

White House budget office thwarts EPA warning on asbestos-laced insulation



ANDREW SCHNEIDER / POST-DISPATCH

Libby, Mont. -- Paul Peronard, right, who lead EPA's emergency cleanup of Libby, Mont., shows the asbestos-tainted vermiculite to the EPA team charged with cleaning up apartments near the World Trade Center site.

homes, businesses and schools across America.

A public health emergency declaration had never been issued by any agency. It would have authorized the removal of the disease-causing insulation from homes in Libby and also provided long-term medical care for those made sick. Additionally, it would have triggered notification of property owners elsewhere who might be exposed to the contaminated insulation.

Zonolite insulation was sold throughout North America from the 1940s through the 1990s. Almost all of the vermiculite used in the insulation came from the Libby mine, last owned by W.R. Grace & Co.

In a meeting in mid-March, EPA Administrator Christie Todd Whitman and Marianne Horinko, head of the Superfund program, met with Paul Peronard, the EPA coordinator of the Libby cleanup and his team of health specialists. Whitman and Horinko asked tough questions, and apparently got the answers they needed. They agreed they had to move ahead on a declaration, said participant in the meeting.

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WASHINGTON – The Environmental Protection Agency was on the verge of warning millions of Americans that their attics and walls might contain asbestos-contaminated insulation. But, at the last minute, the White House intervened, and the warning has never been issued.

The agency's refusal to share its knowledge of what is believed to be a widespread health risk has been criticized by a former EPA administrator under two Republican presidents, a Democratic U.S. senator

and physicians and scientists who have treated victims of the contamination.

The announcement to warn the public was expected in April. It was to accompany a declaration by EPA of a public health emergency in Libby, Mont. In that town near the Canadian border, ore from a vermiculite mine was contaminated with an extremely lethal asbestos fiber called tremolite that has killed or sickened thousands of miners and their families.

Ore from the Libby mine was shipped across the nation and around the world, ending up in insulation called Zonolite that was used in millions of



Dust particles generated by the disturbed vermiculite are invisible to the human eye. The scientists at Materials Analytical Services in Suwanee, Ga. have refined the use of Tyntall lighting, which uses special high intensity illumination to scatter light off microscopic particles.

By early April, the declaration was ready to go. News releases had been written and rewritten. Lists of governors to call and politicians to notify had been compiled. Internal e-mail shows that discussions had even been held on whether Whitman would go to Libby for the announcement.

But the declaration was never made.'

Derailed by White House

Interviews and documents show that just days before EPA was set to make the declaration, the plan was thwarted by the White House Office of Management and Budget, which had been told of the proposal months earlier.

Both OMB and EPA acknowledge that the White House agency was actively involved, but neither agency would discuss how or why.

EPA's chief spokesman Joe Martyak said, "Contact OMB for the details."

OMB spokesperson Amy Call said, "These questions will have to be addressed to the EPA."

Call said OMB provided language for EPA to use, but she declined to say why the White House opposed the declaration and the public notification.

"These are part of our internal discussions with EPA and we don't discuss predecisional deliberations," Call said.

Both agencies refused Freedom of Information Act requests for documents to and from OMB.

OMB was created in 1970 to evaluate all budget, policy, legislative, regulatory, procurement and management issues on behalf of the president.

OMB interfered before

Former EPA administrator William Ruckelshaus, who worked for Presidents Richard Nixon and Ronald Reagan, called the decision not to notify homeowners of the dangers posed by Zonolite insulation "the wrong thing to do."

"When the government comes across this kind of information and doesn't tell people about it, I just think it's wrong, unconscionable, not to do that," he said. "Your first obligation is to tell the people living in these homes of the possible danger. They need the information so they can decide what actions are best for their family. What right does the government have to conceal these dangers? It just doesn't make sense."

But, he added, pressure on EPA from OMB or the White House is neither unprecedented nor new.

Ruckelshaus, who became EPA's first administrator when the agency was created by Nixon in 1970, said he never was called by the president directly to discuss agency decisions. He said the same held true when he was called back to lead EPA by Reagan after Anne Gorsuch Burford's scandal-plagued tenure.

Calls from a White House staff member or the Office of Management and Budget were another matter.

"The pressure could come from industry pressuring OMB or if someone could find a friendly ear in the White House to get them to intervene," Ruckelshaus said. "These issues like asbestos are so technical, often so convoluted, that industry's best chance to stop us or modify what we wanted to do would come from OMB."

The question about what to do about Zonolite insulation was not the only

asbestos-related issue in which the White House intervened.

In January, in an internal EPA report on problems with the agency's much criticized response to the terrorist attacks in New York City, a section on "lessons learned" said there was a need to release public health and emergency information without having it reviewed and delayed by the White House.

"We cannot delay releasing important public health information," said the report. "The political consequences of delaying information are greater than the benefit of centralized information management."

It was the OMB's Office of Information and Regulatory Affairs that derailed the declaration. OIRA is headed by John Graham, who formerly ran the Harvard Center for Risk Analysis.

His appointment in 2001 was denounced by environmental, health and public advocacy groups, who claimed his ties to industry were too strong. Graham passes judgment over all major national health, safety and environmental standards. Sen. Dick Durbin, D-Ill., urged colleagues to vote against Graham's appointment, saying he would have to recuse himself from reviewing many rules because affected industries donated to the Harvard University Center.

Thirty physicians, 10 of them from Harvard, according to The Washington Post, wrote the committee asking that Graham not be confirmed because of "a persistent pattern of conflict of interest, of obscuring and minimizing dangers to human health with questionable cost-benefit analyses, and of hostility to governmental regulation in general."

Repeated requests for interviews with Graham or anyone else involved in the OMB decision were denied.

"It was like a gut shot"

Whitman, Horinko and some members of their top staff were said to have been outraged at the White House intervention.

“It was like a gut shot,” said one of those senior staffers involved in the decision. “It wasn’t that they ordered us not to make the declaration, they just really, really strongly suggested against it. Really strongly. There was no choice left.”

She and other staff members said Whitman was personally interested in Libby and the national problems spawned by its asbestos-tainted ore. EPA’s inspector general had reported that the agency hadn’t taken action more than two decades earlier when it had proof that the people of Libby and those using asbestos-tainted Zonolite products were in danger.

Whitman went to Libby in early September 2001 and promised the people it would never happen again.

“We want everyone who comes in contact with vermiculite – from homeowners to handymen – to have the information to protect themselves and their families,” Whitman promised.

Suits, bankruptcies grow

Political pragmatists in the agency knew the administration was angered that a flood of lawsuits had caused more than a dozen major corporations – including W.R. Grace – to file for bankruptcy protection. The suits sought billions of dollars on behalf of people injured or killed from exposure to asbestos in their products or workplaces.

Republicans on Capitol Hill crafted legislation – expected to be introduced next month – to stem the flow of these suits.

Nevertheless, Whitman told her people to move forward with the emergency declaration. Those in EPA who respect their boss, fear that Whitman may quit.

She has taken heat for other White House decisions such as a controversial decision on levels of arsenic in drinking water, easing regulations to allow 50-year-old power plants to operate without implementing modern pollution controls and a dozen other actions which environmentalists say favor industry over health.

Newspapers in her home state of New Jersey ran front page stories earlier this month saying Whitman had told Bush she wanted to leave the agency.

Spokesman Martyak said his boss is staying on the job.

EPA was poised to act

In October, EPA complied with a Freedom of Information Act request and gave the Post-Dispatch access to thousands of documents – in nine large file boxes. There were hundreds of e-mails, scores of “action memos” describing the declaration and piles of “communication strategies” for how the announcement would be made.

The documents illustrated the internal and external battle over getting the declaration and announcement released.

One of the most contentious concerns was the anticipated national backlash from the Libby declaration. EPA officials knew that if the agency announced that the insulation in

Montana was so dangerous that an emergency had to be declared, people elsewhere whose homes contained the same contaminated Zonolite would demand answers or perhaps to have their homes cleaned.

The language of the declaration was molded to stress how unique Libby was and to downplay the national problem.

But many in the agency’s headquarters and regional offices didn’t buy it.

In a Feb. 22 memo, the EPA’s Office of Pollution Prevention and Toxins said “the national ramifications are enormous” and estimated that if only 1 million homes have Zonolite “aren’t we not put in a position to remove their (insulation) at a national cost of over \$10 billion?”

The memo also questioned the agency’s claim that the age of Libby’s homes and severe winter conditions in Montana required a higher level of maintenance, which in turn meant increased disturbance of

the insulation in the homes there.

It’s “a shallow argument,” the memo said. “There are older homes which exist in harsh or harsher conditions across the country. Residents in Maine and Michigan might find this argument flawed.”

No one knows precisely how many dwellings are insulated with Zonolite. Memos from the EPA and the Agency for Toxic Substances and Disease Registry repeatedly cite an estimate of between 15 million and 35 million homes.

A government analysis of shipping records from W.R. Grace show that at least 15.6 billion pounds of vermiculite ore was shipped from Libby to 750 plants and factories throughout North America.

Between a third and half of that ore was popped into insulation and usually sold in 3-foot-high kraft paper bags.

Illinois may have as many as 800,000 homes with Zonolite; Michigan as many as 700,000. Missouri is likely to have Zonolite in 380,000 homes.

With four processing plants in St. Louis, it is estimated that more than 60,000 homes, offices and schools were insulated with Zonolite in the St. Louis area alone.

Eventually, the internal documents show, acceptance grew that the agency should declare a public health emergency.

In a confidential memo dated March 28, an EPA official said the declaration was tentatively set for April 5.

But the declaration never came.

Instead, Superfund boss Horinko, on May 9 quietly ordered that asbestos be removed from contaminated homes in Libby. There was no national warning of potential dangers from Zonolite. And there was no promise of long-term medical care for Libby’s ill and dying. OMB’s

presence is noted throughout the documents. The press announcement of the watered-down decision was rewritten five times the day before it was released to accommodate OMB language changes which downplayed the dangers.

Dangers of Zonolite

The asbestos in Zonolite, like all asbestos products, is believed to be either a minimal risk or no risk if it is not disturbed. The asbestos fibers must be airborne to be inhaled. The fibers then become trapped in the lungs, where they may cause asbestosis, lung cancer and mesothelioma, a fast-moving cancer of the lung's lining.

EPA's files are filled with studies documenting the toxicity of tremolite, how even minor disruptions of the material by moving boxes, sweeping the floor or doing repairs in attics can generate asbestos fibers.

This also has been confirmed by simulations W.R. Grace ran in Weedsport, N.Y., in July 1977, by 1997 studies by the Canadian Department of National Defense and by the U.S. Public Health Service, which reported in 2000, that "even minimal handling by workers or residents poses a substantial health risk."

Last December, a study by Christopher Weis, EPA's senior toxicologist supporting the Libby project, reported that "the concentrations of asbestos fibers that occur in air following disturbance of (insulation) may reach levels of potential human health concerns."

Most of those who have studied the needle-sharp tremolite fibers in the Libby ore consider them far more dangerous than other asbestos fibers.

In October, the EPA team leading the cleanup of lower Manhattan went to Libby to meet with Peronard and his crew. EPA had reversed an early decision and announced that it would be cleaning asbestos from city apartments.

Libby has been a laboratory for doing just that Peronard told the visitors from New York just how dangerous tremolite is. He talked about the hands-on research in Libby of Dr. Alan Whitehouse, a pulmonologist who had worked for NASA and the Air Force on earlier projects before moving to Spokane, Wash.

"Whitehouse's research on the people here gave us our first solid lead of how bad this tremolite is," Peronard said.

Whitehouse has not only treated 500 people from Libby who are sick and dying from exposure to tremolite. The chest specialist also has almost 300 patients from Washington shipyards and the Hanford, Wash., nuclear facility who are suffering health effects from exposure to the more prevalent chrysotile asbestos.

Comparing the two groups, Whitehouse has demonstrated that the toxicity of the tremolite from Libby is 10 times as carcinogenic as chrysotile and probably 100 times more likely to produce mesothelioma than chrysotile.

W.R. Grace has maintained that its insulation is safe. On April 3 of this year, the company wrote a letter to Whitman again insisting its product was safe and that no public health declaration or nationwide warning was warranted.

Dr. Brad Black, who runs the asbestos clinic in Libby and acts as health officer for Lincoln County, Mont., says "people have a right to be warned of the potential danger they may face if they disturb that stuff."

Martyak, chief EPA spokesman, argues that the agency has informed the public of the potential dangers. "It's on our Web site," he said.

Sen. Patty Murray, D-Wash., is sponsoring legislation to ban asbestos in the United States. She said the Web site warning is a joke.

"EPA's answer that people have been warned because it's on their Web site is ridiculous," she said. "If you have a computer, and you just happened to think about what's in your attic, and you happen to be on EPA's Web page, then you get to know. This is not the way the safety of the public is handled.

"We, the government, the EPA, the administration have a responsibility to at least let people know the information so they can protect themselves if they go into those attics," she said.

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