

ASARCO Inc.

ASARCO Inc.
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Revenues : \$777,400,000.00
As of December 31, 2001

Description: ASARCO Inc., a subsidiary of diversified mining firm Grupo Mexico, is a leading miner, refiner, and smelter. Each year it produces around 850 million pounds of copper, 330 million pounds of zinc, and 20 million ounces of silver. ASARCO's mines are primarily in the Southwestern US. The company also produces semi-finished copper products such as rod, cake, and billet. Several of ASARCO's assets, including its 54% stake in Southern Peru Copper Corp. (SPCC), were shifted to Grupo Mexico after the company's acquisition.

Asbestos Discussion from SEC filings:

From the Company's Form 10-K for the period ending December 31, 1995 at <http://www.sec.gov/Archives/edgar/data/7649/0000007649-96-000002.txt>
Filed On: March 20, 1996

Legal Proceedings

The following is additional information with respect to the asbestos personal injury litigation. While no one personal injury action is exactly like any other, the following three pending lawsuits are typical of those in which employees of other companies allege death or injury resulting from alleged exposure to asbestos fiber supplied by Lac d'Amiante du Quebec, Ltee ("LAQ"), a wholly-owned subsidiary, and other suppliers to their employers' manufacturing operations:

1) In Pogorzelski, et al. v. Amtorg Trading Corporation, et al., Docket No. L-12274-91, pending since October 31, 1991 in the Superior Court of New Jersey, Middlesex County, 19 primary and 8 secondary plaintiffs sued LAQ and 25 other defendants that allegedly supplied asbestos fiber or asbestos containing products to Johns-

Manville's Manville, New Jersey facility for substantial compensatory and punitive damages for death or injuries allegedly resulting from the primary plaintiffs' exposure to asbestos fiber while employed at that facility. The claims of seven of the primary plaintiffs were dismissed as to LAQ in June 1992. The plaintiffs allege a broad range of respiratory and other injuries including disabling lung changes, asbestosis, cancer, and mesothelioma. Liability is alleged on theories of strict liability, negligence, breach of warranty, misrepresentation, ultra hazardous activity and conduct, conspiracy, concert of action, market share or enterprise liability, and alternative liability. The thrust of the complaint is that the defendants, individually or collectively, failed to warn the primary plaintiffs of the possible hazards associated with inhalation of asbestos fibers while working with or being exposed to such fibers.

2) In Darlene Turner and Patricia Foret, Individually and on Behalf of Their Father, Robert Foret, Sr. v. Raymond Plauche, etc., et al., Case No. 94-13057, pending since August 24, 1994 in the Civil District Court, for the Parish of Orleans of the State of Louisiana, the heirs of Mr. Foret sued LAQ and three other defendants that allegedly supplied asbestos fiber or asbestos containing products to the National Gypsum plant in New Orleans, Louisiana. A fifth defendant was an officer of National Gypsum that plaintiffs allege was negligent in not providing Mr. Foret with a safe place to work. The plaintiffs seek substantial compensatory and punitive damages for Mr. Foret's alleged death from lung cancer and other asbestos-related diseases that allegedly resulted from his exposure to asbestos fiber while employed at National Gypsum.

3) In Haines v. Aetna Casualty Co., et al., Docket No. L-5918-95, pending since July 13, 1995 in the Superior Court of New Jersey, Camden County, one primary and one secondary plaintiff sued LAQ and six other defendants that allegedly supplied asbestos fiber or asbestos containing products to New York Shipbuilding & Drydock Co., in Chester, Pennsylvania and Owens-Corning Fiberglas in Berlin, New Jersey. The plaintiffs demand substantial compensatory and punitive damages for asbestosis allegedly resulting from primary plaintiff's exposure to asbestos fiber while employed at these facilities.

In addition to these personal injury lawsuits arising out of alleged asbestos exposure to employees of other companies using asbestos fiber in their manufacturing operations, included in the asbestos product liability lawsuits pending against

LAQ and Asarco are numerous lawsuits arising from products (such as insulation and brake linings) manufactured by others. These cases typically allege a failure to warn of possible health hazards associated with those products and proceed on theories similar to those asserted in the Pogorzelski case. In many such cases LAQ and Asarco, having never manufactured such products, have obtained dismissals. Typical of lawsuits in which plaintiffs allege asbestos exposure due to products manufactured by others are:

1) Malvaso v. Owens-Corning Fiberglas Corporation, et al., Index No. 087694, pending since September 23, 1994 in the Supreme Court of the State of New York, Niagara County, in which one primary plaintiff sued Asarco, LAQ and 23 other defendants that allegedly supplied asbestos and products containing asbestos to his employers. The plaintiff demands substantial compensatory and punitive damages for injuries allegedly resulting from exposure to asbestos. The thrust of the complaint is similar to the Pogorzelski case.

2) Roger Adkins et al., v. Owens Corning Fiberglas Corporation, et al., Civil Action Nos. 95-C-3049 to 95-C-3064, 95-C-3138 and 95-C-3139, pending since November 3, 1995 in the Circuit Court of Kanawha County, West Virginia, in which eighteen primary and fourteen secondary plaintiffs sued LAQ, Asarco and 33 other defendants that allegedly supplied asbestos and products containing asbestos to the primary plaintiffs' employers. The plaintiffs demand substantial compensatory and punitive damages for injuries allegedly resulting from exposure to asbestos. The thrust of the complaint is similar to the Pogorzelski case.

3) Aaron, et al. v. Abex Corporation, et al., Case No. 94-C2110, pending since March 14, 1995 in the District Court of Brazoria County, Texas, 23rd Judicial District, in which 2700 primary plaintiffs and 1021 secondary plaintiffs sued Asarco, its wholly-owned subsidiary Capco Pipe Company, Inc. ("Capco") and 184 other defendants that either owned the premises where some of the primary plaintiffs worked, or that provided workers compensation or other insurance coverage to various of the manufacturers named as defendants, or that allegedly supplied asbestos and products containing asbestos to the primary plaintiffs' employers. The plaintiffs demand substantial compensatory and punitive damages for injuries allegedly resulting from their exposure to asbestos. The thrust of the complaint is similar to the Pogorzelski case.

The Campbell v. W.R. Grace and Company, et al.; Rettberg v. Armstrong World Industries, Inc., et al.; Abbott, et al. v. Unidentified Defendants; E. Adkins, et al. v. 20th Century Glove Corporation of Texas, et al.; and Abel, et al. v. Pittsburgh Corning Corporation, et al., cases described in Item 3 of Asarco's 1994 Form 10-K were settled by LAQ during 1995. As of December 31, 1995, Capco was a defendant in 34 cases brought by 6,767 primary plaintiffs.

In 1991, the Judicial Panel on Multidistrict Litigation transferred all asbestos cases pending in federal court to the United States District Court for the Eastern District of Pennsylvania for coordinated and consolidated pretrial proceedings. Cases containing approximately one

percent of LAQ's primary plaintiffs are affected by this action.

During January 1996 LAQ and nine former managerial and supervisory employees of Capco were sued in two separate state court actions in Alabama by 53 former Capco employees seeking substantial compensatory and punitive damages for personal injuries and death caused by alleged workplace exposure to asbestos with alleged liability on theories of product liability and negligence.

On March 3, 1996, Asarco was served with a complaint in a purported class action filed in state court in West Virginia that also names as defendants LAQ and 49 other companies. The action is allegedly brought on behalf of a class of over 50,000 persons who were exposed to asbestos at West Virginia work sites and who are allegedly at increased risk of developing cancer. The case seeks the establishment of a medical monitoring fund. The Company intends to oppose the lawsuit. Additionally, in June 1995, Capco was served with a complaint in a purported class action filed in Illinois state court in Cook County that also names 139 other defendants. The class action is allegedly brought on behalf of a nationwide class of persons claiming to be at an increased risk of developing asbestos-related diseases as a result of asbestos exposure. Capco and nearly all other defendants have moved to dismiss the case.

As of December 31, 1995, LAQ, Asarco and Capco have settled or been dismissed from a total of approximately 5,370 asbestos personal injury lawsuits brought by approximately 60,196 primary and approximately 39,244 secondary plaintiffs.

With respect to the actions relating to asbestos-containing products in structures reported in the Contingencies and Litigation Note 8 to the Financial Statements, the following supplemental information is provided:

The three actions currently pending against LAQ, including actual and purported class actions, involve colleges and universities and public buildings in cities. In general these actions seek substantial compensatory and punitive damages.

As of December 31, 1995, LAQ has settled five and been dismissed from another 80 actions involving asbestos in structures. Asarco has been dismissed from all twelve actions in which it had been named.

In 1987, LAQ began litigation against certain excess liability insurers for a declaration of insurance coverage for its asbestos cases similar to the one that had been obtained by LAQ against certain other insurers in a 1985 court ruling that held that the comprehensive continuous theory of coverage applies to those insurers' policies as regards LAQ's asbestos personal injury and property damage litigation. Settlements have been reached with certain of these insurers.

Contingencies and Litigation

The Company is a defendant in lawsuits in Arizona brought by Indian tribes and some

other Arizona water users contesting the right of the Company and numerous other individuals and entities to use water and, in some cases, seeking damages for water usage and contamination of ground water. The lawsuits could potentially affect the Company's use of water at its Ray Complex, Mission Complex and other Arizona operations.

The Company and certain subsidiaries are defendants in twelve class and non-class lawsuits in Texas seeking substantial compensatory and punitive damages for personal injury and contamination of property allegedly caused by present and former operations, primarily in Texas, and product sales of the Company and its subsidiaries.

The Company and two subsidiaries, at December 31, 1995, are defendants in 992 lawsuits brought by 10,752 primary and 7,724 secondary plaintiffs seeking substantial actual and punitive damages for personal injury or death allegedly caused by exposure to asbestos, as well as three lawsuits for removal or containment of asbestos-containing products in structures. One of these lawsuits alleges a class action claim on behalf of a wide class of persons who are not yet known to have asbestos related injuries. In addition, the Company and certain subsidiaries are defendants in product liability lawsuits involving various other products, including metals.

Asbestos Discussion from SEC filings:

From the Company's Form 10-Q for the quarter ended September 30, 1999

<http://www.sec.gov/Archives/edgar/data/7649/0000007649-99-000030-index.html>

Filed On: November 15, 1999

Asarco and two of its wholly-owned subsidiaries, Lac d'Amiante du Quebec, Ltee ("LAQ") and Capco Pipe Company, Inc. ("Capco"), have been named as defendants, among numerous other defendants, in additional asbestos personal injury lawsuits of the same general nature as the lawsuits reported on Form 10-K for 1998 and prior years and Form 10-Q for the first and second quarters of 1999. As of September 30, 1999, there were pending

against Asarco and its subsidiaries 1,377 lawsuits brought by 5,950 primary and 1,036 secondary plaintiffs in 27 states seeking substantial damages for personal injury or death allegedly caused by exposure to asbestos. As of September 30, 1999, LAQ, Asarco, and Capco have settled or have been dismissed from a total of 10,737 asbestos personal injury lawsuits brought by approximately 114,888 primary and 64,562 secondary plaintiffs.

Asbestos Discussion from SEC filings:

From the Company's Form 10-Q for the quarter ended June 30, 1999

<http://www.sec.gov/Archives/edgar/data/7649/0000007649-99-000023-index.html>

Filed On: August 16, 1999

The Company and two subsidiaries, as of June 30, 1999, are defendants in 1,169 lawsuits brought by 5,221 primary and 924 secondary plaintiffs seeking substantial actual and punitive damages for personal injury or death allegedly caused by exposure to asbestos. Three of these lawsuits are purported class actions, two of which are allegedly brought on behalf of persons who are not known to

have asbestos-related injury. The third is purportedly brought on behalf of persons suing both tobacco-related and asbestos-related entities claiming damages for personal injury or death arising from exposure to asbestos and cigarette smoke. In addition, the Company and certain subsidiaries are defendants in product liability lawsuits involving various other products, including metals.

Asbestos-Related News:

[Facing Various Asbestos Related Lawsuits \(Published November 01, 2002\)](#)