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Pact reached in tainted-water dispute

By Mitchel Benson
Mercury News Environment Writer

Fairchild Semiconductor Corp. announced Thursday that it and several other companies have agreed to pay a "multimillion-dollar" settlement to 530 residents of a South San Jose neighborhood who claimed they were injured by the chemical contamination of their drinking water supply in the early 1980s.

Attorneys and others on both sides of the suit refused to reveal the specific terms of

'Multimillion-dollar' award to residents near Fairchild

the settlement — the total or the settlements for any of the current or former residents of Los Paseos — saying that to do so would violate the agreement.

The other companies include Great Oaks Water Co., IBM Corp. and several companies involved in designing, manufacturing and installing the underground

tank at Fairchild's South San Jose plant.

The companies had demanded that complete terms of the settlement be kept secret, and some residents also sought to keep the size of their awards confidential. All parties in the case were required to sign statements saying they would not disclose the terms of the settlement.

John Tyndall, one of several San Jose attorneys who represented the residents, would describe the agreement only as a "multimillion-dollar" settlement and said it was "far more of a significant settlement in terms of what the people are actually getting" than the Love Canal toxics lawsuit in New York state several

years ago. In that case, Tyndall said, residents each received about \$15,000.

"I'm surprised and elated that we were able to arrive at the settlement we reached," Tyndall said.

The lawsuit arose out of the December 1981 discovery of toxic industrial solvents in the soil at the Fairchild Camera and Instrument Corp. (now Fairchild Semiconductor) plant in South San Jose, near the Los Paseos neighborhood.

See SETTLEMENT, Page 20A

Settlement no cure-all for residents

By Mitchell Benson

Mercury News Environment Writer

Yes, Lorraine Ross said Thursday, she was happy with her family's monetary settlement in the Fairchild Semiconductor Corp. case.

But no, she said, she does not think the emotional and physical challenges are behind her and husband, Jeff, and their daughter, Juliana.

"Juliana's already had two (heart) operations, probably needs one more," she said before a news conference to announce the settlement of the suit. "And who knows? She's only 5½, and she's got a long way to go."

Son born with heart defect

Susan Puppo, another Los Paseos resident whose son, Brian, was born with a heart defect, said she was glad the legal ordeal had finally ended.

But she sees other problems developing. She was one of many involved in the lawsuit who — obeying terms of the settlement — refused to reveal the size of the award. But just being a part of a "multimillion-dollar" accord, as it has been described, brings with it notoriety.

"I can see that it's going to create a lot of problems with our family, personal problems," she said. "In the environment we live in, people are going to be very envious."

For Lorraine Ross, the settlement means much more than dollars and cents. Ross, as much as anyone, can take credit for raising an entire state's consciousness about the hazard posed by the underground storage of toxic solvents and other hazardous substances.

"I think we've made a real significant point with what we have done over the last five years," Ross said. "This really wasn't an issue in this valley until we came forth and demanded some action."

Expressed concern

It was Ross, who has since moved to Gilroy, who first expressed concern when she realized that some of her Los Paseos neighbors' children were born with the same heart defect as Juliana. It was Ross who worked with Betty Roeder of the Great Oaks Water Co. and the state Department of Health Services, pushing and pushing until officials agreed to study the community.

In fact, it was the Fairchild leak and the IBM Corp. ground water contamination problem in the early 1980s that prompted state water quality officials to conduct a survey that confirmed their worst fears — underground storage tanks had leaked or were leaking across the Santa Clara Valley.

Other problems seen

Lorraine Ross sees other problems — not just more operations for daughter Juliana, but the threat of the unknown for Jeff and her.

"I'd love to be a fly on the wall and find out everything that's going on. But we at this point are pretty illiterate about a lot of things that happened behind closed doors," she said. "We all have nagging concerns." Part of the settlement, she said, is intended to protect the residents financially from future illness.

The only ones without weighty concerns are the children.

Brian Puppo, now 5½ and the veteran of four heart operations, chomped on some fruit Thursday while his parents discussed the settlement with reporters. And what will become of Brian's share of the settlement, which is in a trust until he turns 18?

A black Corvette will be on Brian's shopping list in 12½ years, he assured whoever would listen. "Cause I like 'em."

'Multimillion-dollar' pact reached in toxics dispute

SETTLEMENT, from Page 1A

Officials determined that the solvents, including 1,1,1-trichloroethane, had contaminated a Great Oaks Water Co. drinking water well. The well was shut down shortly after, and it has not operated since then. The officials traced the source of the contamination to an underground solvent waste tank at the Fairchild plant.

In early 1982, residents of the Los Paseos neighborhood began noticing that a number of children had recently been born with cardiac defects. In April of that year, the first of several lawsuits was filed against Fairchild and the other companies. Defendants were added later, including IBM, which had its own ground water contamination.

By agreeing to the settlement, Fairchild and the other defendants did not admit guilt.

In a prepared statement, attorneys for Fairchild indicated they believed the settlements were "a responsible and fair resolution" of the case.

Tyndall and James Boccardo, another attorney for the plaintiffs, said they were confident that they would have won had the case gone to trial.

"We thought that our discovery (of evidence) was such that it convinced the opposition that we were right," Boccardo said, adding later: "They were convinced that they were hooked. They knew that if they went to trial they would lose the case. They knew that we were armed with every . . . bit of evidence at our command."

Specifically, Tyndall charged that Fairchild bought and had installed a tank that was incompatible with the wastes it was meant to hold, allowing

the wastes to leak or eat their way out of the tank.

"They discovered that it was no good and took prompt action," Tyndall said. "We maintain they should have discovered it a lot sooner. That's the crux of the lawsuit right there. . . . We think that they should have been more diligent in assessing that tank from the very beginning."

Francine Grace Plaza, a Fairchild spokeswoman, declined to respond to any comments made at the Thursday afternoon news conference. She said Fairchild has spent more than \$25 million to clean up its South San Jose site. The 200,000-square-foot plant has been vacant and for sale since 1983, Plaza said. The plant was not shut down for environmental or health concerns, she said, but because the company was

developing a manufacturing center at Puyallup, Wash.

Tyndall said at the news conference that five of the residents — three children and two adults — had died of cancer since the suits were filed. In addition, he said, residents had reported 60 miscarriages and 17 cases of major cardiac birth defects.

State health studies, however, have not conclusively linked unexpectedly high rates of birth defects and miscarriages to contaminated drinking water. The 1985 studies did not rule out the water as the cause of the health problems, however.

State health officials have since begun a series of follow-up studies to the original Los Paseos studies to better understand how and why the birth defects occurred.