

Residents divided as judge approves \$600 million settlement over East Palestine, Ohio derailment

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On Monday, a group of East Palestine, Ohio residents filed an appeal against a \$600 million class action settlement over the catastrophic derailment and chemical release that poisoned the town last year. The group wants time to review the settlement and access to test results and other data.

On February 3, 2023, a 151-car-long Norfolk Southern train derailed while traveling through East Palestine, Ohio. A total of 38 cars derailed, including 11 that carried toxic chemicals, several of which exploded and caught fire.

The accident was completely preventable, caused by the Norfolk Southern push for profits over safety. Railroad officials knew for an hour that a wheel bearing was overheating, which later failed causing the derailment, yet didn't inform the train crew to stop the train.

Three days later, against the advice of the chemical manufacturer, Norfolk Southern made the decision to release and burn off five intact tanker cars filled with vinyl chloride, setting off a fireball seen for over 20 miles and poisoning the town and surrounding communities with highly cancer-causing toxins.

Residents have also expressed concerns that the settlement will mean that they lose the right to sue Norfolk Southern if they develop cancer or other health conditions in the future, and that money already paid to residents who were forced to relocate from their homes will be deducted from the amount they receive.

The Rev. Joseph Sheely, whose name appears on the appeal, says that he and his wife have started getting death threats. He says that he was part of the group that challenged the settlement, but that he did not want to be part of the appeal.

He says that he and his wife have been sick since the derailment and that they don't want the added damage to their health from the stress of the appeal.

Last Wednesday, Federal Judge Benita Pearson approved the class-action settlements, overruling all objections brought by residents of East Palestine to the agreement.

At the Wednesday hearing, residents complained that they weren't being given enough time to review the settlement and that they would lose all their rights to sue Norfolk Southern if they or a member of their family develops cancer in the future.

Under the settlement agreement, those living closest to the derailment will receive \$70,000 per household for property damages. Payouts will decline to just a few hundred dollars for people living farther away. Household members can also receive up to \$25,000 for healthcare expenses, with the exact amount depending on distance and dozens of other factors.

Attorneys representing the class action will receive around \$180 million, including \$162 million from the settlement plus another \$18 million in expenses.

One of the key complaints of residents is that if they accept the settlement, they give up their right to hold Norfolk Southern responsible for health problems that develop in the future. Both vinyl chloride and dioxin, one of the chemicals released during the burning of the vinyl chloride, are carcinogens, meaning residents could develop cancer years in the future.

According to multiple news reports, Jami Wallace, a resident of East Palestine, spoke up when the decision was made, calling it a "sham" and directing much of her anger toward the class-action attorneys: "You guys lied to the whole community, you should be ashamed."

Ms. Wallace was ordered out of the courtroom and Judge Pearson instructed police to escort Ms. Wallace out of the building and put her out "to the pavement."

Outside, Ms. Wallace told the *Pittsburgh Post-Gazette* that the attorneys "duped people into signing up." "They bully people unless you have a million dollars to fight it on your own. This is all the money you're ever going to get. People felt like they were backed into a corner, like they didn't have a choice."

Zsuzsa Gyenes also told the *Post-Gazette* that she only opted into the settlement because she had no other choice.

She and her young son had to move away from East Palestine after they began getting sick.

In an interview with the *World Socialist Web Site* posted shortly after the derailment, Ms. Gyenes said she and her son left the night of explosion and that her house “feels like a chemical bath” and that she got “violently sick” when she went back inside.

Ms. Gyenes, who had to move 17 miles away, is concerned that she will not see any of the settlement since they will deduct the money she has already been given for making a decision to keep her family safe.

“That money is being taken away as if we were being paid twice, but that was definitely not the case,” she told the *Post-Gazette*.

Lisa Murphy, who lives near the derailment, told the *World Socialist Web Site* that she is very conflicted about the settlement. “This is not going to fix my life,” she said. Lisa said that she only opted in at the very end because she has a 16-year-old daughter, and she plans to hold onto what ever money she receives in case she does develop a health problem.

“If down the road, my daughter or I ever do develop cancer, I don’t think I could prove it was from this. You are exposed to so much stuff over your life.”

Lisa said that she is a single mother who has had to work three jobs to support herself and her children. “I don’t like taking anything from anyone.

“Nobody can tell you what is going to happen. This is not going to fix the problem.”

“We are still sitting and waiting,” said another resident who asked that his name not be used. “I’ve gotten a lot of backlash from things I’ve said before. The town is very divided.”

He explained that after the derailment he and his wife decided to move out of the house they owned. “We have three boys and one day they are all getting bloody noses. We wanted them to be safe.”

He explained that they are now renting but living outside the “smoke line.” He’s not sure what will happen to the house they owned. It was being financed, and they couldn’t keep making the payments. He is hoping that the settlement will take care of that, but doesn’t know yet.

Attorney Dan Abraham, who represents several individuals who opted out of the settlement and 35 families who opted into the settlement, brought up that residents needed more time to evaluate it, especially considering that the long-term health impact is still not known. He pointed out that attorneys have yet to release to residents the findings of Stephen Petty, an exposure expert they hired.

To underscore this problem, the Associated Press reported the day before the judge’s ruling on their own investigation

into testing by the Environmental Protection Agency. They found that the EPA did not provide data for most of their testing, claiming that the results were under harmful limits.

Experts interviewed by the AP pointed out that individual chemicals may not have been over what is considered hazardous levels, but their analysis found that “some health experts say that when mixed together, as they are in East Palestine, even levels of chemicals below that standard could raise the risk for cancer or other serious health problems. Extended exposure to low levels of chemicals might also cause problems.”

Experts also pointed out that even when results are deemed to be “safe,” they should still be reported as long as they are above the level that the testing equipment is capable of detecting. This is important for residents to know so that they can evaluate the long-term health impact.

Last month the AP also reported that workers who were involved in the cleanup were also getting sick, but those reports were not released to the public.

To release the vinyl chloride trapped in the riverbed, workers during the cleanup process were using what is called a high-pressure air-knife to overturn sediment in the polluted creeks. Many of those workers reported suffering from dizziness, headaches and vomiting and were sent back to their hotels to rest.

Those were many of same symptoms that residents complained of and are noted by the Centers for Disease Control as some of the symptoms of vinyl chloride exposure.

The report of the workers’ illnesses was provided by the contractor doing the cleanup to the EPA’s Unified Command that was overseeing the cleanup operations, yet the report was not made public to the community at large.



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