

TRANSCRIPT OF PROCEEDINGS

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

Pages: 1 through 42
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UNITED STATES DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

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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C O N T E N T S

<u>STATEMENTS:</u>	<u>PAGE:</u>
OPENING STATEMENT OF MARVIN NICHOLS, DIRECTOR OFFICE OF STANDARDS, REGULATIONS AND VARIANCES, MSHA	3
DEENA CIGOY, VENTANA LAKES PROPERTY OWNERS ASSOCIATION, ARIZONA	9
SANDRA MCKENZIE, SUN CITY, ARIZONA	15
GORDON ROSIER, SUN CITY HOMEOWNERS ASSOCIATION, ARIZONA	17
CHUCK ULLMAN, SUN CITY WEST, ARIZONA	22
DORIS GARY, SUN CITY, ARIZONA	23
RUSSELL BOWERS, EXECUTIVE DIRECTOR, ARIZONA ROCK PRODUCTS ASSOCIATION	27
SHIRLEY McDONALD, SUN CITY WEST, ARIZONA	39

P R O C E E D I N G S

(9:00 a.m)

1
2
3 MR. NICHOLS: Good morning, everybody. My name is
4 Marvin Nichols and I am the Director of our Office of
5 Standards, Regulations and Variances for the Mine Safety and
6 Health Administration, and I will be the moderator for
7 today's public meeting. On behalf of our Assistant
8 Secretary Dave Lauriski I want to welcome all of you here
9 today.

10 I have some other folks from our organization with
11 me and I would like to introduce those folks. On my left is
12 Wendy Hoch. Wendy is from our Technical Support Group.

13 On my immediate left is Dr. Carol Jones. Dr.
14 Jones is with our Metal and Non-Metal Mining Group in
15 Arlington, Virginia. She is the Chief of our Health
16 Division.

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

19 This is the fifth of seven public meetings on
20 asbestos. The previous meetings were held in Pittsburgh,
21 Pennsylvania, Spokane, Washington, Vacaville, California and
22 Canton, New York. We have two remaining meetings after
23 this, one on June 12 in Virginia, Minnesota, and on June 20
24 in Charlottesville, Virginia.

1 The initial announcement of these public meetings
2 was contained in a advance notice of proposed rule making
3 published on March 29, 2002 in the *Federal Register*. A
4 subsequent *Federal Register* notice was published on April 18
5 and announced the date of the Charlottesville, Virginia
6 meeting was changed to June 20 and a public meeting would be
7 held here in Phoenix, Arizona today on June 5. These two
8 *Federal Register* documents are available in the back of the
9 room if you would like to pick one up.

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

13 1) Whether to lower our asbestos permissible
14 exposure limit;

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

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

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

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

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

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

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

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

22 In 1980 we requested that the National Institution
23 for Occupational Safety and Health, or NIOSH as it is better
24 known, investigate health problems at vermiculite operations

1 around the country because our sampling data at that time
2 showed higher than average asbestos exposures among the
3 miners. The results of the NIOSH study were published in
4 1986 and verified our sampling results that indicated high
5 occupational exposure prior to 1974 at a vermiculite
6 operation in Libby, Montana. The highest exposures were in
7 the mill.

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

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

1 mine.

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

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

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

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

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

15 The format of this public meeting will be as
16 follows:

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

23 If you wish to present any written statements or
24 information today please clearly identify your material.

1 When you give it to me I will identify the material by the
2 title as it is submitted. And you may also submit comments
3 following the meeting. But please get them in by June 27,
4 2002; that is when the comment period on this part of the
5 rule making will close.

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

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

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

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

24 STATEMENT OF DEENA CIGOY, VENTANA LAKES PROPERTY

1 OWNERS ASSOCIATION, ARIZONA

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

5 We are an adult community of some 3,000 people who
6 have the misfortune of being the main truck route for five
7 large gravel mining operations in the Agua Fria River from
8 99th and Beardsley to way down by Williams and Jomax Road.
9 We have discovered over the last eight years that we have
10 been looking into this a huge number of our residents that
11 have developed chronic obstructive pulmonary disease and for
12 no -- they are not people who are a high risk group, they
13 were not employed by the mining industry, they did not
14 smoke. They were retired senior citizens who came out here
15 for a nice lifestyle in an affordable community.

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

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

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

17 Right now those pits are boxed in down there.
18 Because of no planning and poor planning large communities
19 have been allowed to be built surrounding those gravel
20 mines. Now, these communities are filled with little kids.
21 There are just not old like us. Three, four, five bedroom
22 houses. There is also a grade school down there now off of
23 109th and Williams which is right in the backyard of CEMEX,
24 one of the largest mining operations there. And I know in a

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

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

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

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

1 to come in and do something about it.

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

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

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

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

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

1 exposed to.

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

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

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

9 MR. NICHOLS: Sure.

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

12 MR. NICHOLS: Anybody have any questions of Edna.

13 MS. JONES: Deena. Her name is Deena.

14 MR. NICHOLS: Oh, Deena.

15 MS. CIGOY: Yes.

16 MR. NICHOLS: I'm sorry, Deena.

17 MS. CIGOY: Yes.

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

20 MS. CIGOY: That you what?

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

22 MS. CIGOY: Oh, you're not.

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

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

1 somebody that would help us in Washington.

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

4 MS. CIGOY: Okay.

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

7 MS. CIGOY: Yes.

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

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

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

1 the mining industry.

2 MR. NICHOLS: Thank you, Deena.

3 MS. CIGOY: You're welcome.

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

6 STATEMENT OF SANDRA MCKENZIE, SUN CITY, ARIZONA

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

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

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

23 That's pretty much all I have to say.

24 MR. NICHOLS: Did your husband ever work in the

1 mining industry?

2 MS. McKENZIE: Never, no.

3 MR. NICHOLS: Okay. Thank you, Sandra.

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

5 MS. JONES: Yes.

6 MS. McKENZIE: I have another one at home.

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

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

10 MS. JONES: Okay.

11 MR. NICHOLS: Thank you.

12 MS. JONES: Thank you.

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

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

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

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

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

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

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

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

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

24 Your two-stage process has disadvantages as

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

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

10 The Mine Safety and Health Administration tests
11 failed to detect asbestos at the Vanderbilt talc although
12 tests identified similar appearing fibers called magnesio-
13 anthroplite.

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

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

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

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

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

22 Sun City Homeowners Association and other members
23 of the coalition of Arizona in Arizona will follow the lead
24 of the California Resource Board to force mining industry

1 accountability. The Seattle P.I. reports that the U.S.
2 Bureau of Mines lists more than 100 mineral fibers as
3 asbestos-like fibers, yet because of lobbying by asbestos
4 and stone industries the government regulates only six.

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

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

21 The Vulcan facility located in the Agua Fria
22 recycles asphalt. Miners and the neighborhoods are
23 potentially at risk from the fibers emitted from recycled
24 asphalt. We are encouraged your sister agency OSHA will

1 begin testing for fibers emitted from that recycled plant.

2 For years the American Lung Association has told
3 us there is no safe level of asbestos. To protect miners
4 and residents the Mine Safety and Health Administration must
5 therefore establish a permissible exposure level at 0.0000.
6 Residential communities and mining operations are not
7 compatible. For miners and residents it's a health and a
8 quality of life issue.

9 Thank you.

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

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

16 MR. ROSIER: That the death rate from asbestos at
17 85351 exceeds the national average by -- is 20 percent
18 greater than the national average.

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

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

23 MR. ROSIER: Sure.

24 MR. NICHOLS: Thank you.

1 MR. ROSIER: Thank you.

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

4 STATEMENT OF CHUCK ULLMAN, SUN CITY WEST, ARIZONA

5 MR. ULLMAN: My name is Chuck Ullman, U-L-L-M-A-N.
6 I am a director for property owners residents association,
7 Sun City West and a resident of ZIP Code 85357 -- 85375.

8 I appreciate you folks coming out here and
9 listening to us. I understand miners, you are concerned
10 about the miners who are working. They work eight hours a
11 day. The residents in the area are around there 24 hours a
12 day.

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

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

24 "Americans are being exposed through air pollution

1 to a 1 in 100,000 risk of contracting cancer during their
2 lifetimes, the report says. Any risk higher than 1 in 1
3 million has typically been considered too high..."

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

8 Thank you.

9 MR. NICHOLS: Thank you, Chuck.

10 Any questions of Chuck?

11 MS. JONES: No.

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

13 STATEMENT OF DORIS GARY, SUN CITY, ARIZONA

14 MS. GARY: My name is Doris Gary and I live in the
15 85351 area that we are addressing this morning.

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

22 And since then we've had those odors mostly in the
23 cooler months. And they are on our carport and our patio
24 and our yards. And they are all through the area because

1 they either smell like gas or like they have a petroleum
2 odor to them. And that's one of my concerns.

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

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

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

21 But it's a real concern to us. And I have a
22 neighbor that is, she's lived there for about 30 years and
23 she goes to emergency all the time. She can't breathe
24 outside without a face mask. And I know that several

1 elderly people in the area have problems like that too. And
2 my husband and I have both, we both have a lot of throat
3 congestion since we moved in there, especially my husband.
4 And my neighbors have that, you know, you're always clearing
5 your throat and dry throats. And I'm just concerned that
6 the longer we live there that we are going to be, you know,
7 we are going to become ill like some of the other elderly
8 have.

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

15 MS. CIGOY: It's Max Wilson.

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

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

1 was coming from.

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

9 So I thank you very much.

10 MR. NICHOLS: Thank you, Doris.

11 I think Dr. Jones has a question for you.

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

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

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

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

21 MS. JONES: For a brief time or?

22 MS. GARY: For about a year.

23 MS. JONES: Oh, okay.

24 MS. GARY: Yeah.

1 MS. JONES: Thank you.

2 MS. GARY: Thank you.

3 MR. NICHOLS: Thank you.

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

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

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

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

22 The problem that we have, obviously, is that you
23 mine aggregate where the aggregate is. And not all
24 aggregate is created equal. The aggregates that we find in

1 the Salt River Basin which ultimately would include the
2 Verde and Salt Rivers and the Agua Fria which ties in close
3 to the Gila or into the Gila at the confluence here on the
4 southeastern end or western end of our valley are very, they
5 are obviously close to each other.

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

18 I attended with great interest the meeting that
19 was held in Sun City recently. I believe Mr. Rosier stated
20 that it was on the 30th. And why? Because if in fact we
21 have high exposure levels to our miners that's our industry.
22 And to have people who mine in a world that is moving away
23 from earth-based to natural resource-based industries, that
24 meaning the world of the United States culture, it's

1 increasingly hard to find people who are mining oriented who
2 would wish to make that a career. And, also, obviously if
3 our miners faced high exposure levels then that wears on
4 miners, not just on their bodies but on their mentality and
5 their ability and their desires to work in the industry. So
6 I attended with great interest.

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

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

1 industry.

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

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

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

1 the world. But it just isn't that particular type of
2 mineral.

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

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

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

22 Also, just to the nuts and bolts of having now the
23 clash between an urbanizing area and the necessity of one of
24 its major constituent needs, that is aggregate, would there

1 be if the mines moved away a lowering of the death rate in
2 Sun City? Are all deaths in Sun City or along any of the
3 close areas to our mining operations attributable to our
4 operations? That, I don't know if that is under your
5 purview but that would be something that we would like to
6 know. If there are, obviously that must be addressed.

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

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

20 And we are cited regularly, if our plants are
21 found to be in exceedance of the silica standards they are
22 cited. They must go through measures that would diminish
23 those risk for obvious reasons. If there are any other
24 contaminants that are in our plants or that are byproducts

1 of the crushing and mining process we would want to know
2 those things as well.

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

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

1 exposure here in the valley.

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

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

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

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

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

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

1 anything like that.

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

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

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

19 MS. JONES: Well, that's been debated over the
20 years. And I don't think this is the forum for doing that.
21 But it is cumulative exposure, it's how much accumulates in
22 the lungs. So if you have low exposure for a long time or
23 if you have high exposure for a short time it's similar
24 sorts of risk.

1 But oftentimes people are exposed to fairly low
2 levels of asbestos and it does have a latency period often
3 up to 30 years. I have heard of cases being 30 years from
4 exposure, so.

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

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

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

22 MS. JONES: Well, any study, any study that would
23 be done would have to be adjusted for the age to look at the
24 risk. I mean you would have to take that into account

1 before you determine what the risk level is for someone.
2 But, you're right, we don't get out of this alive.

3 MR. BOWERS: Yeah. I wish there was another
4 alternative but so far there isn't.

5 Thank you very much.

6 MR. NICHOLS: One moment.

7 (Pause.)

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

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

15 MS. JONES: Electronmicroscopy.

16 MR. NICHOLS: Thank you, Carol.

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

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

24 The Industrial Hygiene Association sends out samples to

1 those labs to make sure that they do them correctly and so
2 they get certified.

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

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

20 And, also, the ability of an industry to address a
21 general pollutant problem and almost any other problem with
22 a degree of viability, you can address about 98 percent of
23 the cost and get down to a very, very low level. But then
24 that last 1 to 2 percent which we increasingly are able to

1 detect becomes increasingly difficult to address from an
2 industry standard and still maintain the industry. That's
3 just a general concern.

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

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

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

23 So while you are being asked to address it from a
24 medical, tangential medical point of view, planners and

1 owners and developers and communities on our side of the
2 ledger need to address the ability to approximate this
3 industry and the people who require our industry to live.
4 And that's a continuing balancing act that is filled with
5 tensions. And that doesn't seem to dissipate with time.

6 So thank you so much for coming.

7 MR. NICHOLS: Thank you.

8 STATEMENT OF SHIRLEY McDONALD, SUN CITY WEST,
9 ARIZONA

10 MS. McDONALD: Shirley McDonald from Sun City
11 West.

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

22 And the other thing is I noticed when you were
23 speaking the other day about how you looked at six types of
24 fibers out of a possibility of maybe 30-some if you're

1 finding fibers maybe the criteria should change for not just
2 those six but for any kind of fiber if it gets in your lungs
3 it's going to cause essentially the same kind of problem I
4 would think. So maybe the criteria should be not even
5 looking too hard at it, just saying we should cut fibers,
6 you know, you can't have more than so many.

7 That's my comment. Thanks.

8 MR. NICHOLS: Thank you.

9 Would anyone else like to speak?

10 --

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

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

20 Anyone else like to speak?

21 --

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

23 (Whereupon, at 10:00 a.m. the hearing recessed
24 until 11:00 a.m.)

1 MR. NICHOLS: This is Marvin Nichols. It's 11:00
2 o'clock here. We do not have anyone present to present
3 comments so we are going to close the hearing.

4 Thank you.

5 (Whereupon, at 11:01 a.m., the hearing was
6 concluded.)

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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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