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PUBLIC RELATIONS DIVISION

July 8, 1981

TO: A/C Pipe Producers Association
Public Affairs Committee

FROM: Nancy L. Battle, Lewis & Gilman

SUBJECT: New York Times Articles -- For Your Information

Attached please find two New York Times articles dated July 3 and July 6, 1981. While the 7/3 article regarding asbestos litigation and its impact on industry was largely negative, the 7/6 article was more favorable in its assessment of continued use of asbestos and the future of the industry. Fortunately, the second article ran on Monday after the 4th of July holiday and probably reached a much larger audience than the article of July 3, when many businesses were closed.

If you have any questions or require any additional copies, please don't hesitate to call the Association or agency.

Sincerely,

Nancy L. Battle

Nancy L. Battle
Public Relations Counselor

cc: J. Welch, ACPPA
A. Kahn, Esq.
N. Rahn, Esq.

copies to: Public Affairs Committee

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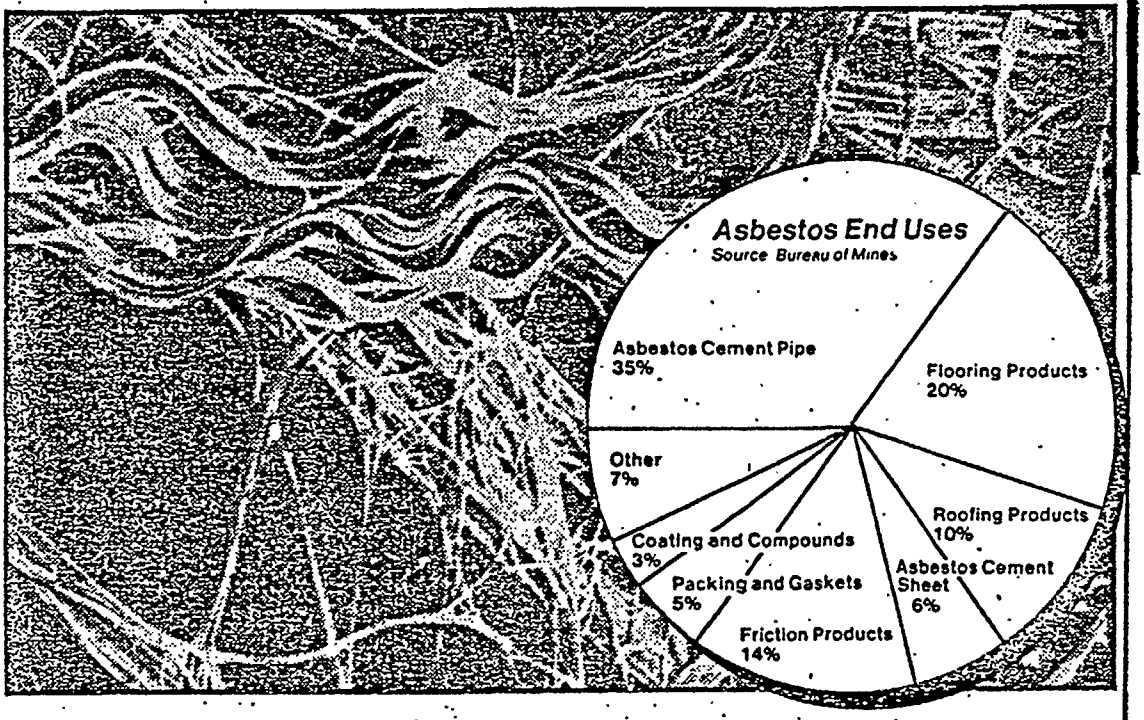
Business Day

The New York Times



The New York Times / July 6, 1981

Highly magnified photograph of chrysotile, or white asbestos, fibers.

Continued Asbestos Use Seen

No Substitute Found While Peril Lessens

By BARNABY J. FEDER

The Interior Department expects domestic use of the sometimes deadly mineral asbestos to remain steady, and it expects use elsewhere to grow at an average rate of 4.5 percent through the year 2000.

These projections have been made partly in the belief that the hazards of asbestos are finally well enough understood to prevent further dangerous exposure to asbestos fibers.

Inhalation of asbestos in past decades has caused tens of thousands of cancer deaths so far and is likely to result in 200,000 more cancer deaths over the next 20 years, according to medical experts at Mount Sinai Hospital Environmental Sciences Laboratory. It has also caused thousands of other workers to suffer asbestosis, a chronic and disabling respiratory disease that is occasionally fatal.

"Asbestos is bad but not nearly as bad as the people making it look that way would like you to think," said Robert Clifton, the Bureau of Mines commodity specialist responsible for the Government's asbestos figures. Such thinking leads Mr. Clifton and others who believe his projections to another reason why major markets for asbestos are expected to persist: Asbestos is hard to replace.

"We continue to look for the substitute for asbestos," John McKinney, chairman and chief executive officer of the Johns-Manville Corporation, the nation's leading asbestos producer, said in a recent company publication. "But so far we haven't come up with one, and neither has anyone else."

It is conceivable that no one will. Asbestos has been recognized as a remarkable substance since the days of ancient Greece. It consists of microscopic stone fibers that can be processed — even woven — into other materials to lend them strength, flexibility and resistance to corrosion, heat and fire. Asbestos also insulates against heat, cold and noise, it does not conduct electricity and, because it does not react to most chemicals, it is exceptionally stable.

This versatility and the discovery of huge reserves in Quebec a century ago encouraged American companies to incorporate asbestos in about 3,000 industrial and consumer items. These include coating and compounds, packing and gaskets, friction products (such as brake linings), asbestos cement sheet, roofing products, flooring products and asbestos cement pipe.

However, even if there is nothing quite like asbestos, there are numerous things that perform somewhat like it in certain applications. Materials as diverse as metal powder, glass and

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Continued Use of Asbestos Is Expected

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polyaramids such as Du Pont's Kevlar can sometimes be linked with other substances to take the place of asbestos.

"In almost every case, a combination of materials is needed to replace asbestos," observed Steven Scott, technical director of the industrial division at Raybestos-Manhattan Inc. "It can take a decade or more to find a substitute."

Sometimes, litigation-weary companies will settle for something less than a true substitute. "We have substituted glass fibers for asbestos in some of our insulation products, but frankly the new product does not perform quite as well as the old one," said the corporate lawyer overseeing thousands of asbestos-related lawsuits against a Middle West manufacturer.

Whatever the difficulties and however strongly corporate officials believe that asbestos can never be fully replaced, the search for substitutes holds a high priority at many major companies in the asbestos industry.

"Your company has for many years been committed to extensive research and development to remove asbestos from our products and processes," Frederick J. Ross, president and chief executive officer of Raybestos-Manhattan, assured stockholders at the annual meeting last April following his report on the more than 6,000 asbestos-related lawsuits that have been filed against the company.

Such major Raybestos customers as those in the automobile industry have amended their dictum that all products should be asbestos-free by adding "wherever possible," according to Mr. Scott. But it is clear which way the market is headed. Raybestos, which had sales of $75.2 million during the first quarter with just over half of it from products containing asbestos, is concentrating on new product development accordingly.

Given these pressures, there is substantial doubt that the United States will, as Mr. Clifton projects, use 620,000 tons of asbestos annually for the next two decades. Last year — a rough one for the construction industry and auto makers, the two major asbestos markets — annual consumption plummeted to less than 359,000 tons, according to Mr. Clifton's estimates.

Customers Show Wariness

Whether the asbestos industry recovers may depend on convincing its customers that they will not end up sharing the fate of insulation contractors who used asbestos products in past decades and now face thousands of lawsuits. Asbestos product manufacturers say that such problems have been eliminated by bonding asbestos into other materials or encapsulating it so that the deadly fibers cannot escape. Johns-Manville, for instance, claims that it has removed from the market all products that might easily be mishandled, including spacking and joint cement, asbestos paving, asbestos filtering aids and asbestos fireplace logs.

"It is the magnitude of its use that has made asbestos a problem, not that it is so much harder to handle than other hazardous substances," said Dr. Paul Kotin, senior vice president in charge of health, safety and environment at Johns-Manville.

But some medical experts, concerned about the recent studies showing asbestos-related lung damage in large numbers of sheet-metal workers and others in building construction and maintenance trades, expect continuing trouble, even with a new generation of products.

Work Techniques Important

"The rub comes when you disturb the bonding, which eventually happens in repair or demolition," said Dr. Paul Sawyer, an occupational health expert at Yale University who has been studying the exposure of construction workers. Safe techniques for doing such jobs around asbestos exist, but some workers resist them and many more know nothing about them.

Failure to recover in domestic markets as anticipated is not likely to be a death blow to the asbestos industry. Perhaps 75 percent of the asbestos marketed today goes into construction products. But the percentages are even higher abroad, especially in developing countries where asbestos cement and piping are widely used because they combine asbestos for added strength with Portland cement, a material many developing countries can produce.

The New York Times

NEW YORK, FRIDAY, JULY 3, 1981

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Asbestos Injury Suits Mount, With Severe Business Impact

By BARNABY J. FEDER

Damage claims by workers exposed to asbestos and by their families now constitute the largest, and potentially most costly, block of product liability litigation ever to confront American industry.

About 25,000 people who believe they are victims have already filed 12,000 suits against 260 companies that manufacture, use or sell asbestos products, according to Michael Mealey, editor of the Asbestos Litigation Reporter.

More than 400 new suits are filed each month against the Johns-Manville Corporation of Denver, once the biggest asbestos producer, by those claiming injury from exposure. That is an increase from 150 a month last summer, and as of May Johns-Manville had been named in a total of 7,200 suits, many with several plaintiffs.

"It is impossible to predict when it will peak," Richard B. Von Wald, Johns-Manville's corporate counsel, said of the cases faced by the company.

Resolution of the cases holds broad implications for the liability of both manufacturing companies and their insurers and for the way that American industry deals with hazardous but economically valuable materials. Asbestos is one of the most widely used mineral products, as an insulator, a coating for cables and wires, and a component of floor and ceiling tiles.

The flood of cases may yet intensify. The current litigation represents a small part of the potential load because many of the tens of thousands of victims to date have failed to associate their cancers or lung disease with exposure to the mineral's microscopic fibers in dec-

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Asbestos Suits Mount, With Wide Business Impact

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ades past, according to Dr. Irving J. Selikoff, head of the Mount Sinai Hospital Environmental Sciences Laboratory, the leading independent asbestos disease research center. Dr. William Nicholson, who works with Dr. Selikoff, projects that 200,000 "excess cancer deaths" will be caused by asbestos over the next two decades.

All of this holds a special threat to business, which fears the litigation as a trend that could involve potentially hazardous chemicals, such as formaldehyde and benzene, and products that emit radiation. As with asbestos, millions of workers and consumers have been exposed to the chemicals and radiation, and they are suspected of causing cancers and other slow-to-appear diseases.

There is no way to ascertain the cost of settlements made to date because many have been sealed. However, last year's annual reports of publicly traded defendant companies disclosed hundreds of cases settled at average costs ranging from a few thousand dollars to, in Johns-Manville's case, $23,000.

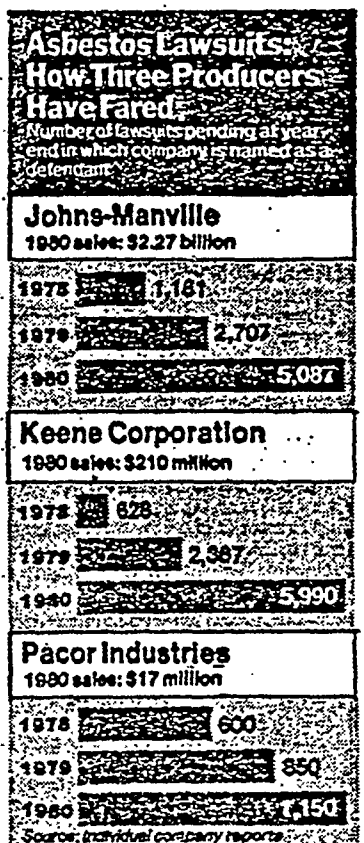
The Asbestos Compensation Coalition, an industry-led group attempting to build broad-based support for a fund that would be mandated by Congress with industrial, insurance and Federal Government contributions, estimated that the average cost of settlements and awards this year was $75,000 a plaintiff.

"The numbers scare the hell out of me," said William Bailey, the senior vice president at the Commercial Union Insurance Company, who is the head of the committee of American Insurance Association executives monitoring the asbestos litigation. Mr. Bailey's worst-case projections place the amount of money at stake between $120 billion and $150 billion, exclusive of the indirect costs that might result from bankrupting some businesses.

Microscopic Stone Fibers

Asbestos has been recognized as a remarkable substance since the days of ancient Greece. It is a mineral consisting of microscopic stone fibers that can be processed — even woven — into other materials to lend them strength, flexibility, and resistance to corrosion, heat and fire. Asbestos is also a good insulator: it does not conduct electricity and because it does not react to most chemicals it is exceptionally stable. Asbestos is still used widely in hundreds of construction products, piping materials and friction products, such as the brake linings of trucks.

Since the turn of the century, however, evidence has been accumulating that inhalation of the fibers can cause certain forms of cancer and a sometimes-disabling respiratory disease, asbestosis, many years, even decades, after initial exposure. The asbestos industry maintains that the true extent of the mineral's hazards were not understood until Dr. Selikoff's publication in 1964 of a study of asbestos-related diseases among insulation workers. Since then, they say, methods to protect workers and consumers from



The New York Times / July 3, 1981

safe products have been removed from the market.

Nevertheless, since millions of Americans have already been significantly exposed, some accountants and businessmen are wondering whether Johns-Manville and other industrial defendants, and the insurance companies backing them, have the means to compensate all of the potential victims. Most defendants have far fewer resources that Johns-Manville, which last year earned $80.6 million on sales of $2.27 billion despite weaknesses in many of its major markets.

One major issue for which a vital precedent may be set is an insurance question: When a hazardous substance causes an injury that takes decades to appear, can the manufacturer resort to insurance held throughout the time the victims were exposed or only the policies held when the injury appeared?

Resolution Is Inconsistent

"The insurance battle will determine not just who pays but the amount of coverage and which companies will survive," said Stanley Levy, a prominent plaintiffs' attorney at the New York firm of Kriendler & Kriendler.

Another major concern of plaintiffs and defendants alike is the absence of any consistency in the resolution of asbestos cases. Some plaintiffs end up with huge awards, such as the Cleveland widow of an insulation worker who in May was awarded $850,000. Others who have similar diseases get nothing. The industry coalition estitlement dollars go to legal epenses rather than victims.

Even so, workers who are victims are expected to continue to prefer the courts over workmen's compensation claims, which are frequently small and difficult to win for occupational diseases.

Variations on asbestos injury cases include the following:

¶Asbestos products companies that sue their insurers to resolve the extent of the companies' coverage.

¶Asbestos products companies that sue the Federal Government, charging that they were damaged by its negligent standard setting and enforcement procedures in shipyards, the sites of many of the worst exposure problems.

¶The addition of the tobacco industry to the list of defendants, at the insistence of insurance companies. Medical research suggests that the hazards of asbestos exposure skyrocket for workers who are also smokers.

¶Spouses and children of asbestos workers and neighbors of asbestos plants who sue asbestos mining companies and manufacturers, based on growing medical evidence that those exposed to asbestos dust brought home on a worker's clothes or in the air around a plant may develop asbestos diseases themselves.

¶Shareholders of asbestos companies who sue management alleging that failure to tell shareholders about the companies' vulnerability to asbestos litigation before the litigation became a major problem violated securities laws.

"I think there is a very real fear that we can't absorb it all," said Judge Harold A. Ackerman of the United States District Court in Trenton, who has overseen negotiation of a tentative group settlement ($9.5 million made public and the rest sealed) of the complaints of 680 former employees of a Raybestos-Manhattan Inc. plant, which made automotive products until it closed in 1973, and has hundreds of others on his docket. "It's not paranoia."

Need to Punish

It is not just a matter of money. Some victims want to punish major manufacturers that they charge hid information about the hazards of asbestos from workers while piling up decades of profits.

"Business just wants whatever seems to be the cheapest way out," said James Vermeulen, a 54-year old former Johns-Manville employee who has asbestosis and operates the 1,400-member Asbestos Victims of America Inc., a nonprofit organization, out of his home in Capitola, Calif. "That this industry is allowed to continue to operate is depriving my death of dignity."

Industry spokesmen object to such charges. They say that, to the extent that the industry understood the hazards, it acted to protect workers.

Some juries have apparently disagreed. This year, Johns-Manville and the Celotex Coporation, a subsidiary of the Jim Walter Corporation that produces building materials, were as-

along with $1,787,000 in compensatory damages in 11 cases tried together before a jury in the Federal District Court in Philadelphia. Johns-Manville was also hit with $500,000 in punitive damages on top of a $350,000 award in a case before the Federal District Court in Cleveland. And, the North American Asbestos Corporation, a former distributor of asbestos products, was found liable for punitive damages totaling $375,000 by a jury in an Indiana state court.

"To me, the punitive damages are crucial," said Morris Mark, an analyst at Goldman, Sachs who follows John-Manville. Typically, such damages are not covered by insurance. "It is very rare that you have a legal question that can actually affect a company's financial integrity," he said. "In this case, it is still more theoretical than real, but there is reason for caution."

Even without punitive damage problems, leading asbestos companies have been showing the strains of the exploding litigation. The major asbestos companies are confident that they can absorb their eventual liability. But independent accountants have qualified Johns-Manville's earnings statements for 1979 and 1980 and that of Raybestos-Manhattan Inc., the second-most frequently named defendant, for 1980. That unusual step indicates that the accountants believe the companies' potential liability is so unpredictable that the earnings reports may not fairly represent their financial condition.

An attorney overseeing the litigation for another defendant named in thousands of the cases, who declined to be identified, said that a number of the other companies anticipate that their annual reports will also be qualified. And the Asbestos Litigation Reporter has reported that numerous small distributor-contractors fear bankruptcy and are being refused renewal of insurance policies.

Executives at many of the most frequently named defendants sometimes contend that their companies are also asbestos victims. Many of them that have not sold asbestos products in years are finding more and more management time and financial resources drained by the litigation.

The Keene Corporation, a small New York conglomerate with $210 million in annual sales that acquired Baldwin-Ehret-Hill Inc., a minor insulation producer, in 1968 is an example. By 1972, all asbestos was removed from the subsidiary's products.

"We had no idea of what we were getting into and never made any money selling those products." Howard Mileaf, the corporate secretary overseeing Keene's battery of lawyers, said.

Nevertheless, Keene is now tied up as a defendant in about 6,000 suits, up from some 2,300 at the beginning of 1980. "We get sued every day now," Mr. Mileaf said, "and it has been that way for a year and a half."

The situation is particularly poignant at the smaller distributor contractor concerns, where some executives who are defending the companies against the flood of litigation are former asbestos workers who themselves have asbestos-related diseases. James Sullivan, president of Pacor Industries of Philadelphia only last month learned that he was suffering from mesothelioma, an invariably fatal cancer associated with asbestos.