In the Matter of: 30 CFR PARTS 58 AND 72 RIN 1219-AB24 MEASURING AND CONTROLLING ASBESTOS EXPOSURE

Hampton Inn  
160 W. Catalina Drive  
Phoenix, Arizona  

Wednesday, June 5, 2002

The public hearing convened, pursuant to notice at 9:00 a.m.

BEFORE:

MARVIN W. NICHOLS, JR.  
Director, Office of Standards, Regulations and Variances, MSHA  

CAROL J. JONES,  
MSHA, Chief, Division of Health  

WENDY L. HOCH, MSHA, Technical Support Organization  

ALFRED D. DUCHARME, Office of the Solicitor  

PHUC PHAN, Office of Standards, Regulations and Variances
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MR. NICHOLS: Good morning, everybody. My name is Marvin Nichols and I am the Director of our Office of Standards, Regulations and Variances for the Mine Safety and Health Administration, and I will be the moderator for today's public meeting. On behalf of our Assistant Secretary Dave Lauriski I want to welcome all of you here today.

I have some other folks from our organization with me and I would like to introduce those folks. On my left is Wendy Hoch. Wendy is from our Technical Support Group. On my immediate left is Dr. Carol Jones. Dr. Jones is with our Metal and Non-Metal Mining Group in Arlington, Virginia. She is the Chief of our Health Division.

And on my far left is Al Ducharme. He is with our Office of the Solicitor.

This is the fifth of seven public meetings on asbestos. The previous meetings were held in Pittsburgh, Pennsylvania, Spokane, Washington, Vacaville, California and Canton, New York. We have two remaining meetings after this, one on June 12 in Virginia, Minnesota, and on June 20 in Charlottesville, Virginia.
The initial announcement of these public meetings was contained in an advance notice of proposed rule making published on March 29, 2002 in the Federal Register. A subsequent Federal Register notice was published on April 18 and announced the date of the Charlottesville, Virginia meeting was changed to June 20 and a public meeting would be held here in Phoenix, Arizona today on June 5. These two Federal Register documents are available in the back of the room if you would like to pick one up.

The purpose of these meetings is to obtain information from the public that will help us evaluate the following five issues:

1) Whether to lower our asbestos permissible exposure limit;

2) Whether we should replace our existing fiber analysis method referred to as Phase Contrast Microscopy with a more sensitive method which is Transmission Electron Microscopy;

3) Whether we should implement safeguards to limit take-home exposure;

4) Whether our field sampling methods are adequate and how our sampling results are being used, and;

5) What is the likely benefit and cost impact of any rule making action on these issues?

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These five issues were discussed in the March 29 Federal Register documents. The scope of the issues we are addressing with this ANPRM is limited, therefore this public meeting will be limited to hearing public input on the five issues I have just mentioned. We are particularly interested in responses and information related to these questions.

I would like to tell you a little bit about the role of the Mine Safety and Health Administration and then give you some background which led us to these public meetings.

The Mine Safety and Health Act of 1977 limits MSHA jurisdiction to mine property and authorizes us to write regulations which are enforced on mine property for violations of health and safety rules that occur there. The purpose of these regulations is to protect the health and safety of our nation's miners at these mines.

One of our regulations addresses asbestos. Our current asbestos standard for coal mining and for metal and non-metal mining is 2 fibers per cubic centimeter of air. And these standards date from the mid-1970s.

In 1980 we requested that the National Institution for Occupational Safety and Health, or NIOSH as it is better known, investigate health problems at vermiculite operations
around the country because our sampling data at that time showed higher than average asbestos exposures among the miners. The results of the NIOSH study were published in 1986 and verified our sampling results that indicated high occupational exposure prior to 1974 at a vermiculite operation in Libby, Montana. The highest exposures were in the mill.

The NIOSH report showed that in 1974 the mine began to use a wet process to concentrate vermiculite in the mill and occupational exposures dropped markedly. The asbestos-exposed miners employed at the vermiculite mine in Libby however inadvertently carried the asbestos fibers home on their clothes and in their personal vehicles thereby continuing to exposure themselves and family members. At that time we had encouraged the operator to change from a dry to a wet processing of material and also to reduce take-home contamination by installing showers and requiring the miners to change clothing before they leave the site.

In November 1999 a Seattle newspaper published a series of articles about the unusually high incident of asbestos-related illnesses and fatalities among miners who had lived in Libby, Montana. Because MSHA had jurisdiction over the mine the Department of Labor's Office of Inspector General began and evaluation of MSHA's role at the Libby
mine.

The findings and recommendations of the Office of the Inspector General were published in March 2001. Three of their recommendations would require additional rule making by MSHA, and those issues are the subject of this public meeting today. The OIG recommendations were that MSHA lower the existing permissible exposure limit to a more protective level, that MSHA use a more sensitive method, Transmission Electron Microscopy -- that is a tough word for me to pronounce, so bear with me -- to quantify and identify fibers in our samples rather than the Phase Contrast Microscopy method current used, and that MSHA address take-home contamination from asbestos.

Recently MSHA adopted new asbestos sampling techniques and we have increased the scope of sampling for airborne asbestos fibers at mines in an attempt to better determine miner exposure levels to asbestos. Our efforts have included taking samples at all existing vermiculite, taconite, talc and other mines to determine whether asbestos is present and at what levels.

Since the spring of 2000 we have taken almost 900 samples at more than 40 operations employing more than 4,000 miners. Our preliminary review and analysis of these samples show that very few exposures occurred during the

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sampling period which were above the OSHA 8-hour time
weighted average of .1 fiber per cubic centimeter of air. 
The sampling results are now available to the public on our
website at www.msha.gov and also the sampling results will
be made part of the rule making effort if we move forward
with rule making on asbestos.

The issues surrounding asbestos exposure are
important to MSHA and we will use the information provided
to us at these public meetings to help us decide how best to
proceed to address the five issues, so we want to hear your
views. These meetings will give mine operators, miners and
their representatives and other interested parties an
opportunity to present their views on the five issues that
we are considering for potential rule making.

The format of this public meeting will be as
follows:

Formal rules of evidence will not apply and this
meeting will be conducted in an informal manner. Those of
you who have notified MSHA in advance of your intent to
speak or who have signed up at our sign-in table will speak
first. And then after that anyone else that wishes to speak
will be allowed to do so.

If you wish to present any written statements or
information today please clearly identify your material.
When you give it to me I will identify the material by the title as it is submitted. And you may also submit comments following the meeting. But please get them in by June 27, 2002; that is when the comment period on this part of the rule making will close.

Comments may be submitted to MSHA by electronic mail, fax or regular mail, but please note that our headquarters office in Arlington, Virginia are moving on June 10 and we have a new address back at our sign-in table.

A verbatim transcript of this public meeting will be available upon request. If you want a personal copy of the transcript please make arrangements with our court reporter. Or you may just want to view it on our website. It will be posted on the website within five days of the close of this meeting.

Now, we will begin with the people that have signed up to speak. And as I said, after that anybody else that would want to speak is certainly welcome to. And we will stay here as long as we have people wanting to give us information.

Our first speaker will be Deena Cigoy. So come on up, Deena. And will you for the court reporter spell your last name and give it.

STATEMENT OF DEENA CIGOY, VENTANA LAKES PROPERTY

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OWNERS ASSOCIATION, ARIZONA

MS. CIGOY: C-I-G-O-Y. C like Charles, I, G as George, O-Y. First name is D-E-E-N-A. And I represent Ventana Lakes Property Owners Association.

We are an adult community of some 3,000 people who have the misfortune of being the main truck route for five large gravel mining operations in the Agua Fria River from 99th and Beardsley to way down by Williams and Jomax Road. We have discovered over the last eight years that we have been looking into this a huge number of our residents that have developed chronic obstructive pulmonary disease and for no -- they are not people who are a high risk group, they were not employed by the mining industry, they did not smoke. They were retired senior citizens who came out here for a nice lifestyle in an affordable community.

What they did do was take a walk every day. And they walked and walked in close proximity to the gravel trucks that are racing up out of that river bottom, sometimes uncovered, with huge clouds of dust and black diesel fumes being emitted from these trucks which we know contain benzene and formaldehyde, other known carcinogens. You mix that all together with what may be coming out of the mines and the dust in the air and other particulate and you have a lethal cocktail.

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Our next, well, our neighbor two doors away just died two years ago of COPD. We now have another friend who was just recently diagnosed with COPD. We are afraid. We have been trying to raise consciousness in this state for eight years about the harm that is being done to the residents, not just mine workers but to the residents and possibly the truck drivers who are employed by these large gravel operations to their health. Our air is some of the worst in the nation right now because of it. And we haven't gotten any response from anybody.

Maybe this isn't the right place to be. But Dr. Jones is a medical doctor and I'm going to address most of our concerns to her. We have finally reached the point where we got an air quality monitor in our community. And for the last three months my husband and I have taken readings every other day.

Right now those pits are boxed in down there. Because of no planning and poor planning large communities have been allowed to be built surrounding those gravel mines. Now, these communities are filled with little kids. There are just not old like us. Three, four, five bedroom houses. There is also a grade school down there now off of 109th and Williams which is right in the backyard of CEMEX, one of the largest mining operations there. And I know in a

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couple years there will be more breathing machines in that nurse's office than you can possibly imagine.

The state was going to put in an air quality monitor down there and the county said, no, let us do it. However, the county turned up very suddenly saying, no, we have no money to do that. And our guess is that they are just afraid because those young parents down there don't have a clue as to what their children are breathing. And when they start turning up with asthma and chronic bronchitis and every other respiratory ailment possible we feel those parents have a right to know that, just gives them the option of moving away if they want.

There are more little kids sick in this state from asthma and other bronchial and respiratory-related illnesses than back in the Cleveland, Ohio area where we came from which is part of the sinus belt. So this is our concern, our concern is not only for the mining people but the residents who have the misfortune of living in an area this close to it.

Some of our houses have 10 and 20 feet from the truck route to their backyards. Some of the houses are within a half mile of the mining operations. Some of those kids are down there within feet of what goes on down in that river bottom. And someplace, someday, somewhere someone has
to come in and do something about it.

We are looking for cleaner engines, diesel. There is supposed to be a mandate.

You can't pronounce "microscopy," I can't read without my -- with my glasses. This was in the Friday Arizona Republic, May 31, talking about trucking fleet operations who are rushing to buy current truck models to avoid a new generation of less polluting diesel engines that take over the market in October.

This one was in the day before: "Air pollution increasing cancer risk by 10 times," "10 times greater than...acceptable by the federal government, according to a government report released Friday."

"More than 20 million Americans, including those in Maricopa County, are being exposed to a cancer risk closer to 1 in 10,000...100 times higher than the acceptable level."

So we feel we have some real valid concerns. The trucking industry has shown no desire to cooperate with us at all. Even though they always tell us we would like to be good neighbors they never do anything. If you say please stop running at night, they say no, you can't, we can't do that. They run 365 days a year, 24 hours a day, and all it does is create more of a hazard than we feel we should be
exposed to.

And so I've had my say. And maybe Dr. Jones can lead me to the right people in Washington. I don't know, we've tried our best. We are asking for help.

MR. NICHOLS: Edna, could we have, are you going to submit those articles to us?

MS. CIGOY: If you'd like you can certainly have them.

MR. NICHOLS: Sure.

MS. CIGOY: There's the Arizona Republic, it's syndicated nationally.

MR. NICHOLS: Anybody have any questions of Edna.

MS. JONES: Deena. Her name is Deena.

MR. NICHOLS: Oh, Deena.

MS. CIGOY: Yes.

MR. NICHOLS: I'm sorry, Deena.

MS. CIGOY: Yes.

MS. JONES: I would like to say for the record that I am not a physician.

MS. CIGOY: That you what?

MS. JONES: I am not a doctor, a physician.

MS. CIGOY: Oh, you're not.

MS. JONES: I'm a doctor of biology.

MS. CIGOY: Oh, okay. Well, maybe you still know

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somebody that would help us in Washington.

MS. JONES: I will look into it and see what I can find out as far as.

MS. CIGOY: Okay.

MS. JONES: Probably it is an environmental issue at this point.

MS. CIGOY: Yes.

MS. JONES: And I think that is where we need to look. And I will do what I can to help you find the right person.

MS. CIGOY: Well, we would certainly appreciate it. I will have to say that the state people DEQ in Washington have -- I mean not Washington, Phoenix, have been very helpful to us. But their hands are tied because we have a legislature that refuses to acknowledge it's a real problem and to write some legislation that would require these trucks to use cleaner burning fuel and better emission, you know, devices on their trucks. That's something that only the electorate can do in this state.

But there are things I think that people in Washington can do to prompt the issue along. And there are federal highway funds that can be taken back for different reasons, we know that. And it's just time for this state to acknowledge that there is a real health issue here caused by
the mining industry.

MR. NICHOLS: Thank you, Deena.

MS. CIGOY: You're welcome.

MR. NICHOLS: Our next presenter will be Sandra McKenzie.

STATEMENT OF SANDRA McKENZIE, SUN CITY, ARIZONA

MS. McKENZIE: Hello. I'm Sandy McKenzie from Sun City, the 85351 ZIP Code, close to Youngtown, about 111th Avenue.

It was just really strange, my husband had a chest X-ray, he was having some difficulty breathing. And the doctor suggested from that that he have a CT scan of the chest. We just got that result back last week and it says that my husband may have these calcifications probably caused, the density raises suspicion of asbestos. He does have COPD and sleep apnea and he is getting worse and worse and worse.

So, you know, I'd never been aware of all of this before until I read it in the local newspaper and thought that my husband and I should come being that we have some type of evidence here that my husband, you know, maybe possibly be suffering with that.

That's pretty much all I have to say.

MR. NICHOLS: Did your husband ever work in the
mining industry?

MS. McKENZIE: Never, no.

MR. NICHOLS: Okay. Thank you, Sandra.

MS. McKENZIE: Okay. Should I give this also?

MS. JONES: Yes.

MS. McKENZIE: I have another one at home.

MS. JONES: You have a copy because we can make a copy for you.

MS. McKENZIE: Yes, I have one at home.

MS. JONES: Okay.

MR. NICHOLS: Thank you.

MS. JONES: Thank you.

MR. NICHOLS: Our next speaker will be Gordon Rosier. And I probably did not pronounce that last name right.

STATEMENT OF GORDON ROSIER, SUN CITY HOME OWNERS ASSOCIATION, ARIZONA

MR. ROSIER: My name is Gordon Rosier representing Sun City Homeowners Association.

The previous speaker's location is important in this situation. She is a few blocks from the Vulcan facility which is located in the Agua Fria.

A recent Department of Labor Mine Safety Health Administration news release scheduled public meetings

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throughout the county in order -- or the country in order to gather information about asbestos issues for the purpose of collecting information to assist in its deliberations about revised rules which would protect workers who may be exposed to asbestos in mines. As a result of that news release Sun City Homeowners Association requested a public meeting in Phoenix. That request was granted.

Sun City Homeowners Association serves 40,000 retired residents of Sun City. Additionally, Mine Safety Health Administration presented their findings to Sun City Homeowners Association on May 30, 2002 regarding asbestos testing of 28 sand and gravel mines in the Salt River Basin. We sincerely appreciate Mine Safety Health Administration's involvement in Maricopa County, the home of over 100 sand and gravel mines, most of which are located in the residential communities.

We look forward to the testing MSHA will conduct in the Agua Fria Basin, the location of 27 sand and gravel mines, again in residential communities.

Your meeting with us resulted in the following findings: no asbestos was detected in any of the air samples analyzed. A trace of asbestos was detected in one bulk sample using MSHA's two-stage process.

Your two-stage process has disadvantages as

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follows: it cannot resolve all asbestos fibers and it cannot distinguish asbestos fibers from other fibers.

You were unable to identify the fibers and could not state if they could or could not cause asbestosis or other pulmonary diseases. The same scenario was occurring at the RT Vanderbilt talc mine in Gouverneur, New York, a source of talc for the crayon industry. Hundreds of miners, millers and mine supervisors died or are dying from disease caused by asbestosis fibers in the lungs.

The Mine Safety and Health Administration tests failed to detect asbestos at the Vanderbilt talc although tests identified similar appearing fibers called magnesioanthroplite.

The mines in the Salt River and the Agua Fria Basin also contain talc, mica and silica. Arizona has a history of asbestos issues. The family community of Mountain View near Globe was evacuated in the early 1980s because of asbestos and buried under 25 feet of soil. Maricopa County environmental personnel confirm Sun City, ZIP Code 85351, death rate from asbestos 20 times the state and national average.

Protecting miners from asbestos protects residents. Present MSHA limit of 2.0 asbestos fibers per cubic centimeter in the air can result in a risk of death.

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from asbestos of 68 per 1,000 workers. Those risks are unacceptable. Libby, Montana is a perfect example of limits that were too high and placed an entire community of 5,000 residents at risk. Two hundred persons have died from asbestosis and one-third of their population has asbestosis. Libby, Montana does not have 100 mines in their neighborhood, we do.

It is suggested MSHA use the same sampling techniques that EPA developed in Libby. The EPA will take action if the expected death frequency is 1 in 10,000 or greater, corresponding to an asbestos count of 0.004 fibers per cubic centimeter. Sixteen people have died from asbestos-related diseases in the northwest valley in recent years. Countywide 111 asbestos-related deaths during the same period of time.

Sampling in accordance with the California Air Resource Board, or CARB, particularly the El Dorado, California division, is a proactive position MSHA must initiate. At the same time, the Arizona State Mine Inspector needs to institute a similar position, protect miners not the mining industry.

Sun City Homeowners Association and other members of the coalition of Arizona in Arizona will follow the lead of the California Resource Board to force mining industry
accountability. The Seattle P.I. reports that the U.S.
Bureau of Mines lists more than 100 mineral fibers as
asbestos-like fibers, yet because of lobbying by asbestos
and stone industries the government regulates only six.

The rationale for that policy must also be
reviewed. There is no excuse for regulatory policies that
deliberately prevent government agencies charged with
protecting human health from using the tools needed to carry
out their charge. Generally miners have families. The
miners have placed themselves and their families in the
paths of dirty diesel trucks that cause lung cancer and
other pulmonary diseases. If the miner and his family live
in the Agua Fria or the Salt River Basins they are
confronted daily with 500 to 700 dirty diesel-emitting
trucks that blast through their neighborhoods.

We are encouraged that MSHA is also proposing
changes to diesel emissions, the sooner the better. Local
jurisdictions must also accept responsibility for the diesel
trucks that transit our neighborhoods and re-route
accordingly.

The Vulcan facility located in the Agua Fria
recycles asphalt. Miners and the neighborhoods are
potentially at risk from the fibers emitted from recycled
asphalt. We are encouraged your sister agency OSHA will
begin testing for fibers emitted from that recycled plant. For years the American Lung Association has told us there is no safe level of asbestos. To protect miners and residents the Mine Safety and Health Administration must therefore establish a permissible exposure level at 0.0000. Residential communities and mining operations are not compatible. For miners and residents it's a health and a quality of life issue.

Thank you.

MR. NICHOLS: Thank you. Does anyone have any questions of Mr. Rosier?

MS. JONES: Excuse me, Gordon, when you said that in the Sun City area you have 20 times the rate of asbestos-related disease? I just wanted to make sure I had that clear.

MR. ROSIER: That the death rate from asbestos at 85351 exceeds the national average by -- is 20 percent greater than the national average.

MS. JONES: Oh, 20 percent greater, okay. Thank you. I just wanted to make sure I had the number correct.

MR. NICHOLS: Are you going to leave a copy of your statement with us?

MR. ROSIER: Sure.

MR. NICHOLS: Thank you.
MR. ROSIER: Thank you.

MR. NICHOLS: Our next speaker will be Chuck Ullman.

STATEMENT OF CHUCK ULLMAN, SUN CITY WEST, ARIZONA

MR. ULLMAN: My name is Chuck Ullman, U-L-L-M-A-N. I am a director for property owners residents association, Sun City West and a resident of ZIP Code 85357 -- 85375. I appreciate you folks coming out here and listening to us. I understand miners, you are concerned about the miners who are working. They work eight hours a day. The residents in the area are around there 24 hours a day.

My cousin passed away last year from lung cancer. Lives in ZIP Code 85351, Sun City. Had been living there for 20 years. Unfortunately, there is no way of telling what kind of lung cancer he had, whether he had asbestosis or not because there was no autopsy. Most of those deaths are not autopsied.

In the article that Deena Cigoy presented I would like to quote: "More than 20 million Americans, including those in Maricopa County, are being exposed to a cancer risk closer to 1 in 10,000. That's 100 times higher than the acceptable level..."

"Americans are being exposed through air pollution..."
to a 1 in 100,000 risk of contracting cancer during their lifetimes, the report says. Any risk higher than 1 in 1 million has typically been considered too high...."

I don't know what else I can tell you folks but we are concerned about our livelihood, our residents in the area. Certainly miners are also there but we are concerned for ourselves.

Thank you.

MR. NICHOLS: Thank you, Chuck.

Any questions of Chuck?

MS. JONES: No.

MR. NICHOLS: Our next speaker will be Doris Gary.

STATEMENT OF DORIS GARY, SUN CITY, ARIZONA

MS. GARY: My name is Doris Gary and I live in the 85351 area that we are addressing this morning.

When we first moved into our home five years ago I smelled this really bad odor and I thought we had a gas leak. So I called Southwest Gas Company to come out and check our gas. And they came out and they looked through everything and eventually the young man told me, he said, well, it's probably the Vulcan Batch Plant.

And since then we've had those odors mostly in the cooler months. And they are on our carport and our patio and our yards. And they are all through the area because
they either smell like gas or like they have a petroleum odor to them. And that's one of my concerns.

And I have called Maricopa County about it several times and I have talked to everyone and they all say, well, we can't do anything about it. They have all the permits they need and they were here before you were.

And also, we live about a mile as the crow flies from the cement and batch plant. And I didn't know that until a couple of years ago. And I went out Grand Avenue toward Sun City West and I looked down the river bed and just right there was this huge cement plant. I mean like I would see if I lived back in Ohio, you know, in the outer edges of the city. So that really just horrified me to know that I lived that close to that.

And also at one point I swept up some dust on our patio. You cannot sweep dust up on your patios, you can sweep and then you sweep again and then you get a fine brush and then you can sweep up the real dust that's there. So I collected a sample of that and I sent it to our state senator and I have never heard anything about it.

But it's a real concern to us. And I have a neighbor that is, she's lived there for about 30 years and she goes to emergency all the time. She can't breathe outside without a face mask. And I know that several
elderly people in the area have problems like that too. And my husband and I have both, we both have a lot of throat congestion since we moved in there, especially my husband. And my neighbors have that, you know, you're always clearing your throat and dry throats. And I'm just concerned that the longer we live there that we are going to be, you know, we are going to become ill like some of the other elderly have.

And I think this should be addressed if possibly by just moving those plants farther away from the population. That would be, you know, the best solution is to moving that plant. And we have one of the stockholders in that plant is I think he's on the Board of Supervisors in Maricopa County.


MS. GARY: Yeah, Max Wilson. I mean he's on the Board of Supervisors and he is a stockholder in that cement plant.

So I just hope that someone seriously addresses this because now that cement plant is sitting right in the center of these incredibly populated areas, El Mirage and, oh, Surprise, Peoria, Youngtown. I had no idea that these plants were there until, well, I knew the batch plant was there because of the odors but I didn't know where the dust
was coming from.

And when we take a walk at night we usually about a mile from us is a golf course and we go up there and sit on the bench and we can see that cement plant from there. So I just hope that someone will do something about it. I don't know if they think because everyone lives there is elderly and it's not worth the trouble or what it is but it isn't being addressed.

So I thank you very much.

MR. NICHOLS: Thank you, Doris.

I think Dr. Jones has a question for you.

MS. JONES: I just wanted to ask you, you were saying that both you and your husband have suffered from congestion.

MS. GARY: We have throat congestion, uh-huh.

MS. JONES: Has your husband ever been involved in mining operations per se himself? Has he ever worked in a mining operation?

MS. GARY: Yes, he did about, it's been about 30 years ago.

MS. JONES: For a brief time or?

MS. GARY: For about a year.

MS. JONES: Oh, okay.

MS. GARY: Yeah.
MS. JONES: Thank you.

MS. GARY: Thank you.

MR. NICHOLS: Thank you.

That's all the people we have signed up to speak. Would anyone else like to make comments? Come on up.

STATEMENT OF RUSSELL BOWERS, EXECUTIVE DIRECTOR, ARIZONA ROCK PRODUCTS ASSOCIATION

MR. BOWERS: My name is Russell Bowers and I am the Executive Director of the Arizona Rock Products Association.

We have a membership of some 44 to 45 producing members across the state of Arizona and there are many other members, I should say many other producers who are not members of our organization. We are, the diversity of our organization is threefold: we have members who break, mine, not in that order, mine and then break up rocks for a variety of aggregate uses and applications. We have members who created, distill and create asphaltic oils for asphalt concrete products, and Portland cement products and fly ash and other additives and admixtures for the glues of the rocks that we use.

The problem that we have, obviously, is that you mine aggregate where the aggregate is. And not all aggregate is created equal. The aggregates that we find in
the Salt River Basin which ultimately would include the
Verde and Salt Rivers and the Agua Fria which ties in close
to the Gila or into the Gila at the confluence here on the
southeastern end or western end of our valley are very, they
are obviously close to each other.

The reason for your meeting here today is to
discuss the exposure levels and the relative risks posed to
the mining population. And the neighbors of these mines I
feel legitimately have an interest and a degree of concern
because if there are high exposure levels at the source of
our mining and crushing operations while those levels would
be just by pure laws of physics dissipated somewhat by
distance there is still an exposure capability. and so if
there was a very, very high level of exposure to our miners
it would be expected intuitively that neighboring folks,
institutions, schools, hospitals and not the least of which
residents would also face an exposure level probably less.

I attended with great interest the meeting that
was held in Sun City recently. I believe Mr. Rosier stated
that it was on the 30th. And why? Because if in fact we
have high exposure levels to our miners that's our industry.
And to have people who mine in a world that is moving away
from earth-based to natural resource-based industries, that
meaning the world of the United States culture, it's
increasingly hard to find people who are mining oriented who would wish to make that a career. And, also, obviously if our miners faced high exposure levels then that wears on miners, not just on their bodies but on their mentality and their ability and their desires to work in the industry. So I attended with great interest.

I noted, and I would be corrected by you please, that the majority of the first regiment of testing occurred along the Salt River Basin because that was what was understood the petition to be. And I know that the Sun City homeowners have requested that you induce or begin a regiment of testing along the Agua Fria plants. That obviously is your choice and it is a concern of theirs and you may respond as you wish.

If there are findings of any asbestos which come from the regular testing both by the mining inspector and by yourselves under Benny Lara and our new gentleman who has just recently come in his mine, and his name escapes me and -- Mr. Franklin, that I know that they do test on a regular basis but perhaps not as much as money allows or if there was money that they could accommodate our mines. And we appreciate that because we want to know if in fact there is an over exceedance in any standard from any contaminant to our miners because they are our, the backbone of our
industry.

It was of note that Globe, Arizona was mentioned by Mr. Rosier. Globe, Arizona, on the eastern end of town near the railhead there was a large stockpile for asbestos for many years. The asbestos mining in the lower Sierra Anchas is well-known to anybody who is outdoors oriented in our state, Asbestos Point being one of the geographic features in the area obviously took its name because of its major constituent being the asbestos and the mine there.

But it is also of note that that is on the Salt River Basin. That's where the asbestos mining in large part in our state occurred, and yet you did not find any airborne samples in any of the sites in the lower Salt River where that would be a constituent in the erosion process that would move down the river basin.

The Agua Fria to the contrary may have asbestos deposits in the Bradshaw Mountains and along the basaltic front of the Agua Fria and its drainage. But I am not a -- I don't claim to be the state geologist, I am just not aware of any well known mining operation for asbestos. Typically copper mining, silver mining, there is some lead mining, there are other mines in the Bradshaws. In fact, the Bradshaws, the mountain range that is the major watershed of the Agua Fria is one of the most highly mineralized areas in
the world. But it just isn't that particular type of mineral.

We have a lot of naturally occurring arsenic which occurs regularly in the waters of the Agua Fria. People are encouraged not to eat fish, if they could find any because of the damming of the Waddell, but in that, behind that dam you are encouraged not to eat those fish and would take a personal risk of arsenic inhalation or consumption.

So I want to know as an industry executive if in fact our miners are being exposed. If there is an exposure we want it to the lowest possible and viable way that we can accommodate in mining.

I would ask a question of the panel, if in fact there are any improved techniques that are employed by MSHA or others in detecting these fibers? And have any of the other fibers mentioned of the 100-odd fibers that are at least recognized found to be by any working of the CDC or any of your investigative sides or capabilities are they found to be contributory to asbestosis or any cancer? That would be information that I would personally and as an executive want to know.

Also, just to the nuts and bolts of having now the clash between an urbanizing area and the necessity of one of its major constituent needs, that is aggregate, would there
be if the mines moved away a lowering of the death rate in Sun City? Are all deaths in Sun City or along any of the close areas to our mining operations attributable to our operations? That, I don't know if that is under your purview but that would be something that we would like to know. If there are, obviously that must be addressed.

If there are any other protocols that are more scientifically advanced we would want them employed because our people are exposed first and we care for them and we care for our neighbors and we want them also to be addressed if there are any existing protocols.

It is easy in these types of situations in a very highly polarized clash between mining and its neighbors and major encroachment to throw a lot of things at the wall and see if they stick. We are concerned about silica because silica is in our product. It's everywhere. And it's all over in a desert environment especially where we have highly eroded areas such to windborne transport mechanisms. So we are concerned about that.

And we are cited regularly, if our plants are found to be in exceedance of the silica standards they are cited. They must go through measures that would diminish those risk for obvious reasons. If there are any other contaminants that are in our plants or that are byproducts
of the crushing and mining process we would want to know
those things as well.

So we are grateful that you would come. I don't
have any epidemiological studies at hand. Our industry has
not commissioned any because we have not noted any
associated responses in our miners or in the workers and
transport portions of our industry. But if there are
epidemiological studies that show a causal link between our
operations and effects both on our miners and our neighbors
we would want to know of any. And I am sure that you would.

So if there is any links that you would have with
institutions that would secure such studies we would want
those made available to us. The associations with Libby,
Montana and Gouverneur, New York where there were asbestos
mining operations and there were talcum operations I don't
think is a fair comparison. We don't have talcum or
asbestos mining operations in close -- and I'm missing the
word -- proximity is the word, to urbanized areas as yet.
But I do know that in the Globe area there are in fact that
was a high mining area. And it would be good to know in
history, and I don't know if you have access to current
history, what the rates of exposure and the associated rates
of death were that could be causally linked even in Globe so
that we could use that as a comparison with the rates of
exposure here in the valley.

And I am grateful that you would come. I know that I may not have given you any information relative to mining exposure or the exposure of miners to these pollutants but I would be willing to stand to any question that you may have had that may have been generated by the other witnesses.

MR. NICHOLS: You are correct that none of our sampling data has shown exposures above the .1 fiber limit. And as far as any new and better techniques, you respond to that.

MS. JONES: You mean new and better techniques in measuring asbestos?

MR. BOWERS: Yes. Or in any way would improve our ability to know if these pollutants existed in our mines or in proximity.

MS. JONES: Well, that is one of the topics that we are dealing with today is should be use a more sensitive method to determine whether or not it's present. And that is certainly something that we are looking into and considering here.

You had also raised another issue about studies that would attribute the exposures in Sun City to the death rate. And admittedly those studies I have not seen any,
anything like that.

But I understand that there is a study that's been initiated I believe by the county to look at the death certificates from the deaths in Sun City and in that region to see if they can link any exposures to the deaths. But as far as a definitive epidemiologic study of this I have not seen one.

MR. BOWERS: Is there any study -- and here I am asking you and perhaps that's out of order -- but are there any studies that show an acceleration in the time span between a potentially unhealthy or potentially lethal exposure to asbestos and the onset of asbestosis? Is that like would it be a year or two years or five years or ten years?

I was under the impression loosely that it was like 20 to 30 years of continual exposure above a given level or from the time of a great deal of exposure at a given level.

MS. JONES: Well, that's been debated over the years. And I don't think this is the forum for doing that. But it is cumulative exposure, it's how much accumulates in the lungs. So if you have low exposure for a long time or if you have high exposure for a short time it's similar sorts of risk.
But oftentimes people are exposed to fairly low levels of asbestos and it does have a latency period often up to 30 years. I have heard of cases being 30 years from exposure, so.

MR. BOWERS: And that's of concern to me because that puts me right in the time span from the old days when we would be putting in asbestos, at least additives of asbestos in insulation and other things and piping and plumbing. So that's a concern for me.

The last thought I had is that the general overlay of population and the demographics of the valley in those areas where there are not high numbers of retired persons and persons of a greater age, in which age I am now finding myself, I am wondering if there is a intuitive conclusion that more people die where older people are than die where younger people are. Depending on how that would lay out it would seem intuitive that Sun City will see a higher mortality rate generally.

I don't like to see that light that's in the end of my tunnel but I have a feeling it's not the fountain of youth that's waiting for me.

MS. JONES: Well, any study, any study that would be done would have to be adjusted for the age to look at the risk. I mean you would have to take that into account.
before you determine what the risk level is for someone.
But, you're right, we don't get out of this alive.

    MR. BOWERS: Yeah. I wish there was another alternative but so far there isn't.
    Thank you very much.

    MR. NICHOLS: One moment.

    (Pause.)

    MR. NICHOLS: The method that we are considering adopting is much, it's much, much better than the current method I have seen, maybe a few hundred times better for identifying fibers. And that's the method, the TEM that we are considering adopting.

    MR. BOWERS: Is it, is that method, and I know that's the acronym and I can't remember those big words.

    MS. JONES: Electronmicroscopy.

    MR. NICHOLS: Thank you, Carol.

    MR. BOWERS: Okay. And is the process where one would have to send these samples to a core area and then there is the time span or could we possibly have sampling locally where we could submit samples and have a very quick response? Do you know if that particular things go on?

    MS. JONES: There are certified laboratories that do transmission electronmicroscopy in most large cities.

    The Industrial Hygiene Association sends out samples to
those labs to make sure that they do them correctly and so they get certified.

And one thing I would mention to you though that it's a great deal more expensive to do more sensitive method, it's much more time consuming and the electron microscope itself costs tens of thousands of dollars. So it's not an inexpensive proposition but it is much, much more sensitive, as Marvin said, several hundred times.

MR. BOWERS: The fear that I have generally and having had just a little bit of experience which possibly makes me more dangerous than helpful, in some of the environmental discussions within the state and a little bit beyond the state is that while our abilities to detect with absolute certainty levels of presence of a wide variety of pollutants increases, also the cost increases, the ability to avoid in a general sense the exposure also decreases. Because every brake pad for many years had asbestos and those things don't evaporate. And so they can be in lawns and fields and palm trees and a host of places over time.

And, also, the ability of an industry to address a general pollutant problem and almost any other problem with a degree of viability, you can address about 98 percent of the cost and get down to a very, very low level. But then that last 1 to 2 percent which we increasingly are able to
detect becomes increasingly difficult to address from an
industry standard and still maintain the industry. That's
just a general concern.

MS. JONES: Well, as part of the rule making
process we are mandated to look at the costs of the
regulations. And they are not to be infeasible, that's not
to drive everybody out of business. There is a degree of
reason built into the process. So that is a consideration.

MR. BOWERS: Okay. Lastly, inasmuch as you have
come here talking about miners and we have given you lots of
testimony about rock products I would like to give just a
few factoids.

The typical house, 1,600 square foot house
consumes in excess of 100 tons of our product. All of the
folks in this room probably live in a house. And so the
products that were used to build their houses, and this
building probably took five to six, maybe ten thousand tons
of our product. And the freeway system took probably 92
million tons of our product. And every street a 12-foot
lane for a mile in width takes about 15,000 tons of our
product. All of those products have to come from somewhere.
And typically they come from where the aggregate is.

So while you are being asked to address it from a
medical, tangential medical point of view, planners and
owners and developers and communities on our side of the ledger need to address the ability to approximate this industry and the people who require our industry to live. And that's a continuing balancing act that is filled with tensions. And that doesn't seem to dissipate with time.

So thank you so much for coming.

MR. NICHOLS: Thank you.

STATEMENT OF SHIRLEY MCDONALD, SUN CITY WEST, ARIZONA

MS. MCDONALD: Shirley McDonald from Sun City West.

I have two questions. In the paper recently the EPA was cleaning up several sites in Phoenix for vermiculite because I think nurseries had mixed it in with the soil for planting and stuff. But some of these sites are almost super cites and they are trying to clean them up. And I was wondering if there are any sites in the Agua Fria River? We didn't talk about that but I mean it's a nice big dumping area, I wonder if anybody dumped out there or if there are any mines out there in the river bed as well, I mean mines not looking for gravel but something else where?

And the other thing is I noticed when you were speaking the other day about how you looked at six types of fibers out of a possibility of maybe 30-some if you're
finding fibers maybe the criteria should change for not just those six but for any kind of fiber if it gets in your lungs it's going to cause essentially the same kind of problem I would think. So maybe the criteria should be not even looking too hard at it, just saying we should cut fibers, you know, you can't have more than so many.

That's my comment. Thanks.

MR. NICHOLS: Thank you.

Would anyone else like to speak?

--

MR. NICHOLS: Okay. As I mentioned earlier, our primary responsibility is on mine sites but we are not insensitive to the general public issues I think as evidenced by our meeting last week and taking your comments today. So we really appreciate all of your comments.

If you have not signed in to the attendance sheet will you please do that. That's very important to us to list the number of attendees. So if you missed that, please sign in.

Anyone else like to speak?

--

MR. NICHOLS: If not, we will go off the record.

(Whereupon, at 10:00 a.m. the hearing recessed until 11:00 a.m.)
MR. NICHOLS: This is Marvin Nichols. It's 11:00 o'clock here. We do not have anyone present to present comments so we are going to close the hearing.

Thank you.

(Whereupon, at 11:01 a.m., the hearing was concluded.)
REPORTER'S CERTIFICATE

DOCKET NO.: N/A

CASE TITLE: Measuring and Controlling Asbestos Exposure

HEARING DATE: June 5, 2002

LOCATION: Phoenix, Arizona

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Department of Labor, Mine Safety and Health Administration.

Date: June 5, 2002

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