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Calif. City Reaches Deal With Biz For \$1.4M In Fees, Cleanup

By **Michael Phillis**

Law360 (March 11, 2021, 5:52 PM EST) -- A California federal judge has signed off on an agreement between West Sacramento residents and the owner of a former metal plating business blamed for ground contamination, placing the company's insurer on the hook for \$1.4 million in legal fees and cleanup-related expenses.

The agreement with R and L Business Management and certain individuals concerns a 0.3-acre site in West Sacramento and includes an unspecified amount of funding for future cleanup costs and \$125,628 for past response costs, according to a stipulated judgment signed by U.S. District Judge William B. Shubb and docketed Wednesday.

The agreement, however, doesn't impose the obligations directly on R and L and other defendants, but forces the city to pursue their insurer, according to court documents.

The insurer named in the settlement, Arrowood Indemnity Co., has filed its own litigation asserting that it doesn't owe anything.

R and L formerly owned Capitol Plating, which operated on the site for at least two decades. Capitol Plating plated chrome bumpers, which involved "striping the bumper in acid or alkaline solutions" and polishing, grinding and placing the bumper in various metal solutions. The bumpers were manually shifted between tanks of metal solutions and the tanks would sometimes spill, according to court documents.

If the floor drain wasn't able to handle all the runoff, however, "the plating fluids would flow out of the building through a hole in the wall or through the back door where they spill out onto the ground outside," according to court filings. The ground near the hole was allegedly blue.

Bret A. Stone, an attorney with Paladin Law Group LLP representing the city, said the judgment reached against R and L under the Gatto Act is significant because it is one of the first times the law was included as part of a judgment.

The Gatto Act provides local officials with power to hold entities responsible for cleanups. Redevelopment agencies in California used to hold that power under a different law, but those agencies were eliminated, according to Stone.

"The Gatto Act, that is a really big deal because it is a very powerful tool for local, municipal enforcement of environmental laws," Stone told Law360.

One big question mark is the level of contamination at the site, which will impact the final cleanup cost, according to Stone. The agreement calls for testing of per- and polyfluoroalkyl substances, or PFAS.

Operations at the site stopped in the 1980s after a pair of fires, according to court documents and after a brief stint when the property was used for storage, nobody has operated on the site since,

according to the city.

Investigations into the site revealed groundwater and soil contamination, including problems with copper and nickel. The city sued in 2018, accusing a variety of entities including R and L of being at fault and violating the Resource Conservation Recovery Act, Comprehensive Environmental Response Compensation and Liability Act, and other laws.

The city had reached earlier agreements with other entities involved with the site, according to court records.

A representative for the defendants declined to comment.

The City of West Sacramento and people of the State of California are represented by Bret A. Stone of Paladin Law Group LLP.

R and L Business Management and others are represented by Joseph Salazar of Lewis Brisbois Bisgaard & Smith LLP.

The case is City of West Sacramento, California et al. v. R and L Business Management et al., case number 2:18-cv-00900, in the U.S. District Court for the Eastern District of California.

--Editing by Philip Shea.