

# Shell settles with Tahoe utility

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Shell Oil Co. will pay a Lake Tahoe utility \$28 million to settle a lawsuit stemming from the pollution of south shore drinking water supplies by the leaking gasoline additive MTBE, officials said Monday.

Shell's settlement ends a lawsuit the South Tahoe Public Utility District filed four years ago against numerous gasoline manufacturers, refiners and distributors and a trial that has been under way since Sept. 12.

The case was the first in the country to go to trial on the idea that manufacturers of MTBE and refineries were responsible for damage done to public drinking water supplies.

"It sets an important and potentially wide-ranging precedent," said Vic Sher, lawyer for the district. "...The refineries knew of the risks but didn't take any of the steps that would have lessened the impact, and didn't warn anybody about it. Our hope is the outcome of this case will cause oil companies to take into account drinking water and avoid this kind of product in the future."

Cameron Smyth, spokesman for Shell, said company officials were happy to bring the case to an end.

"We felt this was an appropriate time for us to settle and to terminate any protracted litigation and further appeal expenses," Smyth said Monday, adding the settlement was not an admission of guilt.

Four divisions under the Shell umbrella — Shell Oil Co., Shell Products Co., Equilon Enterprises and Texaco Inc. — will pay the \$28 million. The district on Monday also settled with Tahoe Tom's, a south shore gas station, for \$300,000. Two weeks ago, Lyondell Chemical Co. agreed to pay \$4 million to settle its portion of the case.

The utility will receive a total of \$69 million from Shell, Exxon, Chevron and more than 10 other companies. The money will be used to clean up affected wells, which could take decades, said Dennis Cocking, spokesman for the utility.

The settlement means the 14,000 households the district serves with water will not have to pay for the utility's MTBE-related woes.

"We accomplished what we set out to do: to receive enough to fix the problem and pay all the bills without the customers having to bear the costs," Cocking said Monday.

Methyl tertiary butyl ether has been added to help gasoline burn cleanly and reduce air pollution. However, the chemical pollutes groundwater much faster than gasoline and breaks down slowly. At small levels, MTBE renders water undrinkable, making it taste and smell like turpentine. It is a suspected carcinogen.

MTBE has been the source of contamination at many sites throughout the country, especially in California where the additive once comprised more than 10 percent of gasoline by volume.

The South Tahoe Public Utility District, the largest water purveyor in the Lake Tahoe Basin, sued 31 oil refiners, fuel distributors and gas stations in 1998 after MTBE pollution forced the closure of 13 of the district's 34 wells.

Many of the defendants settled before the case went to trial, including Exxon for \$12 million and Chevron for \$10 million.

After more than six months of trial in San Francisco Superior Court, a jury in April said the remaining defendants maliciously polluted the area's drinking water, having known about the dangers of the chemical while continuing to use it. A second phase to determine damages started immediately.

Judge Carlos Bea on Monday approved the settlement and dismissed the jury.

Sher, the district's lawyer, said the case's influence on future MTBE-related lawsuits might be diluted.

"The settlement, in a sense, wipes the slate clean," said Sher, whose Sacramento-based law firm specializes in groundwater contamination and is working for Santa Monica on another suit involving MTBE contamination. "But as a matter of record, everyone knows what the issue was and what the jury found."

Cocking said the district likely would have faced at least two years of appeals had it decided not to settle.

But, he said, if the utility couldn't get enough from Shell to ensure that it could pay for cleaning up its MTBE contamination, it wouldn't have agreed to the deal.

"Everyone here feels pretty proud of this," Cocking said. "We stood by our guns. A lot of people, when we started down this road, said, 'You can't take on Big Oil. They're going to kill you.'"

The south shore area has shallow wells, many near gas station storage tanks. The utility first discovered MTBE in a well in 1997. Of its 13 closed wells, eight are polluted and five others are not used because they are in the paths of contaminant plumes.

The district relies solely on groundwater and does not have access to the lake's water.

With the community's depleted water supply, Cocking said, customers helped the district tremendously by voluntarily cutting back on water usage. And the district's staff was adept in maximizing the water system's output. If there had been further problems, such as a pump failure or another well closure, it would have been devastating, Cocking said.

To date, the district has spent about \$5 million on MTBE-related costs. Officials estimate it will take another \$35 million to fix its MTBE problems.

The \$69 million will go into a special account, Cocking said, so it can be used only for MTBE-related problems — at least until officials are reassured that it will be plenty.

"If we find in 10 years we've got the problem licked and have some left over, we'll find a use for it. But now it's premature," Cocking said.

"Really, the work begins now," Cocking said. "But it's nice to know you have the money to do it."

Because of the district's MTBE woes, El Dorado County and the city of South Lake Tahoe in 2000 banned the sale of MTBE on the California side of south shore. California Gov. Gray Davis has called for the additive's removal statewide by 2004.