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# ESCAPE FROM HELLOWNERS OF A BURNING BACKYARD REACH SETTLEMENT, LEAVE TOXIC PAST BEHIND

**By Paul Rubin**

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The owners of a burning backyard in the White Mountains finally have moved out of the danger zone, after two years of battling one of Arizona's most expensive and least-publicized toxic disasters.

Art and Lynn Shupe and two of their neighbors recently reached an out-of-court settlement with paper giant Stone Forest Industries. The exact terms of the suit have been sealed by agreement of both sides, but Lynn Shupe says, "It looks like things are working out for us after all."

A retired copper miner in his late fifties, Art Shupe was working as a security guard for Stone Forest Industries when he complained to Stone officials in the spring of 1989 about the awful gasoline smell coming from the backyard of his mobile home in Eagar. The home was just below Stone's sawmill and storage tanks, and Shupe naturally suspected the company was responsible.

According to Shupe and his wife Lynn, it took months for Stone, a multinational paper firm with a logging plant in Eagar, to investigate his complaint. Meanwhile, things in his backyard got worse and worse. (A New Times story on May 30, 1990, described the Shupes' plight.)

Goldfish and crawdads that had flourished in a natural spring in the couple's backyard started dying. A once-clear stream that cut through the backyard filled with scummy petroleum-based pollutants. Their fruit trees withered.

Stone officials and state investigators later discovered that the problem was underground leakage of at least 25,000 gallons of gasoline and an unknown amount of diesel fuel from Stone's storage tanks. The company claimed in August 1989 to have found and sealed the leaks, but the stench at the Shupes continued to worsen.

Numerous tests of area drinking-water wells didn't reveal any petroleum contaminants. But a state deputy fire marshal declared the backyard a "fire hazard" after he dug a shovelful of petroleum-soaked dirt and ignited it with a match. In January 1990, the Shupes and their next-door neighbors, Donald and Catherine Butsko, filed a \$1 million lawsuit against Stone. (A third neighbor later joined in the suit.)

Taking on Stone was no small matter. The firm long has been the largest employer in the rural area 220 miles east of Phoenix.

The suit alleged that Stone was negligent "in the dumping of toxic waste materials, so that such materials were allowed to seep into the earth and water aquifers and to contaminate them with toxic chemicals."

Stone at first denied the allegations. But the firm finally settled. Stone purchased the three

contaminated properties in the Green Valley Acres subdivision, according to a well-placed Apache County source, for a price "well above their market value." Because of the settlement, the Shupes were able to purchase land about eight blocks from their old place. A few days ago, movers took the couple's mobile home to the new property.

"My clients are happy and I feel good about this," says Phoenix attorney Steven Cheifetz, who has been representing the Shupes and their neighbors. "I think the fact that this was settled indicates that Stone is trying to deal with this big problem."

By all accounts, the big leak still is a big problem. Lawyers for Stone did not return telephone calls seeking comment. But records indicate the firm already has spent more than \$1 million trying to get to the bottom of the mess. The state Attorney General's Office and the Department of Environmental Quality also are involved.

"Technically, this is a complex situation," says assistant attorney general Sheldon Muller. "We've been meeting with Stone to discuss where we're at with this thing. There's a long way to go here, but we're getting there."

Muller says Stone has agreed to sign an "administrative consent order," which will set time limits for the company to clean up the mess. As of now, Muller adds, the Attorney General's Office doesn't expect to ask a judge to fine the company.

Lynn Shupe says her new property has healthy apple and pear trees on it. "Art knows how to take care of orchards," she says. "He took care of all the stuff at our place before that leak ruined everything. That's what he really likes to do. I guess they're fixing to clean it up back there where all that mess is. It really was a bad leak. I'm just glad we're out of there."

