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Tire fire settlement passed

By TODD MILBOURN
BEE STAFF WRITER
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A \$9 million settlement for West Side residents is now official, to compensate them for health problems and property damage reported as a result of the massive tire pile fire near Westley in 1999.

The settlement gained approval in Santa Clara County Superior Court in May; the agreement became final Monday when a 60-day period for appeals expired.

Attorneys representing more than 10,000 residents negotiated the settlement with CMS Generation Co., one of several defendants in a class-action lawsuit filed after the blaze.

"The small people were heard," said Mary Nicola of Patterson, one of the plaintiffs in the case.

Nicola said her family has suffered from sinus infections and headaches since the fire cast a plume of black smoke across western Stanislaus County.

The amount that plaintiffs can receive, which could range into the thousands, will depend on their proximity to the fire and their injuries.

Scott Cole, lead attorney, said the settlement could energize the case against the remaining defendants.

"While it's only a settlement with one defendant it gives us a shot in the arm to push even harder," he said.

CMS Generation Co. is a subsidiary of Michigan-based CMS Energy Corp. and the former owner of Oxford Tire Recycling of Northern California, which dumped tires at the site. A spokesman for the corporation would not comment Tuesday.

Remaining defendants include Modesto Energy Limited Partnership, rancher Ed Filbin and a trust in his family's name.

Cole declined to discuss any further settlement negotiations. "We're preparing for trial," he said.

Lightning sparked the September 1999 fire, setting off flames in a pile of 6 million tires in a canyon west of Interstate 5. The blaze emitted tons of heavy smoke. The fire burned for 34 days, casting an ashy shadow over much of the valley.

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Alfred Barbosa lives about 11 miles from where the fire started. He said ash and soot fell on his 1996 Ford Thunderbird and ruined it.

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"It became spotty and the motor wasn't running right," he said of the vehicle, which he later sold.


After the fire, Barbosa said, he suffered from bloody noses, itchy eyes and ear infections, ailments that he never had before.


Barbosa said he would use the money he gets to pay medical bills.

Like Barbosa, Nicola said she is pleased with the settlement -- and particularly the message that it sends.


"I'm happy, not because of the dollar amount, but because it says 'we're important,'" she said.

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