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DOCUMENT DESCRIPTION: Report - Talc - Asbestos Exposures & Liability

TALC - ASBESTOS EXPOSURES & LIABILITY

“THE DEVIL IS IN THE **DEFINITION**”

“THE COVER-UP”

“IT KILLS”

TALC - ASBESTOS EXPOSURES & LIABILITY

“The Devil Is In The Definition”

Infamous statements “misunderstood” because of problems with the definition:

- “I am not a crook”
- “Read my lips, no new taxes”
- “I did not have sex with that woman,... Ms. Lewinsky”
- “This is an absolutely vital issue for this country's civil justice system and, most importantly, to our economy.”
- “There now remains a mere handful of issues left to consider.”
- “This bill really will work even though I have to admit it is very tough on the companies that have to come up with this \$114 billion.”

TALC - ASBESTOS EXPOSURES & LIABILITY

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QUESTION: When are Tremolite, Anthophyllite and Chrysotile **not** Asbestos?

ANSWER: When calling them asbestos “portends disastrous economic consequences.”

The question in every mesothelioma case with talc exposure is as follows:

Are the Tremolite, Anthophyllite and Chrysotile in the talc Asbestos, or are they nonasbestiform cleavage fragments and/or transitional fibers ???

TALC - ASBESTOS

EXPOSURES & LIABILITY

“The Devil Is In The Definition”

I. Experts who call it *Asbestos*:

A. Arthur Rohl, PhD. Minerology, Mt. Sinai

“I can say with certainty that, the R.T. Vanderbilt talc that is mined, both before it is milled and after it is milled to its commercially used forms, is, by all the extant definitions, asbestos.”

B. Walter C. McCrone Associates, Inc.

“The results of the examination showed the presence of asbestiform amphibole in all seven samples.”

C. John Dement, Md. NIOSH

“Using present ‘state-of-the-art’ techniques for asbestos fiber analyses all 7 talcs analyzed demonstrated large quantities of asbestiform tremolite and anthophyllite to [be] present. Only tract quantities of chrysotile wer[e] detected in 2 of the 7 talcs. Based on these analyses, all talcs analyzed should be labeled with the OSHA asbestos warning label.”

TALC - ASBESTOS EXPOSURES & LIABILITY

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II. Experts who call it *not asbestiform*:

- A. Arthur Langer - 1993
Minerologist, Mt. Sinai

Proceedings of the Symposium on Talc, Washington D.C.
(May 8, 1973):

“[A]t the Gouverneur, New York, talc deposit, several of the asbestos fiber types occur with the talc.... Talc deposits are complex and almost always include asbestos as a natural contaminant.”

- B. Ann C. Wylie, Ph.D. - 1993
Geology, U. Md.

1988 - Deposition:

- Has analyzed talc from R.T. Vanderbilt and found asbestiform anthophyllite...
- Dr. Rohl's definition of asbestos is the same as OSHA's

- C. C.S. Thompson, R.T. Vanderbilt
Manager of Minerals, Mining and Manufacturing Division

- D. John Kelse, R.T. Vanderbilt
Industrial Hygienist, Manager of Corporate Risk Mgt. Dept.

TALC - ASBESTOS EXPOSURES & LIABILITY

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III. Vanderbilt’s own admissions

- A. Frederick G. Kuehl, International Talc Metallurgist
Deposition - February 23, 1989
- Fibrous Tremolite, Actinolite and Chrysotile – all asbestos – contaminate the talc mines.
- B. Clifford L. Kitts, R.T. Vanderbilt
Assistant Chemist
Deposition - October 5, 1988
- Identified asbestos fibers (Chrysotile, Tremolite and Anthophyllite) in the Ore from International Talc.
- C. Vanderbilt 50th Year Anniversary Publication - NYTAL® (1966):
- “Tremolite occurs in long prismatic crystals and columnar to fibrous aggregates. Asbestiform varieties are common.”
- D. International Talc Specifications of Grades of talc
- “Asbestine”
- “Asbestol”
- E. Vanderbilt Specification for FIBERTAL ®
- “FIBERTAL® carries an asbestos warning label...”

TALC - ASBESTOS EXPOSURES & LIABILITY

“The Devil Is In The Definition”

IV. NYS Museum Bulletin - Geology of the Gouverneur Quadrangle

- “Asbestos: Fibrous tremolite, or brittle asbestos, is not uncommon in the walls of the talc mines...”

V. Administrative Proceedings against Vanderbilt

A. OSHRC Docket No. 78-2039

- “We adopt the Judge’s finding that asbestos fibers were present in NYTAL 99...”

B. OSHRC Docket No. 78-741

- “[T]he Judge’s finding that NYTAL 200 contains asbestos fibers is supported by a preponderance of the evidence.”

TALC - ASBESTOS EXPOSURES & LIABILITY

“THE COVER-UP”

- 1967: “Mortality Among Talc Miners and Millers in New York State”, *Arch. Environ. Health* - Vol. 14, May 1967 (663-67).
- 1972: “Classification of tremolite as a form of asbestos will damage our business and the businesses of any other producer of talcs containing tremolite.”, Letter of R.T. Vanderbilt to Assistant Director Health and Safety - U.S. Bureau of Mines (March 23, 1972).
- 1975: Having bought out International Talc, and continuing its product line, Vanderbilt decides that asbestos caution label has to be put on “five fibrous (asbestiform) type talcs”..., Letter of R.T. Vanderbilt to Georgia-Pacific Corporation (January, 2 1975).
- 1976: Vanderbilt fights WC claims fearing “there will be a rash of similar claims from many other GTC workers... CNA is quite anxious to counteract any Kitts testimony that asbestos might be involved ... Otherwise, they believe they can expect many more similar claims from former GTC workers.”, Vanderbilt Inter-Office Memo (November 4, 1976).

TALC - ASBESTOS EXPOSURES & LIABILITY

“THE COVER-UP”

- 1976: “Vanderbilt... undertook a persistent campaign, starting in 1973, to substantially revise the standard to exclude the tremolite in its talc from the definition of asbestos. The campaign included pressure from five members of Congress, three of whom recently received campaign contributions from Hugh B. Vanderbilt, company president. Public Citizen letter to OSHA Asst. Sec. Of Labor (December 13, 1976).
- 1980: “Exposures to asbestiform tremolite and anthophyllite stand out as the prime suspect etiologic factors associated with the observed increase in bronchogenic cancer and non-malignant respiratory disease among this study cohort.”, NIOSH - HHE Report (September 1990).
- 1984: Vanderbilt approaches **different** NIOSH staff to “update and reanalyze the 1980 mortality study.”
- 1987-88: According to the consistent testimony of former Vanderbilt employees, Hugh Vanderbilt (president) came to the mines assuring workers that their jobs were secure despite controversy over the definition of tremolite in talc as asbestos, boasting that he had a Senator in his hip/back pocket.

TALC - ASBESTOS EXPOSURES & LIABILITY

“THE COVER-UP”

1988: “The actions of certain employees of the Division of Respiratory Disease Studies create the appearance of a conflict of interest. Based upon their inappropriate actions in the course of pursuing the studies of workers employed by R.T. Vanderbilt Company, Inc., appropriate disciplinary action is being taken.”

NIOSH “has been conducting an internal investigation based on allegations that studies and correspondence relating to the issue of the regulation of tremolite... were influenced by contacts with the R.T. Vanderbilt Company, Inc., which makes and handles such minerals. In the course of the investigation, it was determined that NIOSH procedures regarding the initiation of research studies were not followed, an unauthorized procurement was committed, there were frequent private visits and contacts between certain DRDS employees and the Company, complimentary travel and meals were provided to certain DRDS employees by company officials...” Summary Report of DRDS Ethical and Legal Investigation – Executive Officer NIOSH (August 11, 1988).

TALC - ASBESTOS EXPOSURES & LIABILITY

“THE COVER-UP”

1992: “A Nested Case Control Study of Lung Cancer Among New York Talc Workers”, *Ind. Arch. Occup. Environ. Health* - 64:449-456 (John F. Gamble - NIOSH Morgantown, Va.)

- “consistent with a smoking etiology but not an occupational etiology for lung cancer.”

TALC - ASBESTOS EXPOSURES & LIABILITY

IT KILLS

- 1993: Affidavit of Jerrold Abraham, Md.
- 2002: “Tremolite and Mesothelioma”, Roggli et al., *Ann. Occup. Hyg.* - Vol. 46, No. 5 (447-53).
- 2002: “Mesothelioma Among Workers in Asbestiform Fiberbearing Talc Mines in New York State”, Hull, Abraham and Case, *Ann. Occup. Hyg.* - Vol. 46, Supp. 1 (132-35).