

ASBESTOS IN ATTIC INSULATION

Mrs. MURRAY. Mr. President, I rise today to share a story with my colleagues. It's a true story about a family who happened to live in a neighborhood in Spokane, WA. They could have easily been in Memphis or Minneapolis or Midland as well. But they lived in my State, in Spokane, a typical American city in Eastern Washington.

Mr. President, as part of realizing their American dream, Ralph Busch and his wife Donna bought a house. They were newlyweds, and this was the home they bought after getting married. They soon discovered that it needed roof repairs, and so Ralph spent quite a bit of time in the attic, working on his roof.

The following year they found they had to renovate an addition that was put on the house in the 1950s.

They both had full-time jobs, so they spent many nights and weekends working on their home. They knocked down walls and tore through the old insulation, drywall and wood. They sanded and hammered and spent two entire years fixing up the place.

One morning, Ralph was reading the newspaper. Just by chance, he came across a story about a company that manufactured a household insulation called Zonolite. This insulation, he read, was tainted with deadly asbestos.

Ralph suddenly realized that Zonolite was in his home.

Ralph Busch was stunned as it dawned on him. He had just spent two years in his own home handling Zonolite insulation and he and his wife may have unknowingly been exposed to deadly asbestos.

What would happen from his and his wife's exposure?

How come no one had told him he had asbestos in his attic?

The Zonolite insulation was a product from the little town of Libby, MT. It was produced by the W.R. Grace Company.

W.R. Grace mined vermiculite from the hillside near Libby. The company turned the ore into insulation known as Zonolite by heating vermiculite to expand it into light granules.

The process was similar to popping popcorn. After sorting the popped vermiculite, W.R. Grace poured it into bags and sold it to use as insulation.

The company marketed Zonolite as "perfectly safe". . .

But laced throughout the vermiculite in the ground near Libby, another mineral was present: asbestos. W.R. Grace's process to make Zonolite and other products could not, and did not, remove all the asbestos from the end product. Zonolite insulation contains between .5 percent and 8 percent asbestos.

The community of Libby has suffered immensely from decades of mining the deadly vermiculite ore used to make Zonolite insulation and other consumer products.

At least 200 men and women from Libby have died from diseases caused

by exposure to asbestos-tainted vermiculite, and hundreds more people from the town are sick.

When inhaled, asbestos can cause deadly diseases, from asbestosis to mesothelioma, a deadly cancer of the lining of the lung that is almost always fatal. In fact, mesothelioma kills at least 2,000 people each year and is caused only by asbestos.

The diseases induced by exposure to asbestos result in horrible deaths and they are nearly always fatal. Treatment is harsh and debilitating.

These diseases can take years to strike. The late Congressman Bruce Vento and the father of the modern Navy, Admiral Elmo Zumwalt both died from asbestos they had been exposed to years earlier.

The asbestos-tainted insulation manufactured by the W.R. Grace Company was used in homes throughout the country for decades.

Vermiculite from Libby first started being sold commercially in 1921, and W.R. Grace bought the mine in 1963. Reviews of invoices indicate that more than 6 million tons of Libby ore was shipped to hundreds of sites nationwide for processing over the decades.

This chart behind me shows more than 300 sites across the Nation, where ore was processed, in many cases to make Zonolite insulation.

In internal memos and e-mails, the Environmental Protection Agency has estimated that as many as 35 million homes, schools and businesses may still contain this insulation. Moreover, W.R. Grace knew the Libby mine contained asbestos when the company purchased it in 1963. But Grace made millions of tons of Zonolite anyway and unabashedly marketed it as "safe."

If the manufacturer of this insulation knew it was contaminated with asbestos, why didn't it or the Federal Government make sure that Ralph Busch and millions of others across the country knew to leave it alone?

The answer to the first question is that W.R. Grace still claims its product isn't harmful. The answer to the second question is more complicated.

According to published reports and internal EPA documents, the EPA was preparing to tell the American people about the dangers of Zonolite insulation. But it didn't happen.

An investigation by Pulitzer Prize-winning reporter Andrew Schneider found that last spring while it was addressing the public health crisis in Libby, MT, the EPA was preparing to tell the American people about the dangers of Zonolite insulation in millions of homes across this country. But first, EPA had to deal with Libby. EPA decided it needed to minimize the exposure of Libby residents to asbestos-contaminated vermiculite, and the agency drafted a press release announcing its decision.

This document said that EPA:

. . . will spend \$34 million to remove dangerous asbestos-contaminated vermiculite insulation from 70 percent of residential and commercial buildings in Libby.

I am glad that EPA has taken aggressive steps to protect people in that small Montana town.

Senator BAUCUS deserves tremendous credit for the work he has done to bring Federal resources to Montana to help people in Libby.

And EPA deserves credit for doing the right thing, and going in to remove the insulation from Libby.

But what about the rest of the country? What about the millions of other homes with Zonolite insulation?

Since EPA decided to help Libby, the agency anticipated the logical follow-up question of what about the millions of homes nationwide that contain the same Zonolite insulation as homes in Libby.

According to the St. Louis Post-Dispatch, the EPA had drafted news releases, and drawn up lists of public officials to notify. The agency was preparing to embark on an outreach and education campaign to let people know about this hazard in their homes.

But what stopped EPA from following through with its warning?

It may have been the same person or people who blocked another government health agency from warning workers about asbestos exposure.

Last April, the National Institute for Occupational Safety and Health—NIOSH—was preparing to release new guidance for workers who come into contact with insulation in the course of their daily work.

NIOSH was preparing to alert workers, such as electricians, plumbers and maintenance workers, about how they can better protect themselves from exposure to asbestos in Zonolite insulation.

These materials were prepared last April, but they still have not been released.

Let me read from a "Pre-Decisional Draft" of a NIOSH Fact Sheet dated April 11, 2002.

I ask unanimous consent that it be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NIOSH RECOMMENDATIONS FOR REDUCING RISK OF WORKER EXPOSURES TO VERMICULITE THAT MAY BE CONTAMINATED WITH ASBESTOS

A vermiculite deposit formerly mined in Libby, Montana was contaminated with asbestos, raising concerns about occupational and public health risks to former miners, residents of Libby, and to workers and consumers who come in contact with vermiculite end-products, such as insulation and potting soil. This fact sheet summarizes existing recommendations by the U.S. Centers for Disease Control's (CDC) National Institute for Occupational Safety and Health (NIOSH) for reducing risk of worker exposures to asbestos or to materials that may be contaminated with asbestos. These recommendations serve as interim guidance from NIOSH for employers and workers involved at sites where vermiculite used as attic insulation or for other purposes may be contaminated with asbestos. NIOSH is conducting further research on vermiculite to provide more information on exposures that may pose the highest risks to workers.

How can a worker or an employer know if vermiculite they have is contaminated with asbestos?

The only way to determine conclusively whether vermiculite is contaminated is to have it analyzed by a trained microscopist. (Any suggestions by NIOSH beyond OSHA 1910 regarding methods for bulk analysis would be extremely helpful and reduce much of the confusion we are seeing as polarized light microscopy (PLM) has not been useful in evaluating and predicting airborne levels generated from VAD).

As a rule, we believe that any vermiculite that originated in Libby, Montana, before 1990 should be regarded as potentially contaminated. It is known that vermiculite from Libby was sold as attic insulation under the product name Zonolite Attic Insulation, and that this product is still in homes throughout the United States.

(Comment: WR Grace estimates several million homes contain VAI, which is most likely very conservative. If we don't wish to provide any indication of the magnitude of the potential VAI exposure in number of homes, we should be clear about the potential situation to provide a more accurate picture and warning. Also, it is uncertain whether other vermiculite products not originating in Libby contain potentially hazardous concentrations of asbestos, until we have definitive information to the contrary these materials should also be treated with caution)

How can workers be protected from asbestos-contaminated vermiculite?

They should isolate the work area from other areas in order to avoid spreading fibers, use local exhaust ventilation to reduce dust exposures, and use appropriate respiratory protection. If the employer or worker is concerned about potential exposure, and if at all possible, the vermiculite should not be disturbed.

Which respirators are appropriate to protect workers from asbestos exposure?

If asbestos cannot be contained to below 0.1 fibers per cubic centimeter of air (fiber/cm³) by engineering controls and good work practices, or when engineering controls are being installed or maintained, appropriate respirators should be provided to workers. When respirators are worn, it is advisable to wear a fit-tested, tight fitting half-mask air-purifying particulate respirator (not a disposable dust mask) equipped with an N-100 filter or better, because of the potential for episodic exposure to 1 fiber/cm³. A tight-fitting powered air-purifying respirator should be provided instead of a negative-pressure respirator whenever an employee chooses to use this type of respirator. Tight fitting respirators should be used in conjunction with a comprehensive respiratory protection program under the direction of a health and safety professional. Further information concerning respirator selection can be found on the NIOSH web site at: <http://www.cdc.gov/niosh/>; or the OSHA web site at: <http://www.osha.gov>.

What can workers do to protect themselves from exposure to asbestos-contaminated vermiculite?

If at all possible, avoid handling or disturbing loose vermiculite that is not contained in a manner that will prevent the release of airborne dust.

Workers should guard against bringing dust home to the family on clothes by using disposable protective clothing or clothing that is left in the workplace. Do not launder work clothing with family clothing.

Some measures can be used to avoid spreading potentially contaminated dusts:

Use vacuum cleaners equipped with High-Efficiency Particulate Air (HEPA) filters to collect asbestos-containing debris and dust;

Employ wet methods or wetting agents, unless wetting is not feasible or creates a greater hazard (wetting absorbent vermiculite materials in an attic may not be feasible or advisable);

Use negative pressure air units, which are large mobile units that combine a fan and a HEPA filter critical for preventing other exposures to non-workers, to keep airborne asbestos levels to a minimum. Combined with temporary barriers or enclosures, they can be set up to make sure fibers do not contaminate other areas.

Dispose of wastes and debris contaminated with asbestos in leak-tight containers;

Never use compressed air to remove asbestos-containing materials;

Avoid dry sweeping, shoveling, or other dry clean-up methods for dust and debris containing vermiculite that is potentially contaminated with asbestos without environmental controls to avoid spreading contamination;

Use proper respiratory protection.

Are there regulations that pertain to asbestos-contaminated vermiculite?

Yes, the Occupational Safety and Health Administration (OSHA) asbestos regulations (29 CFR 1910.1001 and 1926.1101) for general industry and construction should be consulted to determine if there are specific requirements that need to be followed when handling asbestos-contaminated materials or potential asbestos-containing materials. Relevant information is posted on the OSHA Internet page at: <http://www.osha.gov/SLTC/asbestos/index.html>.

What should you do if you believe you have been exposed to asbestos-containing vermiculite?

Workers who believe they have had significant past exposure to asbestos-containing vermiculite, should consider getting an appropriate medical check up. The appendices to the OSHA asbestos standard describe the types of tests a physician will need to provide.

What did NIOSH find from past studies at Libby, Montana?

NIOSH has responded to past and current concerns about worker health by conducting needed research and disseminating its findings. In the 1980s, NIOSH conducted research and communicated findings about job-related exposures and health effects among workers employed in mining and milling vermiculite in Libby, Montana.

Our past studies identified asbestos contamination in the vermiculite mined and milled in Libby.

We determined, from examination of x-rays of Libby miners, that the miners showed evidence of adverse health effects associated with asbestos exposure.

In a review of death certificates of former Libby vermiculite miners, we identified an excess of deaths from lung cancer, and other lung diseases that are known to be related to asbestos exposure.

We made our findings available in 1985 through meetings in Libby with workers and their representatives, employer representatives, and members of the community. We also published the results in peer-reviewed scientific journals.

Is NIOSH planning further occupational health research on vermiculite?

NIOSH is currently conducting research to help determine whether the processing of vermiculite produced by mines other than the Libby mine results in workplace exposure to asbestos. Vermiculite is used in a variety of occupational settings including construction, agriculture, horticulture, and for miscellaneous industrial applications. Through carefully designed sampling, NIOSH will be better able to define the extent to which workers may be occupationally ex-

posed to vermiculite that may be contaminated with asbestos. Current plans are to: (1) conclude field exposure sampling, (2) send company-specific reports to each of the surveyed sites, and (3) prepare a summary of the overall result of exposure assessments.

(Question will NIOSH be performing any field investigations to evaluate the occupational exposures to airborne asbestos associated with Vermiculite Attic Insulation among commonly exposed workers (i.e. home reconstruction workers, electricians, cable TV workers)?)

Has NIOSH been involved in the public health response for Libby community?

NIOSH has been providing technical assistance to the U.S. Environmental Protection Agency (EPA) and the Agency for Toxic Substances and Disease Registry (ATSDR) which are the lead agencies for the Federal government in assessing current concerns about potential community health risks from asbestos exposures in Libby.

Mrs. MURRAY. Mr. President, NIOSH recommended that workers:

. . . should isolate the work area from other areas in order to avoid spreading fibers, use local exhaust ventilation to reduce dust exposures, and use appropriate respiratory protection.

If the employer or worker is concerned about potential exposure, and if at all possible, the vermiculite should not be disturbed.

But, astonishingly, this guidance was never released. How many of the construction workers, maintenance people, electricians, plumbers and homeowners across the country know they should "avoid spreading fibers, use local exhaust ventilation or appropriate respiratory protection?"

I suspect that like Mr. Ralph Busch, thousands of people across the U.S. are not taking these important precautions because they are simply unaware of the danger.

I would like to read to my colleagues another section from the never-released NIOSH Fact Sheet. This was in response to the question about how workers can know if the vermiculite they have is contaminated with asbestos. It says:

As a rule, we believe that any vermiculite that originated in Libby, Montana, before 1990 should be regarded as potentially contaminated . . .

It is known that vermiculite from Libby was sold as attic insulation under the product name Zonolite Attic Insulation and that this product is still in homes throughout the United States.

But especially interesting is the next section, which is in parentheses as a comment by the author:

W.R. Grace estimates several million homes contain "vermiculite attic insulation," which is most likely very conservative.

If we don't wish to provide any indication of the magnitude of the potential VAI (or vermiculite attic insulation) exposure in number of homes, we should be clear about the potential situation to provide a more accurate picture and warning.

I must ask my colleagues, why wouldn't NIOSH or others in the Administration—when they are taking great pains to do the job right in Libby—want to share with workers and the public an indication of the magnitude of the number of homes with asbestos-tainted vermiculite?

Isn't it our government's job to protect people from risks associated with hazardous substances such as asbestos?

Don't we need to know the scope of the problem in order to help gauge the extent of the potential risks?

Why aren't we warning workers and giving them the new guidance that has already been drafted by NIOSH?

Interestingly enough, on April 10, 2002, the day before the date on this NIOSH Fact Sheet, EPA received a letter from W.R. Grace defending their harmful product.

The letter read:

Zonolite Attic Insulation (ZAI) has been insulating homes for over 60 years and there is no credible reason to believe that ZAI has ever caused an asbestos-related disease in anyone who has used it in his/her home.

How then does Grace explain the fact that the company has settled at least 25 bodily injury claims caused by exposure to Zonolite?

Make no mistake. W.R. Grace is a company with one of the worst public health and environmental records in America. I draw my colleague's attention to a 1998 article by Dr. David Egilman, Wes Wallace and Candace Hom published in the journal *Accountability in Research* entitled "Corporate Corruption of Medical Literature: Asbestos Studies Concealed by W.R. Grace & Co."

I will read briefly from the abstract of this article:

In 1963, W.R. Grace acquired the mine (in Libby) and employee health problems at the mine became known to W.R. Grace executives and to Grace's insurance company, Maryland Casualty.

In 1976, in response to tighter federal regulation of asbestos and asbestos-containing products, W.R. Grace funded an animal study of tremolite toxicity.

They hoped to prove that tremolite did not cause mesothelioma, the cancer uniquely associated with asbestos exposure. However, the study showed that tremolite did cause mesothelioma.

W.R. Grace never disclosed the results of this animal study, nor did they disclose their knowledge of lung disease in the Libby workers, either to the workers themselves or to regulatory agencies.

These actions were intentional, and were motivated by Grace's conscious decision to prioritize corporate profit over human health.

Given the facts that W.R. Grace has knowingly manufactured and sold an asbestos-tainted product, has suppressed research findings showing that tremolite asbestos causes cancer, and has denied that their product is potentially dangerous, the company is woefully lacking for credibility.

Which brings us to our question: If EPA was planning to warn the American public about the dangers of Zonolite insulation, what stopped EPA from following through with its plan?

Why aren't we warning homeowners nationwide about Zonolite insulation?

Why aren't we warning workers and giving them new safety guidelines?

The answers might lie, not with the EPA, but with the White House Office of Management and Budget, OMB.

An internal e-mail from John F. Wood, the Deputy General Counsel at OMB, to staff at EPA contained details about finalizing the Action Memo for Libby.

Also copied on the e-mail were OMB Deputy Director Nancy Dorn and Associate Director of Natural Resources Programs Marcus Peacock.

Here's what OMB's lawyer wrote to EPA. I ask unanimous consent that this e-mail be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

John—thank you for your efforts to alleviate my concerns. Here are just a few edits, which are necessary to avoid the problems we discussed earlier. Please be sure to observe the deletion of the citation of Sect. 104(a)(4).

Mrs. MURRAY. Mr. President, it says:

Thank you for your efforts to alleviate my concerns. Here are just a few edits, which are necessary to avoid the problems we discussed earlier. Please be sure to observe the deletion of the citation of Sect. 104 (a) (4).

What is Section 104 (a) (4)?

It is a clause in the Superfund law, which enables the EPA to declare a public health emergency.

And why did OMB tell the EPA to "delete the citation" to Section 104 (a) (4)?

We don't know for sure, but if EPA had issued the public health emergency for Libby under Superfund, then the agency would have had to answer questions about asbestos-tainted insulation from every other homeowner in the country.

Here is what the St. Louis Post-Dispatch investigation concluded:

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 Post-Dispatch got reaction from an EPA staffer about OMB's intervention:

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

Mr. President, I ask unanimous consent that the St. Louis Post-Dispatch article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Dec. 29, 2002]

WHITE HOUSE OFFICE BLOCKED EPA'S
ASBESTOS CLEANUP PLAN
(By Andrew Schneider)

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 the 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 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 a participant in the meeting.

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

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

Budget office spokesperson Amy Call said, "Those questions will have to be addressed to the EPA."

Call said the budget office provided wording for the 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 the White House Office of Management and Budget.

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

OFFICE 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 the EPA from the budget office or the White House is not unprecedented.

Ruckelshaus, who became the 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 the 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 White House budget office’s Office of Information and Regulatory Affairs that derailed the Libby declaration. The regulatory affairs office is headed by John Graham, who formerly ran the Harvard Center for Risk Analysis.

His appointment last year 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 Graham 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 White House budget office 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. The 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 the 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 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, the 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 want answers or perhaps demand to have their homes cleaned.

The language of the declaration was molded to stress how unique Libby was and to play down 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 Toxics said “the national ramifications are enormous” and estimated that if only 1 million homes have Zonolite “(are) 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.

Government extrapolations and interviews with former W.R. Grace Zonolite salesmen indicate that 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. The presence of the White House budget office 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 budget office wording changes that played down the changes that played down 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.

The 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 Weed-sport, 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, the 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 after the attacks of Sept. 11 went to Libby to meet with

Peronard and his crew. The 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 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 Montana's Lincoln County, says "people have a right to be warned of the potential danger they may face if they disturb that stuff."

Marytak, 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.

Mrs. MURRAY. Mr. President, because of OMB's involvement, EPA never conducted the planned outreach to warn people about Zonolite. NIOSH's guidance to workers about how to protect themselves was never finalized.

In response to these shocking reports, on January 3, 2003, I wrote to EPA Administrator Whitman and OMB Director Daniels to get some answers.

Mr. Daniels has not yet responded to the allegations that his office blocked the announcement.

Ms. Whitman wrote that she is responding on behalf of OMB. I can only ascribe this to OMB's desire to remain unaccountable and to hide the role it played in these decisions.

Ms. Whitman's response was woefully inadequate. She failed to explain the nature or the substance of OMB's involvement. She also wrote that it is not possible to know how many homes

contain vermiculite insulation even though HER OWN AGENCY has estimated it may be between 15 and 35 million homes, schools, and businesses.

Mr. President, I ask unanimous consent that Administrator Whitman's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,

Washington, DC, January 16, 2003.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: Thank, you for your letters dated January 3, 2003, to me and Mitch Daniels, Director of the Office of Management and Budget (OMB), regarding EPA's efforts to address asbestos contamination in the town of Libby, Montana. I am responding for both OMB and the Environmental Protection Agency (EPA).

I assure you that since my tenure at the Agency, every action regarding Libby, Montana has been taken with the goal of protecting the health of Libby residents from further harm. After visiting with the residents of Libby Montana in September 2001, I committed to have EPA do everything as quickly and comprehensively as possible to remove the multiple sources of asbestos exposure of Libby residents. The Action Memo signed on May 9, 2002, authorized significant additional measures in Libby, including the removal of attic insulation. Cleanup work has proceeded at an aggressive pace and substantial sources of exposure have already been removed.

While enclosed are EPA's Office of Solid Waste and Emergency Response detailed responses to your questions, I want to make it clear that neither OMB nor any other Federal agencies directed EPA to take a specific course of action regarding whether to employ the public health emergency provision of the Comprehensive Environmental Response and Liability Act ("CERCLA", or the Superfund Law). The Agency made its decision regarding the removal of asbestos contaminated vermiculite attic insulation from Libby homes in order to reduce the cumulative exposure to residents as quickly as possible. EPA based this decision on many factors, including legal, scientific, and practical considerations. The Agency concluded that asbestos contaminated vermiculite insulation found in homes in Libby could be removed without a public health emergency. Ultimately, EPA chose not to rely upon CERCLA's health emergency provision, in part, to minimize the possibility of removal work being delayed by possible legal challenges to this untested approach, and instead relied upon more traditional removal authorities.

Additional, I want to clarify that the decision to proceed with the cleanup in Libby is unrelated to the larger issue of whether asbestos contaminated vermiculite insulation poses a risk outside of Libby, Montana. Several questions in your letter imply that invoking the public health provision in CERCLA for the situation in Libby would give the Agency additional authority or impose additional requirements to inform the public nationwide about the health risks associated with asbestos contaminated vermiculite attic insulation. This is not the case. While the experience and data collected in Libby are important to a larger national evaluation, the Libby cleanup and the Agency's national evaluation of the potential risks of asbestos contaminated attic insulation are on parallel but different tracks.

Again, thank you for your support of EPA's cleanup efforts in Libby, Montana and your commitment to making sure that people nationwide are not at risk from asbestos. The Agency looks forward to working with you and your staff to continue our mutual goal to protect the health and welfare of the residents of Libby, Montana, and of the United States. If you have further questions or concerns, please contact me, or your staff may contact Betsy Henry in the Office of Congressional and Intergovernmental Relations at (202) 564-7222.

Sincerely yours,

CHRISTINE TODD WHITMAN.

ENCLOSURE: EPA OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE AND OFFICE OF PREVENTION, PESTICIDES AND TOXIC SUBSTANCES

DETAILED RESPONSES TO SENATOR PATTY MURRAY'S QUESTIONS ON VERMICULITE ATTIC INSULATION AND THE LIBBY, MONTANA CLEANUP

What were EPA's recommendations on formation of a policy to inform consumers of potential dangers from exposure to Zonolite insulation?

The Agency's activity in Libby reflects a unique situation where citizens have been exposed for many years to widespread, high levels of asbestos contamination, and suffer unprecedented rates of asbestos related illness. After extensive consideration of scientific and health-related information, the Agency concluded that residents in Libby were a sensitive population, and asbestos exposure which would otherwise present an acceptable risk to a healthy population may cause an increase in disease for a highly impacted community like Libby. EPA decided to remove all potential sources of exposure to asbestos in Libby, including asbestos contamination in yards, playgrounds, parks, industrial sites, the interiors of homes and businesses, and vermiculite attic insulation.

The Agency's guidance to consumers outside of Libby has consistently been to manage in place asbestos or asbestos containing products found in the home. Based on currently available information and studies the Agency continues to believe that, absent the unique conditions present at Libby, vermiculite insulation poses minimal risk if left undisturbed. If removal of the insulation is desired, the Agency recommends that this work be done professionally.

To better understand the potential risks of asbestos contaminated vermiculite attic insulation, EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) initiated the first phase of a limited study to evaluate the level of asbestos in vermiculite attic insulation in homes in the Spring of 2001. The study included six homes in Vermont and simulations in an enclosure. This preliminary study will be used to help the Agency design the next phase of a more comprehensive study and to help determine whether the Agency's guidance in place for many years—to manage asbestos contaminated material in place or hire professionals to conduct removals—is still appropriate or should be revised. Formal external peer review is finished for the first phase of the study. The Agency's Office of Research and Development (ORD), as well as others, are currently reviewing the preliminary study.

Based on the findings from this study, EPA will revise or supplement the existing guidance and outreach materials as necessary, and further inform the public about how best to manage vermiculite attic insulation.

2. *Top what extent were OMB and other federal agencies and departments involved in the decision whether to declare a public health emergency in Libby or to notify people nationwide of the dangers potentially posed by exposure to Zonolite?*

EPA consulted extensively with other federal and state partners in determining the best course of action to address all sources of asbestos contamination in Libby. This included the Office of Management and Budget (OMB), the Department of Health and Human Services, the Center for Disease Control, the Agency for Toxic Substances and Disease Registry, U.S. Geological Survey, Occupational Safety and Health Administration, the State of Montana, and many others. These consultations focused on scientific issues associated with asbestos contaminated vermiculite exposure, not to discuss public health emergency declarations. The Agency was also contacted by several members of Congress who wished to express the depth of their concern and share their views regarding this matter. In general, EPA tries to share information and discuss potential response decisions with interested parties, especially those with expertise in the area, so it can make the most informed decision.

After consulting broadly with experts in the field, the Agency determined a course of action regarding both the removal of asbestos contaminated vermiculite attic insulation and the public outreach to be conducted beyond Libby, Montana. These decisions were made by the Administrator, in close consultation with the Office of Solid Waste and Emergency Response, the Office of Enforcement and Compliance Assurance, the Office of General Counsel, the Office of Prevention, Pesticides and Toxic Substances, and EPA Region 8.

3. *What process did the Administration use in making these decisions? Specifically what roles did individual agencies play and who in these agencies was involved in the process?*

EPA's primary focus was on protecting the residents of Libby by removing the multiple sources of asbestos exposure as quickly as possible. EPA considered many factors, including the National Oil and Hazardous Substances Pollution Contingency Plan. Ultimately, the Agency chose not to rely upon CERCLA's health emergency provision, in part, to minimize the possibility of removal work being delayed by possible legal challenges to this novel approach, and instead relied upon more traditional removal authorities. EPA concluded that homes in Libby contained vermiculite attic insulation that did not constitute a "product." The Agency therefore could clean up the insulation without addressing the question of whether it constituted a public health emergency.

In making its response decisions in Libby, EPA engaged in a major effort to discuss and consider the issues associated with its approach to cleaning up asbestos contamination, both in Libby and at more than 20 contaminated sites out of the 241 domestic vermiculite processing facilities. Although 175 of these sites had processed Libby vermiculite, EPA's sampling confirmed that contamination only remained at 22 sites. To date, EPA or the responsible parties have cleaned up or have cleanup underway at 10 of these sites and the remaining 12 sites are either being addressed or are under further investigation and response planning. This effort has been one of the most significant actions ever taken under the Superfund program, and has involved the participation and collaboration of a great many people and organizations at the local, state and federal level.

4. *Which outside parties, such as corporations, non-governmental organizations or associations, did EPA consult with on these decisions?*

During the more than two years in which EPA has been working on Libby, Agency officials have met with the Libby community and its Technical Assistance Group, other agencies, businesses in Libby and international corporations, various associations, the State and subcommittees of both houses of the U.S. Congress. Community members, the Vermiculite Association, and W.R. Grace Corporation have all corresponded with the Agency to state their opinions or to ask for information about our work at the site.

5. *What was OMB's final recommendation to EPA? What recommendations, if any, did EPA receive from other federal agencies and departments?*

Neither OMB, nor any other federal agency directed EPA to use a specific course of action regarding whether to employ the health emergency provision of CERCLA. As stated previously, EPA consulted extensively with other federal partners, including OMB, in determining the best course of action to address all sources of asbestos contamination.

6. *Who ultimately directed EPA not to issue a public health emergency in Libby last spring nor to proactively notify the public in a proper manner?*

No one directed the Agency. The decision was made by EPA. After searching broadly for input from the many agencies within the Executive Branch with expertise to inform our thinking, the Agency decided to perform the cleanup under traditional Superfund program removal authorities. Furthermore, regarding outreach on the Libby decision, the Agency has conducted many public meetings concerning the Libby cleanup, and testified before Congress in July, 2001. Since the Agency's first removal actions, the On-Scene Coordinator in Libby has been in regular contact with the citizens of Libby discussing the progress of the cleanup and communicating about the issues of the vermiculite attic insulation. The Administrator also spoke extensively on issues concerning vermiculite contamination during her visit to Libby, Montana in September of 2001.

7. *What are EPA's most current estimates of how many homes, businesses and schools still contain Zonolite? How did EPA derive these numbers?*

Over the years several attempts have been made to estimate the number of homes that may contain vermiculite attic insulation. While numbers have been included in at least one study conducted for the Agency in 1985, the Agency does not believe that these estimates are reliable. EPA recently again tried to estimate the number of homes, businesses and schools that may still contain vermiculite attic insulation but again determined that this task was virtually impossible to complete because there is little information about how many homes contain vermiculite insulation (outside of Libby) as well as little data about what happens to homes after they are built. Any numbers derived from such an effort would be inaccurate and misleading.

In the Libby valley, the Agency is identifying which homes contain asbestos contaminated vermiculite insulation in the attic and wall space by visually inspecting homes. The good news is that EPA is finding vermiculite insulation in fewer homes than the Agency anticipated in this region.

Mrs. MURRAY. Mr. President, my colleagues may be curious about why I am so interested in EPA's decisions regarding vermiculite from Libby.

This issue is important to me because residents in my State are being exposed to asbestos from Zonolite.

And, Mr. President, constituents in your state and every other State in America may also have this insulation.

I am deeply concerned that most people with Zonolite in their homes are completely unaware of this problem. I am afraid most will not learn of it until they have already been exposed to dangerous levels of asbestos. And I am most concerned that this administration may be stifling EPA's efforts to warn homeowners, consumers, and workers because of pressure from W.R. Grace.

And I must remind my colleagues: there is no safe known level of exposure to asbestos. Deadly diseases such as asbestosis, lung cancer and mesothelioma can develop decades after just brief exposures to high concentrations of asbestos.

Ultimately, I believe Administrator Whitman wanted to do the right thing by warning homeowners nationwide to be careful if they have Zonolite in their homes when the agency began removing Zonolite from homes in Libby, MT. But she was stopped. The reasons may never be known—the excuse may be buried in "executive privilege."

So where do we go from here?

First, I hope my colleagues will support efforts to get to the bottom of what stopped the EPA from warning the public. We have to increase pressure on EPA, NIOSH, and other public health agencies to raise public awareness about Zonolite.

Second, I hope my colleagues will support legislation to ban asbestos in America and to warn people about the potential dangers posed by Zonolite insulation.

I appreciate the support for this legislation I have received from Senators BAUCUS, CANTWELL, DAYTON, and our late colleague, Senator Wellstone, who were original cosponsors.

I have been working to raise awareness about the current dangers of asbestos for over 2 years.

In July of 2001, I chaired a Senate Health, Education, Labor and Pensions Committee hearing on asbestos and workplace safety.

In June of 2002, 2 days after introducing the Ban Asbestos in America Act, I testified at a Senate Environment and Public Works Committee hearing on Libby held by Senator BAUCUS.

My colleagues may wonder whatever happened to Ralph Busch and his wife Donna.

After reading about Zonolite in the Seattle Post-Intelligencer, Mr. Busch went to get the asbestos removed from his home. He learned it would cost \$32,000 to do so.

When he tried to secure compensation from his homeowners insurance to pay to clean up the contamination, his insurance company rejected the claim.

He got nowhere with the company that had inspected the home before he

purchased it. They hadn't known about Zonolite, either.

When he talked to his realtor about trying to sell his house, Mr. Busch's realtor emphasized that Mr. Busch and his wife would be responsible under the law for disclosing the presence of Zonolite to any potential buyer.

According to Mr. Busch, even his realtor—and I quote—“. . . expressed apprehension over entering the house saying he has young children and was fearful of asbestos exposure without a proper respirator . . . this about a house we were living in every day.”

In the end, having exhausted all of his options, Ralph Busch and his wife Donna sacrificed their home to foreclosure, having lost thousands of dollars and their good credit rating. They didn't feel that it was safe to live there anymore, or to bring other people into their home. Finally, they decided to move out of their “dream house” in Spokane. To this day, that home remains vacant.

Apart from the tremendous economic loss, Mr. Busch and his wife are concerned for their health. They are left wondering what long-term negative health effects they may suffer as a result of their exposure to asbestos fibers from the insulation.

Mr. Busch has told me, “I feel like the poster-child for the unsuspecting homeowner who unknowingly set off a time bomb in the process of remodeling his home.”

To this day, Mr. Busch is haunted by words he read in the *Spokesman-Review* almost three years ago. The March 12, 2000, article, entitled, “Zonolite's Effects Outlive Plant,” said this about mesothelioma.

[The disease] inflicts one of the most torturous deaths known to humankind. Some people require intravenous morphine to numb mesothelioma's pain. Some need part of their spinal cord severed. Some are driven to suicide.

If there is a role for Government in people's lives, then it should include protecting the public health. We have an opportunity to protect the public's health so that Ralph Busch and thousands—perhaps millions—of other Americans won't have to be needlessly exposed to the time bomb sitting in their homes, schools, and businesses.

And meanwhile, if you are planning to do work in your attic, look at your insulation carefully first to see if it is vermiculite. You can see pictures of what this insulation looks like by going to EPA's web site, which is www.epa.gov/asbestos/insulation.html.

If you think you have Zonolite, immediately contact EPA to get additional advice about how to handle it. According to EPA's web site, if you think you have Zonolite insulation, leave it alone and not disturb it. And then contact your Representative in Congress and ask him or her to pass legislation to ban asbestos, something we all should have done decades ago. We can make a difference, but we must act today.

Mr. BAUCUS. Mr. President, I would just like to follow up on the statements regarding asbestos-contaminated insulation made by my good friend from Washington, Senator MURRAY. The issues she raises are extremely important, and I applaud her for her determined efforts on behalf of her constituents, and her dedication to raising the profile of the continued hazards associated with asbestos.

I was very moved by Senator MURRAY's description of what happened to her constituent in Spokane, WA. I agree with her 100 percent that the Government should not be in the business of keeping important health-related information from the public, including information about the health risks posed by Zonolite insulation. Again, I commend the Senator from Washington for her leadership in championing this important public health and safety issue.

I just believe it is important for me to speak directly to the experience of my constituents in Libby, MT, to put some of this into perspective.

The experience of the residents of Libby is truly, tragically, unique. This little town in northwestern Montana, surrounded by millions of acres of Federal forest lands, has lost over 200 people to asbestos-related diseases and cancers. Hundreds more are sick, and thousands more may become sick. Libby doesn't have that many people. The magnitude of this tragedy is staggering.

The vermiculite mining and milling operations of W.R. Grace belched thousands and thousands of pounds of asbestos-contaminated dust into the air in and around Libby, coating the town and its inhabitants with the deadly substance. Folks used raw vermiculite ore or expanded vermiculite to fill their gardens, their driveways, the high school track, the little league field, in their homes and attics. W.R. Grace mineworkers brought the dust home with them on their clothing and contaminated their own families, without knowing the dust was poison. Asbestos was absolutely everywhere in Libby, for decades.

It is also becoming more and more clear that the fibers unique to Libby, including tremolite asbestos fibers, are particularly deadly—more so than other forms of asbestos, such as chrysotile asbestos. Senator MURRAY is absolutely right to be concerned about insulation manufactured from vermiculite ore mined and milled in Libby.

But let me also be clear, that the situation in Libby demanded a unique, determined, and coordinated response from the Environmental Protection Agency, other Federal agencies, the State, and the community itself just to address the enormous task of cleaning up the town because, as I just mentioned, the contaminated vermiculite was everywhere.

Because of the extraordinary levels of asbestos contamination in Libby, an

important part of this clean-up effort included removing asbestos-contaminated materials from Libby homes. People in Libby used vermiculite insulation, raw vermiculite tailings, or other vermiculite material that they brought home from W.R. Grace to fill their walls and attics.

Last year, I personally urged the EPA to leave no stone unturned as it sought to determine how to best begin an expeditious removal of contaminated materials from homes in Libby, in an effort to continue to reduce the exposure of Libby residents to deadly tremolite asbestos. The EPA responded admirably to my requests, and as Senator MURRAY mentioned, the agency is currently removing asbestos-contaminated vermiculite material from homes in Libby.

I only highlight these issues because I believe the timing and scope of the EPA's decision to go into Libby homes and remove the vermiculite in their walls and ceilings was absolutely appropriate and necessary given the sheer volume of asbestos to which the people in Libby have been exposed.

Should the EPA have issued a public health emergency declaration in Libby prior to taking that action? I don't know. What I do know is that the decision was made and the correct on-the-ground result is happening in Libby. I have recently written to Administrator Whitman asking her to explain to me any health care benefits that may or may not be available to the people of Libby in the event that a public health emergency is declared in Libby. At this point, that is the most important issue to the people in Libby.

In fact, the Montana delegation, the State of Montana, the community of Libby, and many concerned private citizens have been working hard to bring new economic development and much-needed health care resources to Libby. It is amazing to see how everyone has come together to create something positive from a terrible situation.

The people in Libby are proud folks. They have had more than their share of hard knocks, and they just keep on going—getting up and trying. They are survivors, and I am privileged to know them so well. In January of 2000, I traveled to Libby to meet with 25 extremely ill people for the first time.

I had been briefed a number of times on what I might expect to hear that night. These kind men and women—some whom are no longer with us—gathered to share huckleberry pie and coffee in the home of Gayla Benefield. They opened their hearts and poured out unimaginable stories of suffering and tragedy on a scale I was absolutely stunned and unprepared to hear: entire families—fathers, mothers, uncles, aunts, sons, and daughters all dead and all bound by their exposure to tremolite asbestos, mined by W.R. Grace in this isolated, community of several thousand—located as far away from Washington, DC, as one can be, with a foot still in Montana.

I will never forget meeting another gentleman who has become my dear friend, Les Skramstad. Les watched me closely all evening. He was wary and approached me after his friends and neighbors had finished speaking. He said to me, Senator, a lot of people have come to Libby and told us they would help, then they leave and we never hear from them again.

"Max," he said, "please, as a man like me—as someone's father too, as someone's husband, as someone's son, help me. Help us. Help us make this town safe for Libby's sons and daughters not even born yet. They should not suffer my fate too. I was a miner and breathed that dust in. And what happened to me and all the other men who mined wasn't right—but what has happened to the others is a sin.

"Every day, I carried that deadly dust home on my clothes. I took it into our house, and I contaminated my own wife and each of my babies with it, too. Just like me, they are sick, and we will each die the same way. I just don't know how to live with the pain of what I have done to them. If we can make something good come of this, maybe I'll stick around to see that, maybe that could make this worthwhile.

"Find someone to use me, to study me, to learn something about this dust that is still in my lungs right now." I told him I would do all that I could and that I wouldn't back down and that I wouldn't give up. Les accepted my offer and then pointed his finger and said to me, "I'll be watching Senator."

Les is my inspiration. He is the face of hundreds and thousands of sick and exposed folks in this tiny Montana community. When I get tired, I think of Les, and I can't shake what he asked me to do. In all of my years as an elected official, this issue of doing what is right for Libby is among the most personally compelling things I have ever been called on to do.

Doing what is right for the community and making something good come of it, is my mission in Libby, and I thank Les Skramstad every day for handing me out my marching orders. My staff and I have worked tirelessly in Libby—not for thanks or recognition but because the tragedy is just that gripping.

The "something good," Les challenged me to deliver keeps our eye on the ball. I secured the first dollars from HHS 3 years ago to establish the Clinic for Asbestos Related to Disease, to allow the Agency for Toxic Substances and Disease Registry to begin the necessary screening of folks who had been exposed to Libby's asbestos. Federal dollars have flowed to Libby for cleanup, healthcare, and revitalizing the economy.

Last Congress, I was pleased to introduce the Libby Health Care Act, to secure longterm health funding for sick people in Libby, and I will introduce similar legislation this year. We seek ongoing funding for asbestos patient care and continue to closely monitor

and support asbestos cleanup efforts by the Environmental Protection Agency.

At the first field hearing I held in Libby of the Committee for Environment and Public Works, Dr. Blad Black, now the director of the Libby Clinic for Asbestos Related Disease, called for developing a research facility so that Libby's tragedy could be used to protect the health of men, women, and children.

The wheels are on the cleanup and health screening, and the time for making Brad's vision a reality is here. Working together with Montana Congressional delegation and our State's Governor to develop a leading edge, world class research facility with the mission of one day developing cures for asbestos-related disease is exactly what Les called for that evening more than 3 years ago as well. He and the hundreds and thousands who suffer like Les and his family have my commitment.

EXPLANATION OF ABSENCE

Mr. DASCHLE. Mr. President, on behalf of Senator GRAHAM, I ask unanimous consent that a letter from Senator GRAHAM to Senator FRIST and myself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, January 31, 2003.

Hon. BILL FRIST,

U.S. Senate,

Washington, DC.

Hon. TOM DASCHLE,

U.S. Senate,

Washington, DC.

DEAR SENATOR FRIST AND SENATOR DASCHLE: The purpose of this letter is to share with you and my colleagues a development regarding my health.

This morning at the National Naval Medical Center in Bethesda, Maryland, I underwent successful surgery to replace the aortic valve in my heart. My doctors advised me to have this procedure now to correct a deteriorating condition that could have led to permanent damage of my heart muscle.

Accordingly, under Senate Rule VI(2), I will be necessarily absent from the floor and committee activities until my doctors clear me for a return to work. I ask that this letter be inserted in the Congressional Record of this date to explain my absence.

Given the overall excellent state of my health, the doctors tell me that I should have renewed vigor and energy following a short hospitalization and recovery period.

With the extremely competent medical care I am receiving, as well as the loving support of my wife Adele and our family, I am confident that my absence will be brief. I look forward to rejoining you in the very near future to resume work on the agenda that is so important to my state of Florida, our nation and the world.

Thank you for your good wishes, your understanding and your support.

With kind regards,
Sincerely,

BOB GRAHAM,
U.S. Senator.

REMEMBERING ASTRONAUT WILLIAM MCCOOL

Mr. ENSIGN. Mr. President, I rise today to extend my deepest condolences to the families of the seven astronauts whose lives were lost on February 1. To Nevadans Audrey and Barry McCool, whose son William piloted the final *Columbia* mission, I offer my sympathy and the sincere gratitude of an entire nation.

You raised an incredible human being. William McCool represented the best and the brightest of this country. Though his life was taken prematurely, his legacy will be felt indefinitely.

William was incredibly smart, a talented athlete, and a true patriot. The combination of these traits, along with devoted parents and religious conviction, produced an American hero. We mourn that hero today, as Audrey and Barry McCool mourn their son. And while we stand with them in grief, we should also express our admiration for the type of son they raised.

Many children dream of one day becoming an astronaut. A very elite few ever make that dream a reality. For William McCool, his dream was his destiny. As a child, he looked up to his Marine and Navy pilot father, built model airplanes, and became an Eagle Scout. As a young man, he excelled by graduating second in his class at the Naval Academy, maintaining a 4.0 grade point average, and earning advanced degrees in computer science and aeronautical engineering. Not applying to be an astronaut until his thirties, by the time of his last mission William had logged more than 2,800 hours of flight experience in 24 aircraft, including more than 400 landings on aircraft-carrier decks.

As a pilot, William McCool risked his life often for this country. On January 16, he left his wife, sons, parents, and siblings grounded on Earth while he soared toward his lifetime dream among the stars. William was kept from completing his journey home, but our gratitude for his service must not be short lived.

We must ensure that these 7 astronauts, and the 10 other NASA astronauts who died in pursuit of knowledge, did not do so in vain. We owe it to their children to continue the quest of space science, and we owe it to all our children to continue reaching for the stars.

TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Mr. BAUCUS. Mr. President, I rise today to express my disappointment and dismay that the Secretary of Agriculture has failed to meet the deadline mandated by Congress to establish a program of Trade Adjustment Assistance for Farmers.

In the Trade Act of 2002, Congress directed the Secretary to get this program running by no later than this week, February 3, 2003.