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## **Valley rancher heads to court over rhino project gone awry**

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It all started back in 1992 when Hidalgo County rancher James McAllen asked Forest Oil Co. to donate pipe to build pens for two endangered African black rhinoceroses that he was trying to save.

The Denver-based energy company, which has long extracted natural gas on the McAllen family's 70,000-acre ranch, was happy to help and handed over thousands of feet of used oil field pipe.

But according to McAllen, it wasn't until 2004 that Bobby Pearson, a retired Forest Oil employee, told McAllen that the pipe he was given more than a decade earlier was radioactive.

"I about fell over. I was just in a state of shock," recalled McAllen, 69, scion to one of the Rio Grande Valley's pioneer families.

By then he had lost part of a leg to a rare bone cancer. He also had shut down the rhino preservation project, launched under the auspices of the Game Conservation International, after both animals had sickened and one had died.

McAllen said a necropsy on the female rhino, Bimba, was inconclusive. The other rhino, a male named Binga, was sent to Fort Worth, where it is doing well.

According to depositions of Pearson and Daniel Worden, another Forest Oil employee at the ranch, company managers had joked about McAllen's rhinos "glowing in the dark," after the pipe donation.

Worden is among the defendants in the suit.

McAllen, who earlier had butted heads with Forest Oil over disputed gas payments, quickly saw a dark picture of premeditated malice.

"There's no doubt they knew they were giving me the poisoned apple. Did they give it to me to get rid of me? It makes me wonder," he said.

In 2005, McAllen sued the giant energy company, accusing it of everything from contaminating his ranch with mercury-tainted waste to deliberately trying to harm him with radioactive pipes.

"Forest Oil has exhibited a total disregard for human life, the well-being of animals and the overall environment," reads the suit, which is set for trial in October in Edinburg.

But a lawyer for Forest Oil says most of the suit's principal claims have collapsed under close scrutiny.

"It's a meritless shakedown. Mr. McAllen and his lawyers have engaged in the worst and most misleading type of hyperbole," said Geoffrey Harrison of Houston.

"There is no evidence that any radioactive pipe was given to McAllen," said Harrison, who added, "It's medically and scientifically impossible that any health problems were caused by this pipe."

According to state law, it is illegal for an energy company to give away radioactive pipe. Harrison said the pipe was cleaned and tested before it was donated.

He said recent tests at the ranch have proven that none of the pipe has elevated levels of radiation, and that most of it was never even used by McAllen for the rhino pen or anything else.

"The vast majority of the donated pipe is sitting on the pipe racks, exactly where it's been since the early and mid-1990s," he said.

And, said Harrison, even the elevated levels of normally occurring radioactive material, or NORM, found on the pipe when it came out of the ground in 1991 would not have posed a threat.

"You would only encounter some danger if exposure is constant for months or even years. It's not remotely dangerous for incidental exposure," he said.

According to an exhibit filed in the case, the highest level of NORM found on any piece of pipe when it was first tested in 1991 was 150 microrems, three times the level deemed safe by the Texas Railroad Commission.

However, officials at both the Texas Department of State Health Services in Austin and the University of Texas Health Science Center in San Antonio dismissed this as a health risk by exposure.

"The average background radiation level in San Antonio varies between 10-25 microrems," Dr. Michael Charlton of the Environmental Health and Safety Department at UTHSC, wrote in an e-mail.

"An accumulated external dose of 150 microrems would pose a health risk similar to living in San Antonio for approximately six hours. Therefore, the risk would be negligible," he wrote.

Bob Free, a member of the state health department's Radiation Control Group, said a normal chest X-ray exposes a person to several hundred times the radiation emitted by the Forest oil field pipe.

"Just working with the pipe would pose no health risks, but inhalation would be a different situation," he said.

And San Antonio lawyer Chris Amberson, who is both McAllen's son-in-law and his attorney, said the risk for McAllen was elevated when he cut and welded the pipe, inhaling radioactive dust.

"It's an ingestion case. It's an extremely rare cancer. It's medically proven that inhalation of radium causes bone cancer," he said. "I'm not going to tell the jury his cancer was caused by this pipe. I think it's related, but it's unprovable under the standards of law."

Amberson disputes the claim that the pipe was cleaned before it was given to McAllen and that the remaining pipe at the ranch shows no elevated radiation.

He said Forest Oil donated the pipe to avoid having to properly dispose of it.

"They figured, why pay money to remediate it when this idiot will take it and thank us for it," he said.

And he said that even after Pearson, who retired in 2004, alerted Forest Oil officials to the radioactive pipe problem five years ago, they did not notify McAllen.

Both sides said it is unlikely the case will be settled before trial. Still pending is a decision by the Texas Supreme Court whether or not to hear Forest Oil's claim that all the issues should be resolved in arbitration.

Amberson, who is seeking punitive damages as well as a cleanup of the alleged mercury contamination, said the suit isn't about the money.

"The oil industry needs to be held accountable for this type of activity. A jury needs to send a message that you can't do this to people and get away with it," he said.

However, Forest Oil's lawyer finds the whole mess inexplicable.

"I do not know what has gone on in Mr. McAllen's head that has led him to abuse the judicial process as he has in this case," Harrison said.