impossible to evaluate their testimony.

The two principal witnesses in the Grace portion of the case were hydrogeologists — Dr. George Pinder, hired by the plaintiffs, and Dr. John Guswa, hired by Grace.

Pinder testified TCE would flow from the Cryovac site to the wells in three years, while Guswa testified TCE dumped on the Cryovac property would not

reach the wells in 25 years.

Skinner instructed the jurors that they had to accept the testimony of one witness or the other to reach a verdict.

Coulsey, Clarke and Fox said that was something they just could not do.

Nevertheless, Clarke and Coulsey praised Judge Skinner's handling of the case. Clarke said that had Skinner not allowed the jurors to take notes — something that is not normally permitted — a verdict never could have been reached.

While Clarke declined to say which side she came down on in the initial four-to-two split, Coulsey unabashedly said she originally favored finding both defendants liable. She said she agreed to dismiss charges against Beatrice only because a "preponderance of the evi-

dence" was lacking.

Upon being informed that the families' lawyers intend to appeal the verdict dismissing the complaint against Beatrice, Coulsey replied, "I think they should go after Beatrice again. I think it's smart that they appeal."

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