

7-3-02

3 parents join suits over lead Lawsuits blame mining companies, chat piles for Picher children's high blood-lead levels

**By Gary Garton
Globe Staff Writer**

PICHER, Okla. — Brenda Himes says the shadow of lead poisoning makes the supervision of her three children's activities and grooming a more intense responsibility than most parents have.

"I've lived here all my life, and Picher kids have always played and ridden bicycles in the chat piles," she said. "That was just what you did, until they started warning us about elevated blood-lead levels."

Five years ago, her middle daughter, Lee Ann Smith, now 10, was tested and found to have a blood-lead level above the federally recognized "danger level" of 10 micrograms per deciliter.

Himes is one of three Picher residents who are adding their names to lawsuits against six mining companies that formerly were active in the area, and some chat haulers and chat-pile owners. A portion of Ottawa County was part of the former lead and zinc mining field in the Tri-State District.

The Tulsa law firms of Richard Gibbons & Associates and McKinney & Stringer have filed a total of eight lawsuits in Ottawa County District Court on behalf of Picher parents and their children since November of last year.

Himes said her other children, 11 and 3, have not shown excessive blood-lead levels.

"You don't know what caused one child to be affected and not the others, but you have to watch all three to keep them safe," she said. "You have to know where they're playing and be sure they wash thoroughly before meals. Parents normally do that with children, but in Picher you feel a lot more intense concern."

She said Lee Ann's blood-lead level has gone down "a couple of points" since the first test, but she did not want to cite specific levels on the advice of her attorneys.

Plaintiffs in the latest suits are Himes, on behalf of her daughter; John Eby Jr., on behalf of his son, Justin; and Michael Koger, on behalf of his son, Caden.

The new actions name the same mining companies as defendants: ASARCO Inc., Blue Tee Corp., Goldfields Mining Corp., NL Industries Inc., Childress Royalty Co. and Doe Run Corp. Different area chat owners and haulers are named in the different suits.

The lawsuits ask for more than \$4 million on behalf of each plaintiff, alleging that the mining companies created a public nuisance that is a public health hazard, and that the defendants that handled mine waste were negligent in doing so.

An attorney for one of the mining companies has filed a response in the first case, filed in November by Trenton and Michelle Herd on behalf of their son.

The response denies any willful negligence and says the mining companies followed the accepted practices of the industry as they were known at that time.

Brad Barron, with the Gibbons law firm, said Tuesday that the Herds' suit has been moved to U.S. District Court at Tulsa and is scheduled for trial early next year. He said it is the only case in which the courts have set a "date certain" for hearings.

Others who have filed suits are Chester and Pamela Reeves, on behalf of their son, Trapper; William and Elizabeth Carr, for their son, Christopher; Kim Harvey, for her son, William Edens; and Catherine Smith, for her son, Alfred Giveswater.