W.R. Grace, Seven Executives Charged With Asbestos Conspiracy

Feb. 7 (Bloomberg) -- W.R. Grace & Co. and seven current and former executives were charged by the U.S. with conspiring to release asbestos at a mine near Libby, Montana, endangering the lives of workers, residents and schoolchildren who used contaminated sports equipment.

The Columbia, Maryland-based company, forced into bankruptcy because of asbestos claims, was accused in a federal indictment of scheming to release the deadly product and engaging in a cover-up to hide its activities. The defendants conspired ``to increase profits and avoid liability by misleading the government,'' falsely asserting the Libby mine posed no risk to public health, the indictment said.

The accused officials include two former general managers at the mine and a former senior vice president. The indictment was unsealed today in Missoula, Montana. W.R. Grace operated the Libby mine until 1992.

The company and its executives conspired ``to knowingly release'' asbestos, a hazardous air pollutant, placing employees and residents ``in imminent danger of death or serious bodily injury,'' the indictment said.

W.R. Grace, which filed for bankruptcy in 2001 amid thousands of asbestos-related claims, said in a filing last November with the U.S. Securities and Exchange Commission that it expected to be indicted over its work at the Montana mine.

Company spokeswoman Janet Davis declined any immediate comment on the indictment.

Extracting Vermiculite

From 1963 to 1990, the mine extracted and processed vermiculite that contained asbestos, which can cause cancer and respiratory ailments. The indictment says company officials received clues as early as 1976 that the vermiculite was contaminated and a health hazard.

According to the indictment, the company collected at least $140 million in after-tax profits on products made with vermiculite from the mine from 1976 to 1990. If convicted, the company could face double that amount in fines.

The U.S. Environmental Protection Agency is removing contaminated soil from Libby, which is in the northwest corner of Montana about 65 miles south of the U.S.-Canada border. The cleanup had cost $54.5 million through 2001. A federal judge in 2003 ordered W.R. Grace to reimburse the federal government for that amount.

About 1,200 Libby residents have been identified as having asbestos-related abnormalities in the lining of their lungs and chest cavities, according to the indictment. It says the rate of lung cancer mortality among Libby residents is about 30 percent higher than the rates for Montana and the U.S.

Health Problems

The indictment cites numerous studies and reviews from the 1970s and 1980s that pointed to health problems among people exposed to the Libby vermiculite.

According to the indictment, W.R. Grace also gave away asbestos-contaminated materials to Libby schools for construction of running tracks and an ice-skating rink, and leased a portion of its property for youth baseball games.

On its corporate Web site, W.R. Grace says it has ``pledged full cooperation with government agencies'' to determine if there is a continuing risk to Libby residents. It also says it has pledged to donate $250,000 a year to a local hospital for health screenings of any resident who requests one.

``We take our responsibilities to the people of Libby and the situation there very seriously,'' the Web site statement says.

Investigation in 1999

The EPA began investigating the Libby mine in 1999. W.R. Grace obstructed those efforts by, among other steps, failing to disclose all of its air-sampling information or to acknowledge that employees regularly left the facility with asbestos- contaminated dust on their clothing, the indictment said.

The seven former and current executives are all charged with conspiracy, which carries a maximum penalty of five years in prison and a $250,000 fine. They include Henry A. ``Harry'' Eschenbach, who was director of health, safety and toxicology for the company's Industrial Chemicals Group; William J. McCaig, a former manager of operations at the Libby mine; O. Mario Favorito, assistant secretary and chief group counsel; and Robert C. Walsh, a former senior vice president.

Three of the executives face additional charges.

Alan R. Stringer, a former manager of operations at the Libby mine who is now the company's representative to the EPA-led cleanup, also is charged with knowing endangerment, wire fraud and obstruction of justice.

Jack W. Wolter, a former vice president and general manager of the company's Construction Products Division, also is charged with knowing endangerment and wire fraud.

Robert J. Bettacchi, president of the Construction Products Division and senior vice president of the company, also is charged with knowing endangerment and wire fraud.

The knowing endangerment charges, which fall under the Clean Air Act, carry a maximum penalty of 15 years in prison. The wire fraud charge carries a maximum penalty of 10 years in prison. The obstruction of justice charge carries a maximum penalty of five years in prison.

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