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SECTION

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JPL's Toxic Waste Caused Cancer, Suit Says

■ **Courts:** Neighbors charge that poor disposal practices from 1940s through '60s caused illnesses. Lab officials deny all allegations.

By NICHOLAS RICCARDI
TIMES STAFF WRITER

The Jet Propulsion Laboratory, basking in the international spotlight for its Pathfinder mission to Mars, is targeted in a lawsuit that alleges the lab's past chemical disposal practices caused cancer in dozens of local residents.

The lab vehemently denies the charges. The plaintiffs' lawyers cite what they describe as JPL's history of polluting during the 1940s, '50s and '60s, a time when

toxic solvents were routinely dumped in cesspools at the site. In 1992, the 179-acre facility was placed on the Environmental Protection Agency's Superfund list of contaminated areas needing cleanup.

The suit is part of a burgeoning field of environmental litigation—dubbed toxic torts—that has flooded the courts over the last two decades. These mammoth, high-stakes lawsuits often pit huge businesses or research facilities against plaintiffs' lawyers who may spend millions of dollars of their own money to make their cases.

The lawsuits often contrast emotion-

charged fears of disease with ostensibly dry, methodical scientific reasoning. In the JPL case, plaintiffs believe an institution of local pride "stabbed us in the back," in the words of one former La Canada resident with Hodgkin's disease, the type of cancer shared by many plaintiffs.

Tom Girardi, one of the plaintiffs' lawyers, said: "You [had] all these guys over there who are putting rockets into orbit, they know the property of every chemical in the world . . . and they decide 'Let's dump it in the water table.' It's inexcusable."

The lawsuit alleges that JPL discharged toxic materials into the ground, ground water, sewers and air, exposing the plaintiffs to the materials through the water

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JPL: Disposal of Toxic Waste Caused Cancer,

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supply and air.

It was filed in January on behalf of three plaintiffs, two former La Canada women suffering from Hodgkin's disease and the mother of a third woman who died in 1989. Clifford H. Pearson, one of their attorneys, said 31 others who have been found to have cancer or whose family members have died of cancer have petitioned the court to join the suit. All of the potential plaintiffs are La Canada or Altadena residents and 14 of them represent Hodgkin's cases.

The case is in its infancy and could take years to settle or go to trial.

JPL says science is on its side. "I don't really understand why these folks are even pressing the suit," said Charles Buriel, manager of JPL's environmental affairs office. "The medical literature doesn't even show a chemical link with Hodgkin's."

For the plaintiffs' case to succeed, their lawyers must demonstrate not only that the laboratory polluted, but that the plaintiffs were exposed to the pollution in sufficient levels that it caused their cancers.

The exposure allegedly occurred 20 to 30 years ago, before regular environmental testing was required to determine the presence of toxic chemicals in local water supplies. So each side is preparing to mount costly cases arguing radically different interpretations of chemical events decades ago.

"Ultimately," said Ernie Getto, a Los Angeles lawyer who defends companies against toxic torts, "these cases are about science and its limitations."

JPL officials say they did not keep detailed documentation on all disposal processes, especially during the facility's early years, the 1940s and '50s. At the time, the Army ran the lab where rockets were tested, nuclear weapons were built and soldiers were trained. Such records would be legally required today but were, at best, an afterthought at the time.

JPL officials said it was common practice during those decades for each lab building to dispose of sewage and chemical wastes in the cesspool pits, which seeped into the ground.

The city of Pasadena, whose water wells are downstream from JPL, was never pleased with this arrangement, according to memos obtained by The

Times. As early as 1948, memos from Pasadena engineers requested that JPL dispose of its waste through city sewers for fear that chemicals and human waste might contaminate the local water supply.

One city inspector in 1948 noted yellowish liquids being discharged into the arroyo and a "black, coal tar-like substance" by a JPL drain next to the stream. That inspector, according to a Pasadena memo, was even cautioned against driving his jeep across the stream because the water was thought to have an "explosive nature."

In the 1950s, JPL burned metal in Pasadena incineration pits by the Devil's Gate Reservoir, according to city and JPL documents. The documents do not detail the quantity or frequency of chemicals burned. In the 1960s, those documents report, chrome runoff from cooling towers spilled into the arroyo. Again, the documents do not detail the quantity or frequency of the runoff.

In the mid-1960s, JPL began disposing of its waste in the Pasadena sewage system, an acceptable practice at the time and one that the city had sought in 1948.

"This is what was viewed as commonly acceptable then," Buriel said of JPL's early disposal techniques. "Now we know better."

As environmental laws toughened, Pasadena began more sophisticated tests of its water wells and in 1979 discovered two with traces of three toxic solvents above Environmental Protection Agency safety levels. Those wells were closed.

Similar contamination was found at four more wells—two serving Pasadena and two run by the Lincoln Avenue Water District serving Altadena. All of those wells were also closed upon discovery of the contaminants. No wells serving La Canada were found to be contaminated, according to state environmental officials.

In 1990, JPL agreed to pay about \$1 million to build a



ALAN I. DUFFINAN / Los Angeles Times

Ramona Higley, left, and Tami Vallier have filed suit against JPL.

water treatment facility and pay to clean the Pasadena wells—without admitting responsibility for the contamination. A spokesman said the laboratory was simply being “a good corporate neighbor.”

Today, three of the Pasadena wells have reopened after JPL treatment, and one remains closed. The two Lincoln Avenue wells also reopened after treatment by the water district.

The 1992 declaration of JPL as a Superfund site came because of the water contamination and other spills on laboratory grounds. The designation gives JPL access to federal funds to aid its environmental cleanup, but also subjects the site to rigorous inspections.

That will not be a problem, JPL officials say, because the lab currently packages all hazardous waste and disposes of it through methods set by federal environ-

mental law.

Lengthy internal investigations have shown that the amounts of chemicals involved in the early disposal practices were so small that they would not harm the population, Buriel said. The in-house investigation included interviews with former employees as well as an examination of available documentation.

Debbie Lowe, the EPA's manager of the JPL Superfund site, said it is too soon to conclude that no harm has been done by the old disposal practices. Although there is no current risk from the wastes, testing is still underway to determine the effects of past polluting.

Tami Vallier thinks the damage has already been done.

A doctor was examining a lump on Vallier's neck in 1996 when she told him: “You're testing me for Hodgkin's disease.”

The doctor asked why she thought she had such a rare form of cancer. “Because,” the 30-year-old Vallier recalled saying, “it seems like everyone I know has it.”

One of Vallier's old schoolmates died of Hodgkin's in 1989. Another had barely survived the cancer. Vallier soon found that her hunch was correct—she was the third alumni of St. Bede's Catholic School in La Canada diagnosed with Hodgkin's.

The lawsuit alleges that St. Bede's proximity to JPL—it is about a mile away—led the three to be exposed to the pollutants. Vallier heard of a case in Burbank, where Lockheed paid a reported \$60-million settlement to 130 people who complained of health ailments, including cancer, which they linked to wastes from the Lockheed plant.

She called the Tarzana firm of Wasserman, Comden & Casselman, which handled the Lockheed case, and told them about the Hodgkin's cases in La Canada.

Some experts say the JPL case typifies a basic flaw in human reasoning that can lead to poor science and shoddy lawsuits.

“Hodgkin's disease periodically crops up in reports of clusters,” said Dr. Thomas Mack, a USC professor and Hodgkin's epidemiology expert. “It's human nature to blame someone else. People can't appreciate statistics intuitively.”

But Don Howarth, who lectures on toxic torts at Oxford and is a Los Angeles plaintiff's attorney, said that modern science has shown that diseases like cancer can have multiple causes. Because of this, toxic torts become very complicated.

“We're dealing with law that developed when burden of proof and so forth reflected accidents like a couple of ox carts bumping into each other in London,” Howarth said. “What we ought to say is look, realistically, are these two things related so that more likely than not one caused the other? You can easily say that in an auto accident case. But in a thing 10 years later, when it's something you can't see, something which affects the body, it's much more difficult.”

In the coming months, the case could develop on a number of fronts. It not clear whether the suit will stay in Superior Court or be transferred to a federal court. Also, still to be answered is the complicated question of who could ultimately be found liable, if damages are awarded. Numerous government agencies have funded the laboratory, which is staffed by Caltech.