RESERVE MINING REPORT #56

APRIL 15, 1974

KEY POINTS:

(THIS IS THE FIRST OF TWO EXTENSIVE REPORTS COVERING DEVELOPMENTS DURING THE WEEK APRIL 8-13.)

*ON MONDAY, APRIL 8, OFFICIALS OF NORTH SHORE COMMUNITIES SAID THEY DIDN'T WANT TO PAY FOR HAVING ASBESTOS FIBERS REMOVED FROM DRINKING WATERS. (THE FEDERAL GOVERNMENT WILL PAY FOR PROVIDING EMERGENCY SUPPLIES, BUT THE COMMUNITIES MUST EVENTUALLY REIMBURSE THE GOVERNMENT FOR THESE EXPENDITURES.)

*ON TUESDAY, APRIL 9, JUDGE LORD ORDERED RESERVE, ARMCO AND REPUBLIC TO PRODUCE MANY DOCUMENTS, INCLUDING ALL RECORDS OF POLITICAL CONTRIBUTIONS MADE BY COMPANY OFFICERS SINCE 1969.

*ON TUESDAY, THE JUDGE ALSO SAID THAT DULUTH AND OTHER NORTH SHORE COMMUNITIES WOULD HAVE TO ENTER THE TRIAL (AND SWITCH FROM BEING CO-DEFENDANTS WITH RESERVE) IF THEY WANT TO DISCUSS FILTRATION PLANS AND COSTS OF FILTRATION WITH HIM.

*ON WEDNESDAY, APRIL 10, PLAINTIFFS IN THE TRIAL ASKED THAT RESERVE BE FINED ALMOST $1 MILLION FOR PAST FAILURE TO PRODUCE DOCUMENTS, PLUS A DAILY PENALTY OF $60,000 UNTIL IT PROVIDES THIS INFORMATION.

*ON WEDNESDAY, THE JUDGE URGED BOTH SIDES TO HASTEN THEIR OUT-OF-COURT NEGOTIATIONS, BUT SAID THIS WILL NOT DELAY HIS DECISION IN THE TRIAL. HE SAID HIS ULTIMATE JUDGMENT WILL SOON BE ISSUED.

*ON WEDNESDAY, ARNOLD BROWN OF THE MAYO CLINIC, TESTIFIED THAT THE SIZE AND SHAPE OF THE ASBESTOS FIBERS CAUSE CANCER, NOT THEIR CHEMICAL MAKE-UP. (BROWN CONTINUED TO TESTIFY THROUGH SATURDAY. OBSERVERS HAVE NOTED THAT THE JUDGE WAS DISAPPOINTED IN BROWN'S TESTIMONY. INCONSISTENCIES IN HIS OPINIONS WERE NOTED.)

RM REPORT #56

APRIL 15, 1974

SPECIAL TO THE GOVERNMENT RESEARCH CORP.
7:00 P.M., SUNDAY, APRIL 14

MONDAY, APRIL 8:

OFFICIALS OF COMMUNITIES ALONG LAKE SUPERIOR IN MINNESOTA SAID MONDAY THAT THEY DID NOT WANT TO PAY THE BILL FOR HAVING ASBESTOS FIBERS REMOVED FROM THE DRINKING WATER.

THE OFFICIALS, INCLUDING DULUTH MAYOR BEN BOO, REJECTED PART OF A PLAN FOR WATER FILTRATION PROPOSED BY THE U.S. ARMY CORPS OF ENGINEERS.

THE OFFICIALS SAID MONDAY THAT THEY HOPED TO MEET WITH U.S. DISTRICT JUDGE MILES LORD, WHO HAS DIRECTED THE CORPS TO OBTAIN FIBER-FREE WATER FOR THE COMMUNITIES ALONG LAKE SUPERIOR.

BOO SAID MONDAY THAT THE PUBLIC HEALTH SITUATION IN DULUTH RESULTED FROM "A JOINT BLUNDER BETWEEN RESERVE MINING COMPANY, THE STATE OF MINNESOTA--WHICH GAVE THEM A PERMIT--AND THE FEDERAL GOVERNMENT. IT SHOULDN'T BE LEFT UP TO THE TAXPAYERS."

THE NORTH SHORE OFFICIAL HAD MET MONDAY IN DULUTH WITH CORPS OF ENGINEERS OFFICIALS TO DISCUSS THE CORPS' PLAN FOR WATER FILTRATION AND EMERGENCY DRINKING WATER SUPPLIES.

UNDER THE FILTRATION PLAN SUBMITTED BY THE CORPS, THE COMMUNITIES ALONG THE NORTH SHORE WOULD FACE ABOUT $4.25 MILLION IN COST FOR PERMANENT FILTRATION.

TUESDAY, APRIL 9:

ON TUESDAY JUDGE LORD ORDERED RESERVE AND ITS TWO PARENT FIRMS TO PRODUCE A WIDE VARIETY OF DOCUMENTS, INCLUDING ALL RECORDS OF POLITICAL CONTRIBUTIONS MADE BY COMPANY OFFICERS SINCE 1969.

THE JUDGE INDICATED THAT THE DOCUMENTS COULD REVEAL WHETHER RESERVE AND ITS PARENT FIRMS, ARMCO AND REPUBLIC STEEL CORPORATIONS, HAD ATTEMPTED TO HALT LEGAL ACTION AGAINST THE MINING COMPANY BY INFLUENCING STATE AND FEDERAL OFFICIALS.

IT WAS INDICATED TUESDAY THAT SUCH POLITICAL ACTION BY THE THREE COMPANIES

MAY HAVE INCLUDED ATTEMPTS TO HAVE JOHN MITCHELL, THEN U.S. ATTORNEY GENERAL, INTERVENE ON THEIR BEHALF.

JUDGE LORD ISSUED HIS FAR-REACHING ORDER AFTER HE WAS TOLD ABOUT A DOCUMENT WHICH INDICATED THAT RESERVE, ARMCO AND REPUBLIC HAD PLANNED TO INITIATE A COMPREHENSIVE PLAN OF POLITICAL ACTION AS EARLY AS 1971.

THE DOCUMENT IS AN AGENDA FOR A MEETING OF RESERVE'S BOARD OF DIRECTORS ON FEBRUARY 23, 1971, IN CHICAGO. AROUND THE EDGES OF THE AGENDA ARE HANDWRITTEN NOTES, POSSIBLY MADE BY AN OFFICER OF ONE OF THE THREE COMPANIES—ALTHOUGH THE WRITER'S IDENTITY IS NOT KNOWN.

BYRON STARNS, THE MINNESOTA DEPUTY ATTORNEY GENERAL, TOLD JUDGE LORD THAT THE SESSION IN CHICAGO APPEARED TO BE "SOME TYPE OF STRATEGIC MEETING" WITH SWEEPING POLITICAL IMPLICATIONS.

STARNS READ TO JUDGE LORD THE HANDWRITTEN NOTES, WHICH INCLUDED:

*"TAKE STEPS POLITICALLY. VOICES COME BACK TO GOV."

THIS IS AN APPARENT REFERENCE TO MINNESOTA GOVERNOR WENDELL ANDERSON. IN FEBRUARY 1971 ANDERSON STRONGLY URGED THE FEDERAL-STATE LAKE SUPERIOR ENFORCEMENT CONFERENCE TO INSIST THAT RESERVE ADOPT AN ON-LAND DISPOSAL SYSTEM FOR ITS TACONITE WASTE. ANOTHER NOTE ON THE AGENDA SAID: "GOV. SAYS NOTHING EXCEPT ON-LAND."

*"STEIN WON'T TAKE ON GOV. TURN OVER TO MITCHELL."

STARNS SAID THIS APPARENTLY REFERS TO MURRAY STEIN, (CHAIRMAN OF THE 1971 ENFORCEMENT CONFERENCE) ANDERSON, AND TO JOHN MITCHELL, AT THAT TIME THE NATION'S CHIEF LAW ENFORCEMENT OFFICIAL.

*"HUMPHRIES, BLATNIK PLEAS TO GOV. NOT TO APPOINT GRANT MERRITT. NOT CONFIRMED BY SENATE."

THIS APPARENTLY REFERS TO SEN. HUBERT HUMPHREY AND REP. JOHN BLATNIK, AND INDICATES THAT THE TWO MINNESOTA CONGRESSMEN MIGHT ASK ANDERSON NOT TO APPOINT GRANT MERRITT, AN ARDENT FOE OF RESERVE, AS EXECUTIVE DIRECTOR OF THE STATE POLLUTION CONTROL AGENCY. (MERRITT RECEIVED THE APPOINTMENT.)

*"STODDARD--CRAZY"

THIS NOTE APPARENTLY REFERS TO CHARLES STODDARD, A U.S. INTERIOR DEPARTMENT OFFICIAL, WHO DIRECTED A 1968 REPORT CRITICAL OF RESERVE'S DISCHARGE INTO LAKE SUPERIOR FROM ITS SILVER BAY, MINNESOTA, TACONITE PROCESSING PLANT.

STARNS TOLD JUDGE LORD THAT THE AGENDA WAS AMONG DOCUMENTS RECENTLY PRO-

VIDED PLAINTIFFS IN THE RESERVE TRIAL BY ARMCO AND REPUBLIC. STARNS, WHO HAD SUBPOENAED THE DOCUMENTS SAID THE AGENDA AND ITS HANDWRITTEN NOTES ESTABLISHED THE NEED FOR STILL MORE DOCUMENTS FROM RESERVE AND ITS TWO PARENT FIRMS.

AT THAT POINT, JUDGE LORD BRIEFLY RECESSED THE TRIAL, SAYING, "I DON'T FEEL WELL."

UPON HIS RETURN TO THE COURT ROOM, THE JUDGE SAID: "IF WHAT IS REPRESENTED IN THIS DOCUMENT IS TAKING PLACE EVERY DAY IN THE LIVES OF THE CORPORATIONS OF OUR COUNTRY, I FEAR FOR OUR COUNTRY.

"THIS DOCUMENT SEEKS TO UNDERMINE THE WORK, THE POSITION AND THE VERY JOBS OF ANYONE WHO STOOD UP TO RESERVE MINING CO.," HE SAID. "AND I TELL YOU THAT WHEN I SAID I FELT ILL, IT WAS IN MY HEART, NOT IN MY STOMACH.

"WHEN I READ A DOCUMENT LIKE THIS--I AM SICK TO THINK OF WHAT IS HAPPENING TO THE INSTITUTIONS OF OUR COUNTRY."

WILLIAM EGAN, A MINNEAPOLIS ATTORNEY REPRESENTING REPUBLIC STEEL CORP., THEN SAID, "YOUR HONOR, FOR YOU TO MAKE THAT REMARK YOU MUST ACCEPT SOME CHARACTERIZATION OF A DOCUMENT WHICH EXISTS IN MR. STARNS' MIND."

"I DO," JUDGE LORD SAID. "THE DOCUMENT IS HERE BEFORE THE COURT AND IN EVIDENCE."

EGAN AND CHARLES MURNANE, A SAINT PAUL ATTORNEY REPRESENTING ARMCO, HAD EARLIER ASKED THE JUDGE TO QUASH TWO SUBPOENAS SOUGHT BY STARNS ON BEHALF OF THE STATE. THE SUBPOENAS, ISSUED THE PREVIOUS FRIDAY, DIRECTED THAT TOP OFFICERS OF RESERVE'S TWO PARENT FIRMS APPEAR TUESDAY IN COURT WITH A VARIETY OF DOCUMENTS. THE JUDGE THEN DENIED THE MOTIONS BY EGAN AND MURNANE, AND IN ONE LONG STATEMENT MADE HIS SWEEPING ORDER--WHICH NOT ONLY UPHELD STARNS' SUBPOENAES, BUT ADDED SUBSTANTIALLY TO THEM..

IN ONE SENTENCE, JUDGE LORD ORDERED:

"THERE SHALL BE PRODUCED TO THIS COURT FROM 1969 TO THIS DATE, EVERY RECORD OF THE RESERVE MINING COMPANY OR ITS OFFICIALS, OF EVERY CONTRIBUTION TO EVERY POLITICAL PARTY CAMPAIGN, CAMPAIGN COMMITTEE, FUND-RAISER, FUND-RAISING DINNER, OR ANY PERSON EMPLOYED AS A PUBLIC RELATIONS MAN WHOSE DUTIES INVOLVED CONTACTING THE LEGISLATURE, THE MEDIA OF PUBLIC EXPRESSION, THE TELEVISION, THE RADIO, EVERY RECORD OF MONIES PAID TO TELEVISION AND RADIO ANNOUNCERS AND NEWSPAPERMEN AND POLITICAL PARTIES, STATE OR NATIONAL CONGRESSMEN, SENATORS, GOVERNORS,

PRESIDENTS, VICE-PRESIDENTS, INCLUDING ALL OF THE MATERIAL THAT HAS BEEN ASKED FOR IN MR. STARNS' SUBPOENA..."

EGAN AND MURNANE HAD ARGUED THAT THE SUBPOENAS SOUGHT BY STARNS WERE, IN EGAN'S WORDS, "WHOLLY UNREASONABLE AND OPPRESSIVE."

EGAN SUGGESTED THAT THE SUBPOENAS WERE A "FISHING EXPEDITION."

BUT JUDGE LORD DISAGREED. HE SAID THAT WHILE "FISHING EXPEDITION" IS A TERM "MUCH USED IN WASHINGTON RECENTLY," IT IS NOT A VALID ARGUMENT FOR ARMCO AND REPUBLIC TO USE IN WITHHOLDING VITAL DOCUMENTS RELATED TO THE RESERVE TRIAL.

THE SUBPOENAS ARE DIRECTED AT C. WILLIAM VERITY, ARMCO BOARD CHAIRMAN, AND W.J. DELANCEY, PRESIDENT OF REPUBLIC. THE DOCUMENTS SOUGHT BY THE SUBPOENAS INCLUDE ANY PLANS FOR ON-LAND DISPOSAL OF RESERVE'S TACONITE WASTE AND VARIOUS RECORDS OF COMPANY MEETINGS BETWEEN JAN. 1, 1969 AND THE PRESENT.

THE FEDERAL GOVERNMENT FILED ITS ORIGINAL LAWSUIT AGAINST RESERVE IN FEB. 1972. THERE WAS WIDESPREAD SPECULATION AT THAT TIME THAT THE COURT ACTION HAD BEEN DELAYED BECAUSE OF THE FACT THAT VERITY WAS A REPUBLICAN PARTY FUND-RAISER AND WILLIS BOYER, THEN CHAIRMAN OF REPUBLIC, WAS A VICE CHAIRMAN OF THE OHIO REPUBLICAN FINANCE COMMITTEE.

THERE HAS ALSO BEEN SPECULATION THAT MITCHELL AND OTHER TOP JUSTICE DEPARTMENT OFFICIALS HAD BLOCKED EARLY EFFORTS BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO SEEK AN IMMEDIATE INJUNCTION TO HALT RESERVE'S DISCHARGE INTO LAKE SUPERIOR.

JUDGE LORD TUESDAY ORDERED THAT ANY RECORDS OF BOYER--WHO SINCE HAS DIED--STILL IN REPUBLIC'S CORPORATE FILES ALSO MUST BE PRODUCED IN COURT.

THE SUBPOENAS FILED BY STARNS ARE TIED TO JUDGE LORD'S ORDER LAST MONTH JOINING ARMCO AND REPUBLIC TO THE TRIAL AS CO-DEFENDANTS. EGAN INDICATED LAST TUESDAY THAT THE TWO PARENT FIRMS WILL APPEAL THAT ACTION.

IN SHORT, THE PLAINTIFFS CONTEND THAT THE TWO PARENT FIRMS MUST REMAIN CO-DEFENDANTS BECAUSE THEY WOULD HAVE TO APPROVE ANY MAJOR CAPITAL EXPENDITURES BY THE MINING COMPANY, INCLUDING AN ON-LAND DISPOSAL SYSTEM.

IN ADDITION, STARNS CONTENDS THAT RESERVE COULD BE FORCED TO PAY OVER $70 MILLION IN CIVIL PENALTIES FOR ITS ALLEGED VIOLATION OF STATE ENVIRONMENTAL STANDARDS, AND THAT MINNESOTA CANNOT GET COMPLETE FINANCIAL RELIEF UNLESS THE TWO OHIO-BASED STEEL CORPORATIONS REMAIN IN THE CASE.

IN A RELATED DEVELOPMENT, JUDGE LORD SAID TUESDAY THAT DULUTH AND SEVERAL OTHER NORTH SHORE COMMUNITIES WILL HAVE TO ENTER THE TRIAL AS FORMAL PARTIES IF THEY WANT TO DISCUSS WATER FILTRATION PLANS WITH HIM.

JUDGE LORD SAID HE WILL NOT MEET PRIVATELY WITH REPRESENTATIVES OF THOSE COMMUNITIES TO HEAR THEIR CONCERNS.

HIS STATEMENT WAS PROMPTED BY THE ACTION TAKEN MONDAY BY THE NORTH SHORE COMMUNITIES AND BY DULUTH MAYOR BEN BOO'S STATEMENT. JUDGE LORD SAID THAT THE NORTH SHORE COMMUNITIES MAY WANT "TO SWITCH SIDES" AND ENTER THE LITIGATION AS PLAINTIFF-INTERVENORS IF THEY WANT TO BE IN A POSITION TO ULTIMATELY SUE RESERVE TO RECOVER COSTS INCURRED IN CONSTRUCTING WATER-FILTRATION FACILITIES.

WEDNESDAY:

ON WEDNESDAY, PLAINTIFFS IN THE RESERVE TRIAL ASKED THAT THE COMPANY BE FINED ALMOST $1 MILLION FOR ITS APPARENT PAST FAILURE TO PRODUCE CERTAIN VITAL DOCUMENTS, AND THAT AN ADDITIONAL DAILY PENALTY OF $60,000 BE ASSESSED UNTIL IT PROVIDES THE INFORMATION.

THE TEN PLAINTIFFS ALSO ASKED THAT JUDGE LORD FINE RESERVE AN AMOUNT EQUAL TO THE ENTIRE COST OF LITIGATION THE PLAINTIFFS HAVE INCURRED IN THE CASE. THE AMOUNT HAS NOT YET BEEN DETERMINED BUT IT COULD BE SEVERAL MILLION DOLLARS.

THE MOTION REQUESTING THE FINES WAS FILED WEDNESDAY, AND IT IS EXPECTED THAT JUDGE LORD WILL HEAR ARGUMENTS ON THE MATTER NEXT WEEK.

IN OTHER TRIAL DEVELOPMENTS:

*JUDGE LORD URGED BOTH SIDES TO HASTEN THEIR OUT-OF-COURT NETOGIATIONS AND ATTEMPT TO AGREE ON CERTAIN MATTERS RELATED TO THE CASE. THE JUDGE WARNED THAT HE WILL NOT DELAY HIS DECISION IN THE CASE A SINGLE DAY TO ALLOW ANY TYPE OF OUT-OF-COURT SETTLEMENT, AND THAT HIS ULTIMATE JUDGMENT WILL SOON BE ISSUED.

*THE CHIEF COURT-APPOINTED HEALTH CONSULTANT, A MAYO CLINIC PATHOLOGIST, TESTIFIED THAT IT IS THE SIZE AND SHAPE OF ASBESTOS FIBERS, RATHER THAN THEIR CHEMICAL MAKE-UP, THAT CAUSES CANCER AND OTHER AILMENTS.

THE PLAINTIFFS CONTEND THAT RESERVE SHOULD BE FINED BECAUSE IT FAILED TO PRODUCE CERTAIN DOCUMENTS AS CALLED FOR IN SUBPOENAS ISSUED THIS YEAR AND LAST.

A MOTION FILED WEDNESDAY BY THE PLAINTIFFS NOTES THAT JUDGE LORD THREATENED MARCH 26 TO FINE RESERVE ABOUT $60,000 A DAY--AN AMOUNT EQUAL TO THE FIRMS'

DAILY PROFIT--IF IT DID NOT PRODUCE BY MARCH 29 A NUMBER OF THE DOCUMENTS.

RESERVE AND ITS PARENT FIRMS HAVE SINCE PROVIDED SOME DOCUMENTS, BUT IT IS UNCERTAIN WHETHER THESE FULFILL JUDGE LORD'S ORDER. IT IS ALSO UNCERTAIN WHETHER THE JUDGE WILL FINE RESERVE AS HE HAS THREATENED.

THE PLAINTIFFS' MOTION ASKED THAT RESERVE BE FINED $60,000 A DAY BEGINNING MARCH 26. BASED ON THIS, RESERVE HAS ALREADY ACCUMULATED POTENTIAL FINES OF OVER $1 MILLION, AND COULD CONTINUE TO ACCUMULATE A DAILY FINE OF $60,000 UNTIL IT PRODUCES THE DOCUMENTS.

JUDGE LORD WEDNESDAY URGED ATTORNEYS IN THE CASE TO MAKE PROGRESS IN THEIR PRIVATE NEGOTIATIONS, WHICH HAVE BEEN UNDERWAY AT LEAST SINCE EARLY MARCH.

THE JUDGE TUESDAY HAD TOLD TRIAL ATTORNEYS TO REPORT ON THEIR PRIVATE TALKS. THE ATTORNEYS WEDNESDAY TOLD HIM THAT MANY DIFFERENCES STILL DIVIDE THE TWO SIDES BUT THEY INDICATED THAT THEY HAVE HOPE AN AGREEMENT CAN BE WORKED OUT.

JUDGE LORD HAS SAID THAT ANY SUCH AGREEMENT WOULD NOT BE AUTOMATICALLY BINDING ON HIM, BUT COULD REDUCE THE NUMBER OF DISAGREEMENTS THAT OTHERWISE WOULD REQUIRE RESOLUTION IN COURT BY HIM.

THE OUT OF COURT TALKS ARE FOCUSING ON SEVERAL AREAS, INCLUDING ATTEMPTS TO AGREE ON JUST WHAT TYPE OF ON-LAND DISPOSAL SYSTEM RESERVE MIGHT CONSTRUCT IN NE MINNESOTA.

FOR EXAMPLE, THE TALKS HAVE INCLUDED DISCUSSIONS OF TWO GENERAL SITES FOR ON-LAND DISPOSAL. ONE SUCH SITE, PROPOSED BY RESERVE, IS AT PALISADE CREEK, AN AREA NEARBY SILVER BAY; ANOTHER AREA FOR ON-LAND DEPOSITION IS AT LAX LAKE, ALSO NEAR SILVER BAY; A THIRD LOCATION, THOUGH NOT AS DISTINCT A POSSIBILITY AS THE OTHER TWO, IS NEAR BABBITT, MINN.

JUDGE LORD WAS TOLD WEDNESDAY BY HIS CHIEF INDEPENDANT CONSULTANT, DR. ARNOLD BROWN, THAT STUDIES TO DETERMINE THE HEALTH EFFECTS OF ASBESTOS FIBERS ON DULUTH AREA RESIDENTS HAVE BEEN EXTREMELY COMPLEX AND DIFFICULT TO EVALUATE.

DR. BROWN WAS APPOINTED BY THE JUDGE AS AN IMPARTIAL COURT WITNESS TO EVALUATE AIR, WATER AND HUMAN TISSUE STUDIES MADE BY CONSULTANTS FOR BOTH RESERVE AND THE PLAINTIFFS.

DR. BROWN WEDNESDAY TOLD JUDGE LORD THAT THE FIBERS DEFINITELY CAN CAUSE A NUMBER OF SERIOUS AILMENTS, INCLUDING CANCER, WHEN INHALED OR INGESTED. THE PATHOLOGIST, WHO TESTIFIED ONLY BRIEFLY WEDNESDAY, SAID HE DIDN'T HAVE "THE FOGGIEST IDEA" OF HOW MANY FIBERS ARE NECESSARY TO CAUSE AILMENTS IN HUMAN BEINGS.

RESERVE MINING REPORT #57

APRIL 15, 1974

KEY POINTS:

*A CONFIDENTIAL REPORT BY THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES HAS CONCLUDED THAT THE BEST SOLUTION TO THE TAILINGS PROBLEM WOULD BE FOR RESERVE TO DISPOSE OF THEIR TAILINGS ON-LAND NEAR BABBITT, MINN.

*ON THURSDAY, APRIL 11, THE DULUTH CITY COUNCIL VOTED TO JOIN THE TRIAL AS A PLAINTIFF-INTERVENOR IN ORDER TO AVOID COSTS OF WATER FILTRATION.

*ON THURSDAY, JUDGE LORD TOLD THE MINNESOTA ATTORNEY IN THE TRIAL TO REDUCE THE QUEST FOR DOCUMENTS, AND TO SEEK INFORMATION ON CONTRIBUTIONS ONLY TO MAJOR STATE AND NATIONAL CAMPAIGNS. (THIS ACTION WITH REGARD TO POLITICAL INFLUENCE, PLUS THE ISSUE OF ACCUMULATED FINES, ARE INTERPRETED PRIMARILY AS EFFORTS TO ENHANCE THE PLAINTIFFS BARGAINING POSITION IN OUT-OF-COURT NEGOTIATIONS.)

*ON FRIDAY, DR. BROWN TESTIFIED THAT ASBESTOS FIBERS SHOULD NOT BE PRESENT IN THE AIR AND WATER OF THE NORTH SHORE REGIONS. HE SAID THE TINY MATERIALS ARE CARCINOGENIC WHEN INHALED OR INGESTED. DURING CROSS-EXAMINATION ON FRIDAY, HE SAID THERE WAS NO EVIDENCE "ONE WAY OR THE OTHER" TO SHOW THAT THE FIBERS IN THE LAKE HAVE BEEN ASSOCIATED WITH ANY PAST OR PRESENT HUMAN DISEASE. HE SAID HE WAS UNABLE TO PREDICT THAT THERE WOULD BE AN ADVERSE EFFECT ON NORTH SHORE RESIDENTS DUE TO THE FIBERS, BUT HE FELT IT WAS BETTER TO TAKE STEPS TO PREVENT A POTENTIAL PUBLIC HEALTH RISK RATHER THAN NOT ACT AT ALL.

*THE JUDGE'S FINAL DECISION IS NOT EXPECTED UNTIL NEXT WEEK. IN THE MEANTIME HE WILL HEAR A VARIETY OF PENDING MOTIONS FROM BOTH SIDES.

RM REPORT #57

APRIL 15, 1974

THURSDAY, APRIL 11:

THE "BEST SOLUTION TO THE RESERVE QUESTION" WOULD BE TO DISPOSE OF THE MINING COMPANY'S TACONITE WASTE ON-LAND NEAR BABBITT, MINNESOTA, THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES (DNR) HAS RECOMMENDED IN A CONFIDENTIAL REPORT.

THE DNR REPORT ALSO RECOMMENDS THAT CERTAIN RESERVE PROCESSING FACILITIES AT SILVER BAY BE SHIFTED TO THE BABBITT AREA, AN ACTION WHICH COULD FORCE A SUBSTANTIAL NUMBER OF THE COMPANY'S 1500 PLANT EMPLOYEES AND THEIR FAMILIES TO MOVE TO BABBITT.

IN ADDITION, THE REPORT STATES THAT DISPOSING OF THE WASTES ON-LAND NEAR SILVER BAY--AS PROPOSED BY RESERVE IN PRIVATE NEGOTIATIONS--WOULD HAVE A SIGNIFICANT AND ADVERSE IMPACT ON THE ENVIRONMENT, INCLUDING THE LOSS OF SIX MILES OF TROUT STREAM AND TWO LAKES TOTALING 225 ACRES.

THIS STATEMENT BY THE DNR ALMOST CERTAINLY CONSTITUTES A TOTAL REJECTION BY THE STATE OF MINNESOTA OF RESERVE'S PROPOSED ON-LAND PLAN.

THE DNR REPORT IS VERY IMPORTANT--PERHAPS THE KEY--IN OUT-OF-COURT NEGOTIATIONS NOW UNDERWAY BETWEEN RESERVE, ITS TWO PARENT FIRMS, AND THE PLAINTIFFS IN THE TRIAL.

THE STATE AGENCY PREPARED ITS 75-PAGE REPORT IN RESPONSE TO RESERVE'S PROPOSAL TO DISPOSE OF ITS TACONITE WASTES ON-LAND AT PALISADE CREEK, AN AREA ABOUT 3 MILES NORTHWEST OF THE SILVER BAY PLANT.

RESERVE HAS PRESENTED THE PALISADE CREEK PROPOSAL, WHICH IT ESTIMATES WOULD COST $153 MILLION TO IMPLEMENT, IN THE PRIVATE TALKS. THE APPARENT REASON THE COMPANY MADE THE PROPOSAL WAS TO PREVENT IT FROM BEING ORDERED TO CONSTRUCT AN ON-LAND DISPOSAL SYSTEM NEAR BABBITT, WHERE RESERVE MINES ITS TACONITE.

IF ORDERED TO DISPOSE OF ITS WASTES NEAR BABBITT, RESERVE ALMOST CERTAINLY WOULD BE FORCED TO SHIFT MOST OF ITS PROCESSING PLANT TO THAT AREA.

THE DNR WAS ASKED BY THE PLAINTIFFS TO EVALUATE RESERVE'S PALISADE CREEK PROPOSAL.

IN ADDITION, THE DNR DOCUMENT REVEALS THAT THE STATE AGENCY ALSO STUDIED THREE OTHER PROPOSALS FOR ON-LAND DISPOSAL NEAR SILVER BAY, INCLUDING TWO OF ITS OWN. IN EACH CASE, THE STATE AGENCY HAS FOUND THE PROPOSALS TO HAVE CERTAIN

ENVIRONMENTALLY UNSOUND FEATURES, AND RECOMMENDS THAT THE BEST SOLUTION IS A DISPOSAL SYSTEM AT BABBITT.

THE FOUR PROPOSALS ARE:

*RESERVE'S PALISADE CREEK PLAN. THIS PLAN IS EFFECTIVELY REJECTED BY THE DNR.

*THE LAX LAKE/WESTON PROPOSAL. THIS PLAN WAS MADE SEVERAL YEARS AGO BY ROY F. WESTON, INC., AN ENVIRONMENTAL-ENGINEERING FIRM RETAINED BY THE U.S. EPA. IT WOULD COST $150 MILLION TO $200 MILLION AND WOULD RESULT IN A TAILINGS BASIN AT LAX LAKE, ABOUT FIVE MILES NORTHWEST OF SILVER BAY.

*TWO PROPOSALS BY THE DNR FOR TAILINGS DISPOSAL AT LAX LAKE. EACH OF THESE PROPOSALS BY THE DNR WOULD RESULT IN THE LOSS OF STREAMS.

ALSO, THURSDAY, THE CITY OF DULUTH TOOK STEPS TO BOLT FROM OFFICIALS OF OTHER NORTH SHORE COMMUNITIES BY JOINING PLAINTIFFS IN THE RESERVE TRIAL.

THURSDAY'S ACTION WAS AN INFORMAL VOTE BY THE CITY COUNCIL, WITH SEVEN COUNCIL MEMBERS VOTING TO JOIN THE TRIAL AS A PLAINTIFF-INTERVENOR.

THE CITY OF SUPERIOR, WISCONSIN HAD ACTED EARLIER TO JOIN THE CASE AS A PLAINTIFF-INTERVENOR.

IN A RELATED DEVELOPMENT, JUDGE LORD SAID THURSDAY THAT HIS ORDER THAT RESERVE, ARMCO AND REPUBLIC PRODUCE ALL RECORDS OF POLITICAL CONTRIBUTION WAS "MUCH TOO BIG A DRAGNET."

LORD TOLD BYRON STARNS, DEPUTY MINNESOTA ATTORNEY GENERAL, TO TRY TO "LIGHTEN THE BURDEN" IN HIS QUEST FOR INFORMATION ON WHETHER POLITICAL INFLUENCE HAD PLAYED A KEY ROLE IN THE LAWSUIT AGAINST RESERVE.

JUDGE LORD TOLD STARNS THAT THE FOCUS OF STARNS' SUBPOENA AND HIS OWN ORDER OUGHT TO BE ON CONTRIBUTIONS TO MAJOR STATE AND NATIONAL CAMPAIGNS.

FRIDAY, APRIL 12:

ON FRIDAY, DR. BROWN, THE JUDGE'S CHIEF IMPARTIAL COURT WITNESS, TESTIFIED THAT HIS STUDIES HAVE LEFT HIM WITH ONE MAJOR CONCLUSION: ASBESTOS FIBERS "SHOULD NOT BE PRESENT" IN THE AIR OR WATER OF THE NORTH SHORE REGION.

DR. BROWN ACKNOWLEDGED THAT THERE IS A GREAT DEAL OF "INCOMPLETE KNOWLEDGE" ABOUT THE HEALTH AND BIOLOGICAL EFFECTS OF THE FIBERS.

HOWEVER, HE SAID THAT THE FIBERS ARE "CERTAINLY" PRESENT IN LAKE SUPERIOR DRINKING WATER--INCLUDING DULUTH'S WATER SUPPLY--AND THAT THE TINY MATERIALS ARE CARCINOGENIC WHEN INHALED OR INGESTED. "THE PRESENCE OF A KNOWN HUMAN CAR-

CINOGEN IS IN MY VIEW CAUSE FOR CONCERN," HE TOLD JUDGE LORD. "IF THERE ARE MEANS OF REMOVING THAT HUMAN CARCINOGEN FROM THE ENVIRONMENT, THAT SHOULD BE DONE."

IN YET ANOTHER DEVELOPMENT, LAKE COUNTY AND THE TOWNS OF SILVER BAY AND BEAVER BAY FILED A MOTION FRIDAY ASKING THAT THEY NOT HAVE TO PAY FOR EMERGENCY FIBER-FREE WATER SUPPLIES.

THOSE THREE GOVERNMENT UNITS ARE DEFENDANT-INTERVENORS IN THE RESERVE TRIAL.

A MEMORANDUM FILED IN SUPPORT OF THE MOTION SAYS THAT NEITHER OF THE COMMUNITIES NOR RESERVE SHOULD BEAR THE COST BECAUSE THE CORPS OF ENGINEERS AND OTHER GOVERNMENT AGENCIES ISSUED PERMITS ALLOWING THE DISCHARGE INTO LAKE SUPERIOR.

"NO ONE PARTY OR GROUP CAN REALLY BE HELD RESPONSIBLE OR HELD TO 'BLAME' FOR THE SITUATION SINCE NO ONE HAD ANY KNOWLEDGE OF THE (FIBER) PROBLEM UNTIL UNCOVERED BY NEW SCIENTIFIC AND TECHNOLOGICAL ADVANCES," THE MEMORANDUM SAID.

SATURDAY, APRIL 13

ON SATURDAY, JUDGE LORD CLOSED TESTIMONY ON THE PUBLIC HEALTH ISSUE IN THE TRIAL, ALTHOUGH CERTAIN OTHER ASPECTS OF THE COMPLEX CASE HAVE YET TO BE RESOLVED.

THE JUDGE TOLD PARTIES IN THE CASE THAT HE WILL MEET WITH THEM NEXT WEEK TO OUTLINE A SCHEDULE FOR TESTIMONY ON THE OTHER ASPECTS, INCLUDING QUESTIONS OF POSSIBLE CIVIL PENALTIES AGAINST THE MINING FIRM.

THE LAST WITNESS ON THE PUBLIC HEALTH ISSUE WAS DR. BROWN, WHO APPEARED SATURDAY FOR LENGTHY CROSS-EXAMINATION BY RESERVE ATTORNEYS AND BRIEF CROSS-EXAMINATION BY THE FEDERAL GOVERNMENT.

UNDER CROSS-EXAMINATION BY EDWARD FRIDE, RESERVE'S CHIEF ATTORNEY, DR. BROWN SAID SATURDAY THAT "THERE'S NO EVIDENCE ONE WAY OR THE OTHER" TO SHOW THAT ASBESTOS FIBERS IN LAKE SUPERIOR HAVE BEEN ASSOCIATED WITH ANY "PAST OR PRESENT HUMAN DISEASE."

THE PATHOLOGIST ALSO TESTIFIED THAT HE WOULD BE "UNABLE TO PREDICT THAT THERE WILL BE AN ADVERSE EFFECT" ON NORTH SHORE RESIDENTS "DUE TO THE PRESENCE OF FIBERS IN THEIR ENVIRONMENT."

BUT HE AGAIN STATED THAT, IN HIS OPINION, IT WAS BETTER TO TAKE STEPS TO PREVENT A POTENTIAL PUBLIC-HEALTH RISK FROM THE FIBERS THAN NOT TO ACT AT ALL.

JUDGE LORD'S FINAL DECISION IS NOT EXPECTED FOR AT LEAST A WEEK. IN THE MEANTIME HE IS EXPECTED TO HEAR A VARIETY OF PENDING MOTIONS FROM BOTH SIDES.

JLM

RESERVE MINING REPORT #56

APRIL 15, 1974

KEY POINTS:

(THIS IS THE FIRST OF TWO EXTENSIVE REPORTS COVERING DEVELOPMENTS DURING THE WEEK APRIL 8-13.)

*ON MONDAY, APRIL 8, OFFICIALS OF NORTH SHORE COMMUNITIES SAID THEY DIDN'T WANT TO PAY FOR HAVING ASBESTOS FIBERS REMOVED FROM DRINKING WATERS. (THE FEDERAL GOVERNMENT WILL PAY FOR PROVIDING EMERGENCY SUPPLIES, BUT THE COMMUNITIES MUST EVENTUALLY REIMBURSE THE GOVERNMENT FOR THESE EXPENDITURES.)

*ON TUESDAY, APRIL 9, JUDGE LORD ORDERED RESERVE, ARMCO AND REPUBLIC TO PRODUCE MANY DOCUMENTS, INCLUDING ALL RECORDS OF POLITICAL CONTRIBUTIONS MADE BY COMPANY OFFICERS SINCE 1969.

*ON TUESDAY, THE JUDGE ALSO SAID THAT DULUTH AND OTHER NORTH SHORE COMMUNITIES WOULD HAVE TO ENTER THE TRIAL (AND SWITCH FROM BEING CO-DEFENDANTS WITH RESERVE) IF THEY WANT TO DISCUSS FILTRATION PLANS AND COSTS OF FILTRATION WITH HIM.

*ON WEDNESDAY, APRIL 10, PLAINTIFFS IN THE TRIAL ASKED THAT RESERVE BE FINED ALMOST $1 MILLION FOR PAST FAILURE TO PRODUCE DOCUMENTS, PLUS A DAILY PENALTY OF $60,000 UNTIL IT PROVIDES THIS INFORMATION.

*ON WEDNESDAY, THE JUDGE URGED BOTH SIDES TO HASTEN THEIR OUT-OF-COURT NEGOTIATIONS, BUT SAID THIS WILL NOT DELAY HIS DECISION IN THE TRIAL. HE SAID HIS ULTIMATE JUDGMENT WILL SOON BE ISSUED.

*ON WEDNESDAY, ARNOLD BROWN OF THE MAYO CLINIC, TESTIFIED THAT THE SIZE AND SHAPE OF THE ASBESTOS FIBERS CAUSE CANCER, NOT THEIR CHEMICAL MAKE-UP. (BROWN CONTINUED TO TESTIFY THROUGH SATURDAY. OBSERVERS HAVE NOTED THAT THE JUDGE WAS DISAPPOINTED IN BROWN'S TESTIMONY. INCONSISTENCIES IN HIS OPINIONS WERE NOTED.)

RM REPORT #56

APRIL 15, 1974

SPECIAL TO THE GOVERNMENT RESEARCH CORP.
7:00 P.M., SUNDAY, APRIL 14

MONDAY, APRIL 8:

OFFICIALS OF COMMUNITIES ALONG LAKE SUPERIOR IN MINNESOTA SAID MONDAY THAT THEY DID NOT WANT TO PAY THE BILL FOR HAVING ASBESTOS FIBERS REMOVED FROM THE DRINKING WATER.

THE OFFICIALS, INCLUDING DULUTH MAYOR BEN BOO, REJECTED PART OF A PLAN FOR WATER FILTRATION PROPOSED BY THE U.S. ARMY CORPS OF ENGINEERS.

THE OFFICIALS SAID MONDAY THAT THEY HOPED TO MEET WITH U.S. DISTRICT JUDGE MILES LORD, WHO HAS DIRECTED THE CORPS TO OBTAIN FIBER-FREE WATER FOR THE COMMUNITIES ALONG LAKE SUPERIOR.

BOO SAID MONDAY THAT THE PUBLIC HEALTH SITUATION IN DULUTH RESULTED FROM "A JOINT BLUNDER BETWEEN RESERVE MINING COMPANY, THE STATE OF MINNESOTA--WHICH GAVE THEM A PERMIT--AND THE FEDERAL GOVERNMENT. IT SHOULDN'T BE LEFT UP TO THE TAXPAYERS."

THE NORTH SHORE OFFICIAL HAD MET MONDAY IN DULUTH WITH CORPS OF ENGINEERS OFFICIALS TO DISCUSS THE CORPS' PLAN FOR WATER FILTRATION AND EMERGENCY DRINKING WATER SUPPLIES.

UNDER THE FILTRATION PLAN SUBMITTED BY THE CORPS, THE COMMUNITIES ALONG THE NORTH SHORE WOULD FACE ABOUT $4.25 MILLION IN COST FOR PERMANENT FILTRATION.

TUESDAY, APRIL 9:

ON TUESDAY JUDGE LORD ORDERED RESERVE AND ITS TWO PARENT FIRMS TO PRODUCE A WIDE VARIETY OF DOCUMENTS, INCLUDING ALL RECORDS OF POLITICAL CONTRIBUTIONS MADE BY COMPANY OFFICERS SINCE 1969.

THE JUDGE INDICATED THAT THE DOCUMENTS COULD REVEAL WHETHER RESERVE AND ITS PARENT FIRMS, ARMCO AND REPUBLIC STEEL CORPORATIONS, HAD ATTEMPTED TO HALT LEGAL ACTION AGAINST THE MINING COMPANY BY INFLUENCING STATE AND FEDERAL OFFICIALS.

IT WAS INDICATED TUESDAY THAT SUCH POLITICAL ACTION BY THE THREE COMPANIES

MAY HAVE INCLUDED ATTEMPTS TO HAVE JOHN MITCHELL, THEN U.S. ATTORNEY GENERAL, INTERVENE ON THEIR BEHALF.

JUDGE LORD ISSUED HIS FAR-REACHING ORDER AFTER HE WAS TOLD ABOUT A DOCUMENT WHICH INDICATED THAT RESERVE, ARMCO AND REPUBLIC HAD PLANNED TO INITIATE A COMPREHENSIVE PLAN OF POLITICAL ACTION AS EARLY AS 1971.

THE DOCUMENT IS AN AGENDA FOR A MEETING OF RESERVE'S BOARD OF DIRECTORS ON FEBRUARY 23, 1971, IN CHICAGO. AROUND THE EDGES OF THE AGENDA ARE HANDWRITTEN NOTES, POSSIBLY MADE BY AN OFFICER OF ONE OF THE THREE COMPANIES—ALTHOUGH THE WRITER'S IDENTITY IS NOT KNOWN.

BYRON STARNS, THE MINNESOTA DEPUTY ATTORNEY GENERAL, TOLD JUDGE LORD THAT THE SESSION IN CHICAGO APPEARED TO BE "SOME TYPE OF STRATEGIC MEETING" WITH SWEEPING POLITICAL IMPLICATIONS.

STARNS READ TO JUDGE LORD THE HANDWRITTEN NOTES, WHICH INCLUDED:

*"TAKE STEPS POLITICALLY. VOICES COME BACK TO GOV."

THIS IS AN APPARENT REFERENCE TO MINNESOTA GOVERNOR WENDELL ANDERSON. IN FEBRUARY 1971 ANDERSON STRONGLY URGED THE FEDERAL-STATE LAKE SUPERIOR ENFORCEMENT CONFERENCE TO INSIST THAT RESERVE ADOPT AN ON-LAND DISPOSAL SYSTEM FOR ITS TACONITE WASTE. ANOTHER NOTE ON THE AGENDA SAID: "GOV. SAYS NOTHING EXCEPT ON-LAND."

*"STEIN WON'T TAKE ON GOV. TURN OVER TO MITCHELL."

STARNS SAID THIS APPARENTLY REFERS TO MURRAY STEIN, (CHAIRMAN OF THE 1971 ENFORCEMENT CONFERENCE) ANDERSON, AND TO JOHN MITCHELL, AT THAT TIME THE NATION'S CHIEF LAW ENFORCEMENT OFFICIAL.

*"HUMPHRIES, BLATNIK PLEAS TO GOV. NOT TO APPOINT GRANT MERRITT. NOT CONFIRMED BY SENATE."

THIS APPARENTLY REFERS TO SEN. HUBERT HUMPHREY AND REP. JOHN BLATNIK, AND INDICATES THAT THE TWO MINNESOTA CONGRESSMEN MIGHT ASK ANDERSON NOT TO APPOINT GRANT MERRITT, AN ARDENT FOE OF RESERVE, AS EXECUTIVE DIRECTOR OF THE STATE POLLUTION CONTROL AGENCY. (MERRITT RECEIVED THE APPOINTMENT.)

*"STODDARD--CRAZY"

THIS NOTE APPARENTLY REFERS TO CHARLES STODDARD, A U.S. INTERIOR DEPARTMENT OFFICIAL, WHO DIRECTED A 1968 REPORT CRITICAL OF RESERVE'S DISCHARGE INTO LAKE SUPERIOR FROM ITS SILVER BAY, MINNESOTA, TACONITE PROCESSING PLANT.

STARNS TOLD JUDGE LORD THAT THE AGENDA WAS AMONG DOCUMENTS RECENTLY PRO-

VIDED PLAINTIFFS IN THE RESERVE TRIAL BY ARMCO AND REPUBLIC. STARNS, WHO HAD SUBPOENAED THE DOCUMENTS SAID THE AGENDA AND ITS HANDWRITTEN NOTES ESTABLISHED THE NEED FOR STILL MORE DOCUMENTS FROM RESERVE AND ITS TWO PARENT FIRMS.

AT THAT POINT, JUDGE LORD BRIEFLY RECESSED THE TRIAL, SAYING, "I DON'T FEEL WELL."

UPON HIS RETURN TO THE COURT ROOM, THE JUDGE SAID: "IF WHAT IS REPRESENTED IN THIS DOCUMENT IS TAKING PLACE EVERY DAY IN THE LIVES OF THE CORPORATIONS OF OUR COUNTRY, I FEAR FOR OUR COUNTRY.

"THIS DOCUMENT SEEKS TO UNDERMINE THE WORK, THE POSITION AND THE VERY JOBS OF ANYONE WHO STOOD UP TO RESERVE MINING CO.," HE SAID. "AND I TELL YOU THAT WHEN I SAID I FELT ILL, IT WAS IN MY HEART, NOT IN MY STOMACH.

"WHEN I READ A DOCUMENT LIKE THIS--I AM SICK TO THINK OF WHAT IS HAPPENING TO THE INSTITUTIONS OF OUR COUNTRY."

WILLIAM EGAN, A MINNEAPOLIS ATTORNEY REPRESENTING REPUBLIC STEEL CORP., THEN SAID, "YOUR HONOR, FOR YOU TO MAKE THAT REMARK YOU MUST ACCEPT SOME CHARACTERIZATION OF A DOCUMENT WHICH EXISTS IN MR. STARNS' MIND."

"I DO," JUDGE LORD SAID. "THE DOCUMENT IS HERE BEFORE THE COURT AND IN EVIDENCE."

EGAN AND CHARLES MURNANE, A SAINT PAUL ATTORNEY REPRESENTING ARMCO, HAD EARLIER ASKED THE JUDGE TO QUASH TWO SUBPOENAS SOUGHT BY STARNS ON BEHALF OF THE STATE. THE SUBPOENAS, ISSUED THE PREVIOUS FRIDAY, DIRECTED THAT TOP OFFICERS OF RESERVE'S TWO PARENT FIRMS APPEAR TUESDAY IN COURT WITH A VARIETY OF DOCUMENTS. THE JUDGE THEN DENIED THE MOTIONS BY EGAN AND MURNANE, AND IN ONE LONG STATEMENT MADE HIS SWEEPING ORDER--WHICH NOT ONLY UPHELD STARNS' SUBPOENAES, BUT ADDED SUBSTANTIALLY TO THEM..

IN ONE SENTENCE, JUDGE LORD ORDERED:

"THERE SHALL BE PRODUCED TO THIS COURT FROM 1969 TO THIS DATE, EVERY RECORD OF THE RESERVE MINING COMPANY OR ITS OFFICIALS, OF EVERY CONTRIBUTION TO EVERY POLITICAL PARTY CAMPAIGN, CAMPAIGN COMMITTEE, FUND-RAISER, FUND-RAISING DINNER, OR ANY PERSON EMPLOYED AS A PUBLIC RELATIONS MAN WHOSE DUTIES INVOLVED CONTACTING THE LEGISLATURE, THE MEDIA OF PUBLIC EXPRESSION, THE TELEVISION, THE RADIO, EVERY RECORD OF MONIES PAID TO TELEVISION AND RADIO ANNOUNCERS AND NEWSPAPERMEN AND POLITICAL PARTIES, STATE OR NATIONAL CONGRESSMEN, SENATORS, GOVERNORS,

PRESIDENTS, VICE-PRESIDENTS, INCLUDING ALL OF THE MATERIAL THAT HAS BEEN ASKED FOR IN MR. STARNS' SUBPOENA..."

EGAN AND MURNANE HAD ARGUED THAT THE SUBPOENAS SOUGHT BY STARNS WERE, IN EGAN'S WORDS, "WHOLLY UNREASONABLE AND OPPRESSIVE."

EGAN SUGGESTED THAT THE SUBPOENAS WERE A "FISHING EXPEDITION."

BUT JUDGE LORD DISAGREED. HE SAID THAT WHILE "FISHING EXPEDITION" IS A TERM "MUCH USED IN WASHINGTON RECENTLY," IT IS NOT A VALID ARGUMENT FOR ARMCO AND REPUBLIC TO USE IN WITHHOLDING VITAL DOCUMENTS RELATED TO THE RESERVE TRIAL.

THE SUBPOENAS ARE DIRECTED AT C. WILLIAM VERITY, ARMCO BOARD CHAIRMAN, AND W.J. DELANCEY, PRESIDENT OF REPUBLIC. THE DOCUMENTS SOUGHT BY THE SUBPOENAS INCLUDE ANY PLANS FOR ON-LAND DISPOSAL OF RESERVE'S TACONITE WASTE AND VARIOUS RECORDS OF COMPANY MEETINGS BETWEEN JAN. 1, 1969 AND THE PRESENT.

THE FEDERAL GOVERNMENT FILED ITS ORIGINAL LAWSUIT AGAINST RESERVE IN FEB. 1972. THERE WAS WIDESPREAD SPECULATION AT THAT TIME THAT THE COURT ACTION HAD BEEN DELAYED BECAUSE OF THE FACT THAT VERITY WAS A REPUBLICAN PARTY FUND-RAISER AND WILLIS BOYER, THEN CHAIRMAN OF REPUBLIC, WAS A VICE CHAIRMAN OF THE OHIO REPUBLICAN FINANCE COMMITTEE.

THERE HAS ALSO BEEN SPECULATION THAT MITCHELL AND OTHER TOP JUSTICE DEPARTMENT OFFICIALS HAD BLOCKED EARLY EFFORTS BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO SEEK AN IMMEDIATE INJUNCTION TO HALT RESERVE'S DISCHARGE INTO LAKE SUPERIOR.

JUDGE LORD TUESDAY ORDERED THAT ANY RECORDS OF BOYER--WHO SINCE HAS DIED--STILL IN REPUBLIC'S CORPORATE FILES ALSO MUST BE PRODUCED IN COURT.

THE SUBPOENAS FILED BY STARNS ARE TIED TO JUDGE LORD'S ORDER LAST MONTH JOINING ARMCO AND REPUBLIC TO THE TRIAL AS CO-DEFENDANTS. EGAN INDICATED LAST TUESDAY THAT THE TWO PARENT FIRMS WILL APPEAL THAT ACTION.

IN SHORT, THE PLAINTIFFS CONTEND THAT THE TWO PARENT FIRMS MUST REMAIN CO-DEFENDANTS BECAUSE THEY WOULD HAVE TO APPROVE ANY MAJOR CAPITAL EXPENDITURES BY THE MINING COMPANY, INCLUDING AN ON-LAND DISPOSAL SYSTEM.

IN ADDITION, STARNS CONTENDS THAT RESERVE COULD BE FORCED TO PAY OVER $70 MILLION IN CIVIL PENALTIES FOR ITS ALLEGED VIOLATION OF STATE ENVIRONMENTAL STANDARDS, AND THAT MINNESOTA CANNOT GET COMPLETE FINANCIAL RELIEF UNLESS THE TWO OHIO-BASED STEEL CORPORATIONS REMAIN IN THE CASE.

IN A RELATED DEVELOPMENT, JUDGE LORD SAID TUESDAY THAT DULUTH AND SEVERAL OTHER NORTH SHORE COMMUNITIES WILL HAVE TO ENTER THE TRIAL AS FORMAL PARTIES IF THEY WANT TO DISCUSS WATER FILTRATION PLANS WITH HIM.

JUDGE LORD SAID HE WILL NOT MEET PRIVATELY WITH REPRESENTATIVES OF THOSE COMMUNITIES TO HEAR THEIR CONCERNS.

HIS STATEMENT WAS PROMPTED BY THE ACTION TAKEN MONDAY BY THE NORTH SHORE COMMUNITIES AND BY DULUTH MAYOR BEN BOO'S STATEMENT. JUDGE LORD SAID THAT THE NORTH SHORE COMMUNITIES MAY WANT "TO SWITCH SIDES" AND ENTER THE LITIGATION AS PLAINTIFF-INTERVENORS IF THEY WANT TO BE IN A POSITION TO ULTIMATELY SUE RESERVE TO RECOVER COSTS INCURRED IN CONSTRUCTING WATER-FILTRATION FACILITIES.

WEDNESDAY:

ON WEDNESDAY, PLAINTIFFS IN THE RESERVE TRIAL ASKED THAT THE COMPANY BE FINED ALMOST $1 MILLION FOR ITS APPARENT PAST FAILURE TO PRODUCE CERTAIN VITAL DOCUMENTS, AND THAT AN ADDITIONAL DAILY PENALTY OF $60,000 BE ASSESSED UNTIL IT PROVIDES THE INFORMATION.

THE TEN PLAINTIFFS ALSO ASKED THAT JUDGE LORD FINE RESERVE AN AMOUNT EQUAL TO THE ENTIRE COST OF LITIGATION THE PLAINTIFFS HAVE INCURRED IN THE CASE. THE AMOUNT HAS NOT YET BEEN DETERMINED BUT IT COULD BE SEVERAL MILLION DOLLARS.

THE MOTION REQUESTING THE FINES WAS FILED WEDNESDAY, AND IT IS EXPECTED THAT JUDGE LORD WILL HEAR ARGUMENTS ON THE MATTER NEXT WEEK.

IN OTHER TRIAL DEVELOPMENTS:

*JUDGE LORD URGED BOTH SIDES TO HASTEN THEIR OUT-OF-COURT NETOGIATIONS AND ATTEMPT TO AGREE ON CERTAIN MATTERS RELATED TO THE CASE. THE JUDGE WARNED THAT HE WILL NOT DELAY HIS DECISION IN THE CASE A SINGLE DAY TO ALLOW ANY TYPE OF OUT-OF-COURT SETTLEMENT, AND THAT HIS ULTIMATE JUDGMENT WILL SOON BE ISSUED.

*THE CHIEF COURT-APPOINTED HEALTH CONSULTANT, A MAYO CLINIC PATHOLOGIST, TESTIFIED THAT IT IS THE SIZE AND SHAPE OF ASBESTOS FIBERS, RATHER THAN THEIR CHEMICAL MAKE-UP, THAT CAUSES CANCER AND OTHER AILMENTS.

THE PLAINTIFFS CONTEND THAT RESERVE SHOULD BE FINED BECAUSE IT FAILED TO PRODUCE CERTAIN DOCUMENTS AS CALLED FOR IN SUBPOENAS ISSUED THIS YEAR AND LAST.

A MOTION FILED WEDNESDAY BY THE PLAINTIFFS NOTES THAT JUDGE LORD THREATENED MARCH 26 TO FINE RESERVE ABOUT $60,000 A DAY--AN AMOUNT EQUAL TO THE FIRMS'

DAILY PROFIT--IF IT DID NOT PRODUCE BY MARCH 29 A NUMBER OF THE DOCUMENTS.

RESERVE AND ITS PARENT FIRMS HAVE SINCE PROVIDED SOME DOCUMENTS, BUT IT IS UNCERTAIN WHETHER THESE FULFILL JUDGE LORD'S ORDER. IT IS ALSO UNCERTAIN WHETHER THE JUDGE WILL FINE RESERVE AS HE HAS THREATENED.

THE PLAINTIFFS' MOTION ASKED THAT RESERVE BE FINED $60,000 A DAY BEGINNING MARCH 26. BASED ON THIS, RESERVE HAS ALREADY ACCUMULATED POTENTIAL FINES OF OVER $1 MILLION, AND COULD CONTINUE TO ACCUMULATE A DAILY FINE OF $60,000 UNTIL IT PRODUCES THE DOCUMENTS.

JUDGE LORD WEDNESDAY URGED ATTORNEYS IN THE CASE TO MAKE PROGRESS IN THEIR PRIVATE NEGOTIATIONS, WHICH HAVE BEEN UNDERWAY AT LEAST SINCE EARLY MARCH.

THE JUDGE TUESDAY HAD TOLD TRIAL ATTORNEYS TO REPORT ON THEIR PRIVATE TALKS. THE ATTORNEYS WEDNESDAY TOLD HIM THAT MANY DIFFERENCES STILL DIVIDE THE TWO SIDES BUT THEY INDICATED THAT THEY HAVE HOPE AN AGREEMENT CAN BE WORKED OUT.

JUDGE LORD HAS SAID THAT ANY SUCH AGREEMENT WOULD NOT BE AUTOMATICALLY BINDING ON HIM, BUT COULD REDUCE THE NUMBER OF DISAGREEMENTS THAT OTHERWISE WOULD REQUIRE RESOLUTION IN COURT BY HIM.

THE OUT OF COURT TALKS ARE FOCUSING ON SEVERAL AREAS, INCLUDING ATTEMPTS TO AGREE ON JUST WHAT TYPE OF ON-LAND DISPOSAL SYSTEM RESERVE MIGHT CONSTRUCT IN NE MINNESOTA.

FOR EXAMPLE, THE TALKS HAVE INCLUDED DISCUSSIONS OF TWO GENERAL SITES FOR ON-LAND DISPOSAL. ONE SUCH SITE, PROPOSED BY RESERVE, IS AT PALISADE CREEK, AN AREA NEARBY SILVER BAY; ANOTHER AREA FOR ON-LAND DEPOSITION IS AT LAX LAKE, ALSO NEAR SILVER BAY; A THIRD LOCATION, THOUGH NOT AS DISTINCT A POSSIBILITY AS THE OTHER TWO, IS NEAR BABBITT, MINN.

JUDGE LORD WAS TOLD WEDNESDAY BY HIS CHIEF INDEPENDANT CONSULTANT, DR. ARNOLD BROWN, THAT STUDIES TO DETERMINE THE HEALTH EFFECTS OF ASBESTOS FIBERS ON DULUTH AREA RESIDENTS HAVE BEEN EXTREMELY COMPLEX AND DIFFICULT TO EVALUATE.

DR. BROWN WAS APPOINTED BY THE JUDGE AS AN IMPARTIAL COURT WITNESS TO EVALUATE AIR, WATER AND HUMAN TISSUE STUDIES MADE BY CONSULTANTS FOR BOTH RESERVE AND THE PLAINTIFFS.

DR. BROWN WEDNESDAY TOLD JUDGE LORD THAT THE FIBERS DEFINITELY CAN CAUSE A NUMBER OF SERIOUS AILMENTS, INCLUDING CANCER, WHEN INHALED OR INGESTED. THE PATHOLOGIST, WHO TESTIFIED ONLY BRIEFLY WEDNESDAY, SAID HE DIDN'T HAVE "THE FOGGIEST IDEA" OF HOW MANY FIBERS ARE NECESSARY TO CAUSE AILMENTS IN HUMAN BEINGS.