PLAINTIFF'S EXHIBIT AL-1220

Asbestos Workers' Illness—and Their Suit—May Change Health Standards

By DAVID BURNHAM

TYLER, Tex. Dec. 13—William Morris, a 50-year-old former asbestos worker, is afraid that he is dying. And he is angry, because for years neither his employer nor visiting Federal health inspectors warned him that clouds of dust he was sucking into his lungs at work caused cancer.

"I may live for another six months," he said, panting heavily as he sat in his darkened living room, a shoe box full of pain killers and other drugs at his feet.

"It was pretty damned dirty of them not to let us know," Mr. Morris, who has been diagnosed as having lung cancer and asbestosis, a serious and chronic lung disease, replied when asked how he viewed the officials who had not given him a warning.

Mr. Morris is not alone in his despair and fear. Depending on who is doing the counting, 25 to 40 of the 900 workers who made the asbestos insulating sleeves in the dilapidated factory 100 miles east of Dallas already have died as a result of the lethal dust, and Government scientists predict that the death toll may reach at least 200.

More Than 400 File Suit

But a suit brought by Mr. Morris and more than 400 other asbestos workers and their survivors has resulted in a pending $20 million settlement that many labor lawyers, Government officials and corporate executives believe could prompt far-reaching changes in the enforcement of Federal occupational health regulations.

Among the potential results of the all-but-final settlement, many of these experts see the following:

Because the settlement has been agreed to without trial and verdict, it technically does not set any legal precedent. But because about $4 million of the $20 million settlement is to go to the winning lawyers, this is expected to spark a string of similar occupational health challenges around the nation.

The parties agreeing to contribute to the $20 million settlement include the owners of the Texas asbestos plant, the suppliers of the asbestos and the Government agencies that from time to time visited the factory. Because of the implication of liability involved in these conditions, professional groups such as industrial medical experts and Federal health experts may become considerably more militant about their obligations.

Before suits can be brought, there must be indications of damage. The Federal Government is now putting the finishing touches on a national survey that found that one out of every four American workers is exposed to hazards thought to cause death or disease but that fewer than 5 percent of all places where people work now have industrial hygiene services. And recent disasters involving such chemicals as kepone, vinyl chloride, DBCP (dibromochloropropane) and PBB (polybrominated biphenyls) have shown that the dangers are not limited to asbestos.

Workers' Compensation is a no-fault insurance system run by the states under which workers give up the right to sue their employers for negligence in return for the payment of more or less fixed fees for such injuries as the loss of a hand. For a variety of reasons, many experts agree that the system is largely ineffective for the hundreds of thousands of workers who each year are killed or made chronically ill by occupational hazards. The Texas asbestos settlement may add fuel to a Congressional effort to develop a new compensation system to deal with the health hazards of toxic pollutants.

Plant Was Closed in 1972

The site of the asbestos disaster is a 1,000-foot-long corrugated metal building located on an abandoned World War II Army base near Tyler, an east Texas city of 68,000 people that calls itself the City of Roses because about half of the nation's rose plants are grown here.

The plant, when it was closed in February 1972, was owned by the Pittsburgh-Corning Corporation, which in turn is owned by PPG Industries Inc. and the Corning Glass Works. The plant had been used since 1954 to turn a raw form of asbestos into insulation sleeves.

Asbestos is now widely used throughout the United States for heat insulation, brake linings, vinyl asbestos tiles, paint filler and shingles. The first case of asbestosis, a serious and chronic lung disease, was identified in 1907 and confirmed by the Public Health Service in 1938. Scattered reports of lung cancer came with increasing frequency in the 1950's and by the early sixties, asbestos was recognized as a highly serious hazard.

Warning Was Issued in 1963

As early as May 1963, according to one Government report, Labor Department investigators informed Pittsburgh Corning that conditions in its Tyler plant "do not meet the safety and health requirements of the Walsh-Healy Public Contracts Act." Among the conditions noted was an accumulation of asbestos dust "on electrical fixtures and rafters."

But the manufacture of the insulating sleeves, sometimes made from asbestos provided by the Federal Government for use on Navy submarines, continued. According to Mr. Morris, and several other workers, the dust frequently was so thick that it was impossible to see across the 200-foot-wide building.

Dr. William M. Johnson, now on the faculty of the Departments of Environmental Health and Medicine at the University of Washington, was serving as a medical officer in the Public Health Service when he first came to Tyler in October of 1971.

"The plant was a mess, with asbestos all over the floor and machines, the ventilators all plugged up," Dr. Johnson recalled.

The physician said that he discovered that public health officers had visited the plant in 1967 and 1970 in connection with a long-term asbestos study by the Government. "The protocol of the study, however, was for the public health inspectors not to wear respirators or talk about the hazards of the factory because it might alarm the workers," Dr. Johnson said.

Information about the conditions at the Tyler plant was then turned over to the Occupational Safety and Health Administration. On December 6, 1971, this Federal agency, which has been pictured by business as being unnecessarily harsh, proposed a fine of $210 for such failings as "insufficient dust control."

Two months later, in February 1972, the Pittsburgh-Corning Corporation closed the Tyler plant, apparently recognizing the coming storm. On Jan. 2, 1974, a suit asking $100 million in damages was brought by eight asbestos workers who in the ensuing years were joined by more than 400 of their fellow workers.

One key charge was that PPG Industries Inc., the partial owner of the Pittsburgh-Corning Corporation, was liable partly because its medical adviser, Dr. Lee R. Cromwell, had visited the Tyler plant on several occasions, yet failed and refused to advise such workers of health hazards and their own physical problems.

The suit further charged that the Government was similarly liable because of the failure of the Public Health Service physicians to warn the workers and because under Federal law workers on defense contracts are guaranteed a safe work place.

$20 Million Settlement Agreed On

According to Government officials in Washington, the defendants in the case agreed to settle [illegible] settlement was sealed by [illegible] District Judge William M. Steger pending complicated negotiations over how the money would be distributed among the 445 plaintiffs. Under the agreement, the sources said, $8 million would be paid by the PPG group, $5.2 million would be paid by the suppliers of the asbestos, $1 million would be paid by the former owner of the Tyler plant and $5.7 million would be paid by the Government.

One unusual aspect of the case is that the union of the workers, the Oil, Chemical and Atomic Workers International Union, is in effect also contributing to the settlement. This occurred after PPG Industries brought a countersuit against the union charging it with negligence. While denying all responsibility, several sources said that the union agreed to pay $150,000 in order to avoid a trial that could have resulted in the union going bankrupt.

A spokesman for the Pittsburgh-Corning Corporation said that because of the judge's order it could make no comment on the settlement, which is expected to become final early next month. The principal lawyers for the workers, Scott Baldwin, Frederick M. Baron and Rex Houston, either declined to discuss the matter or could not be contacted.

"There may be tens of thousands of other workers around the country who could bring a similar suit," said Dr. Johnson. A senior corporate official in one of the nation's large chemical companies agreed that the suit could have considerable impact on how industry and Government dealt with occupational health problems. "The Government's tacit admission of liability could become a powerful monkey wrench," he said, requesting anonymity.

Another Suit Is Pending

"There is a tremendous potential here," said Dr. Johnson, "because the Government has done so many health surveys that contain an awful lot of knowledge." He noted as other examples studies done of excessive cancer deaths among smelter workers and uranium miners.

Meanwhile, another asbestos suit is before a Federal court. In October a $500 million damage suit against the Johns-Manville Corporation was filed in Federal District Court in Newark by a group of asbestos workers who were stricken with cancer. The suit charged the asbestos manufacturer with negligence and said that the company had failed to take the proper safety precautions and to warn them of the dangers of asbestos.

Reports of the Tyler settlement have reached many of the workers and their families. "It sounds like a whole lot of money," said Billie Walker, a 51-year-old widow whose husband worked at the plant for almost 11 years before dying in November of 1973. "But we paid dear and we will pay dear," she added as she sat at her kitchen table in Tyler with her two teen-age sons.

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