

Asbestos controversy continues to plague Manville Corp.

For the past two and a half years, one of the roofing industry's oldest suppliers, the Manville Corp., has been digging itself out of a mound of lawsuits. The 126-year-old company's troubles began when research linked the presence of airborne asbestos fibers to cancer. As the largest producer of asbestos products in the free world, Manville was hit especially hard by the flurry of lawsuits brought by asbestos workers and others who claimed exposure to the substance had damaged their health.

Faced with a mounting number of asbestos-related claims, Manville filed for reorganization under Chapter 11 of the Federal Bankruptcy Code in August of 1983. "By filing such petitions, Manville entities have been relieved of the burden imposed in spending 20 years of contending with an unprecedented number of lawsuits and the prospect of carrying this burden, unabated, into the future," said John A. McKinney, who was Manville's chairman and president at the time of the filing.

By 1983, 16,500 asbestos suits were pending against Manville, and 500 new claims were being filed each month. Before filing for court protection under Chapter 11, the company was resolving lawsuits individually at an average cost of \$40,000 per suit. Once the petition was filed, proceedings in all pending lawsuits and the commencement of new suits were stopped. Manville intended to use the court's protection to work out a plan to resolve all of the cases at one time.

Property damage suits also filed

Not all of the claims against Manville were health-related. Some groups and individuals filed property damage claims against the company. These claims seek compensation for the costs of removing asbestos from buildings, replacing buildings and enclosing the asbestos. By court order, Feb. 1, 1985 was the deadline for filing all such claims.

According to a UPI wire story, Manville spent nearly \$1 million last summer to advertise the claims deadline. Ads men-

tioning the Feb. 1 cutoff date were placed in several major daily newspapers and other publications. In spite of this, some organizations were unaware of the deadline until the last minute. The Salt Lake City government was one of the groups caught off-guard. After City officials finally learned of the deadline, health inspectors conducted a hurried survey of city and county buildings and sent a health official on a night flight to New York to get the city's claim in on time.

By the deadline, about 3,500 property damage claims, amounting to more than \$500 million, had been filed against Manville. One of the largest claims came from the state of Oregon, which claimed \$400 million. Others who filed property damage claims were the state of South Dakota, the San Francisco Board of Education and more than 45 school districts in Connecticut.

A few groups, saying they needed more time to assess the amount of asbestos in their buildings, asked the court for an extension of the deadline. On Feb. 8, Federal Judge Burton Lifland granted a one-month extension to the National Association of Counties, the Los Angeles County district attorney's office and several hospital groups. The National Association of Counties' claim is one of the largest.

Now that most of the property damage claims have been filed, Manville and the courts can begin to work on a settlement. A *Wall Street Journal* report suggests that paying off this sizable number of claims could severely damage Manville's Chapter 11 reorganization efforts. However, the company doesn't believe it's legally responsible for many of the claims, according to one company official. This person also said that many of the claims are exaggerated, and the final settlement may end up being much less.

Asbestos roofing of little concern

Mary Tomenko, a spokesperson for Manville, said that no one at the company has examined the filed property damage claims case-by-case. Her general feeling,

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however, was that few of the claims were seeking compensation for the removal of asbestos roofing products, even though Manville manufactured and sold asbestos roofing felts for several years, and many roofs containing these products are still in use. Most groups filing claims were concerned with removing ceiling or pipe insulation, she said.

Tomenko doesn't believe asbestos roofing threatens public health. NRCA is researching this question. The Association recently began a study to determine if the presence of asbestos roofing felts or their application or removal poses a health hazard to persons on a roof or in a building. The study is being funded in part by Cascades, Inc., a Canadian company that still markets asbestos roofing products. The research is being conducted by the Institute of Research and Development on Asbestos at the University of Sherbrooke, Sherbrooke, Quebec under the direction of Dr. Jacques Dunnigan.

Two sites were examined as part of the NRCA study. One site was a new roofing application at the Cascades plant. Another site involved the tear-off of an old asbestos roof in New Orleans. According to study results presented at this year's NRCA Convention, neither installing nor tearing off asbestos roofing products creates a health hazard. In both cases that were evaluated, the amount of asbestos fibers released into the air during the work was below the strictest proposed Occupational Safety and Health Administration standards.

Robert J. Pigg, executive director of the Asbestos Information Association, said he believes asbestos roofing is safe "essentially because the asbestos fibers are encapsulated in the asphalt." He said the NRCA study's findings were consistent with his association's information, and he expects any further studies to yield similar results.

Fund builds trust in company

The relative safety of asbestos roofing has allowed this portion of Manville's business to stay isolated from the company's legal difficulties. Although the company no longer manufactures or markets its asbestos roofing felts, it continues to sell other products such as fiber glass felts, bitumen, EPDM single-ply membranes and roof accessories.

The company has been working hard to prevent its bankruptcy proceedings from hampering its roofing sales. When Manville first filed under Chapter 11, the company's roofing group acted quickly to assure distributors and contractors that Manville continued to stand behind its

products. This assurance was necessary, the roofing people believed, because the Chapter 11 filing automatically halted all existing and future legal proceedings against the company—in other words, the company was under no legal obligation to honor its warranties.

To show the roofing industry that Manville's products could still be bought and used with confidence, the company requested the court's permission to set aside a trust fund to handle all roofing claims. At the time this trust fund was created, Manville's attorney, Francis E. Kethcart, sent a letter to then-NRCA president John Bradford that states the company's commitment to the roofing industry. "If claims are made in connection with our roofing materials or roofing systems, you, our customer, can expect such claims to be handled in a fair and equitable manner," Kethcart said.

Even though Manville has been in bankruptcy proceedings for two and a half years, Tomenko said trustees are still holding this trust fund. No matter what happens in Chapter 11, the money will be available to back up the company's warranties, she said.

Health claims still pending

Manville's legal problems won't end with the resolution of the property damage claims. The company still faces a mountain of health-related lawsuits. According to a *Washington Post* report from last August, new claims are still being filed against the company at the rate of 400 a month.

The *Post* report goes on to say that a tentative agreement between Manville and its insurers may create a trust fund to handle health-related claims. Under this agreement the insurers would pay Manville \$315 million to set up the fund and Manville would back the fund with \$100 million in cash and two-thirds of its outstanding stock. Some estimates say the agreement would generate between \$833 million and \$1 billion. The plan would also create a new corporation that would be exempt from future asbestos claims.

Critics of this plan say that the agreement would hurt the chances of reaching a consensual agreement between the company and the claimants that would resolve the bankruptcy issue without litigation. Some believe the fund would not generate enough money to fairly compensate present and future asbestos victims.