



LABORERS'

MAROC

MID-ATLANTIC REGIONAL ORGANIZING COALITION

presents



TOXIC EXPOSURE

MAROC REPORT ON WORKING CONDITIONS FOR DC METRO
AREA ASBESTOS WORKERS AND THE DANGERS FACING THE PUBLIC.

EXECUTIVE SUMMARY

This report is the culmination of a yearlong undercover investigation into the practices of the asbestos abatement industry in the Baltimore-Washington Metropolitan Area. Ernest Ojito, a college student, worked undercover for a year as an employee of half a dozen contractors that provide asbestos abatement services. What he found was an industry that routinely violates the law and poisons its employees, and a regulatory regime that utterly fails to protect these workers at the most basic level.

During Ojito's year as an asbestos worker, his employers' unsafe and illegal practices repeatedly put his life at risk. These practices include the following:

- **Workers Are Regularly Exposed to Airborne Asbestos.** On multiple jobs, the illegal practices of employers placed Ojito in workplaces where clouds of airborne asbestos floated throughout the jobsite.
- **Gross Safety Violations Are a Regular Occurrence.** In the asbestos abatement industry, contractors are indifferent to workers' wellbeing. On one jobsite, contractors forced workers to cut into walls with live wiring inside, while refusing even to take the simple, sensible step of turning off the electricity first, all to save a few dollars.
- **Contractors Ignore Licensing and Training Requirements.** Asbestos contractors such sent Ojito to asbestos and lead abatement jobs before he was licensed (which is illegal), and instructed him to work with asbestos and lead without any prior training (which is illegal), and without the legally required safety measures.
- **Illegal Lead Pollution.** Contractors such as **Asbestos Specialists, Inc.**, instructed Ojito to dispose of lead paint by pouring it down the drain (which is illegal).
- **Graduation Factories Churn Out Unprepared Workers.** Private training centers do not actually train asbestos workers. Rather, training centers, such as **Global Environmental Solutions, Inc. (Fairfax, VA)** and **Princeton Industrial Training Institute (Bethesda and Baltimore, MD)**, simply give the workers the answers to the exam (which also is illegal) so they will pass the test.
- **Employers Fleece Workers Through Petty Graft.** To add insult to injury, the companies subject workers to petty graft, such as requiring workers to pay a fee to managers in order to receive a paycheck or by routinely shorting them by an hour or two week after week.

Ojito's experience is not unusual. During his year undercover, Ojito enlisted nearly a dozen of his co-workers to come forward about the horrific conditions in the industry. Like Ojito, these workers routinely work in environments where deadly, airborne asbestos has poisoned the breathable air due to the employers' indifference to public health, employee welfare, and the law.

Why is the asbestos abatement industry so toxic? First and foremost, unscrupulous companies are to blame. This reports cites **Potomac Abatement, Abateco, Southern Environmental Services ("SES"), L&M Construction, Asbestos Specialists, Inc., Bristol Environmental, Team ACP,** and **WMS Solutions** for cutting corners on safety rules to the detriment of the welfare of their workers. Such practices give companies an unfair advantage over law-abiding companies. Second,

the industry employs vulnerable, low-income, immigrant workers who often are unaware of their rights, and are regularly threatened when they attempt to exercise those rights.

But mostly this is a problem of inadequate government enforcement. At the root of all of the problems in the asbestos abatement industry is the lack of credible government enforcement. Over the years, staffing levels have been cut, so existing inspectors are overworked. Contractors know that they can act with impunity. Ojito's experience, along with the experience of every worker in this report, demands the enactment of stricter penalties, better training, and better incentives for enforcement of the laws we already have.

BACKGROUND

Asbestos is a mineral fiber that can be woven into fabric. Because of its resistance to fire, heat, and most chemicals, it is used in building materials, clothing, and manufactured products. If released into the air, however, the short, thin asbestos fibers are hazardous. Asbestos is a known carcinogen, and breathing it can lead to the development of lung cancer, mesothelioma, and asbestosis. If these diseases develop, they are incurable and fatal. Indeed, patients who develop mesothelioma usually die within months of the diagnosis.

There is no known safe level of exposure to asbestos. The U.S. Department of Health and Human Services advises that exposure to breathable asbestos for even a single month is enough to significantly increase the risk of lung cancer. There are documented cases where family members of asbestos workers develop illness due to asbestos fibers brought home on the workers' clothes.

Despite its documented and uncontested dangers, efforts by the Environmental Protection Agency to ban asbestos in 1989 failed. As a result, asbestos-based products continue to be lawful in the United States. Asbestos abatement remains a critical sector in the building construction industry. In the Baltimore-Washington Area, the asbestos demolition market generates an estimated \$80 million a year.

WORKER TESTIMONIALS IN THIS REPORT

This report is a compilation of testimonials by workers in the asbestos abatement industry. These testimonials demonstrate that a significant portion of the asbestos abatement industry operates completely outside the law. The stories presented here show that workers are routinely dispatched to jobsites without licenses and without training. On the job site, many companies operate with open disregard for the safety standards that are designed to protect workers from inhaling asbestos and protect the public from exposure to asbestos fibers.

Although asbestos workers already are poorly compensated, the testimonials tell how companies routinely cheat workers by shorting their hours, failing to pay legally required wages, failing to pay overtime, charging fees in order to receive paychecks, or charging the workers for the cost of safety equipment or licenses necessary to perform the work. The testimonials also challenge the integrity of the asbestos abatement training programs in Virginia and Maryland, which are necessary for workers to obtain required licenses. Training centers operate with little regard for actual education. Instead, workers report that the training centers provided the answers to examinations to ensure they passed, regardless of whether they actually learned how to abate asbestos safely.

Together, these stories vividly depict an industry in need of serious reform.

1.
Poisoning the Workforce through
Disregard for Safety Standards

The following excerpts from worker testimonials demonstrate how employers such as **Southern Environmental Services, Inc., L&M Construction, Bristol Construction, and Asbestos Specialists, Inc.**, operate jobsites in flagrant defiance of safety standards. Notably, many of the violations were committed openly and notoriously in buildings and installations owned by the U.S. Government, a fact that quite startlingly demonstrates the impunity with which these contractors operate.

Raymond [supervisor for SES] was removing ceiling tiles covered in asbestos without wetting them down. You could tell he was not wetting down the material since he and the workers around him did not have a hose.... Jose then told me to watch Raymond again. As he said this, large pieces of the ceiling fell to the floor, and a big cloud of asbestos dust and fibers rose. There were approximately three workers on the beams when the pieces fell down, and I would estimate about 14 or 15 guys were on the floor, including Raymond.... I walked up to him and said, "Yo Raymond, you know you're supposed to put water on asbestos before removing it." He told me not to worry about it. I said, "What do you mean, don't worry about it? You're playing with my health and everybody else's health." He again told me not to worry about it, and he told the other guys the same thing.

-Ernesto Torres, dispatched by WMS Solutions to Southern Environmental Services ("SES") for work at the "Old Soldiers Home," the Armed Services Retirement Home (AFRH). SES later terminated Mr. Torres for making safety complaints.

Our supervisor...rushed us on the job. In fact, she encouraged us to work so quickly that she put our health and safety at risk. She had us work "El mano negro" in order to get the work done faster. "El mano negro" means doing asbestos work in the open air and disposing of it in a regular trash bag. If you correctly remove the asbestos, you would securely fasten a glove bag to the pipes to prevent asbestos from escaping and would also use a micro trap. But when you do it "El mano negro," because the bag is open, the fibers get out into the air, exposing the workers to the asbestos. We weren't wearing any protective equipment when we did it this way.

-Blanca Rodriguez, working for L&M Construction, Inc., at the National Institute for Standards and Technology ("NIST")

I have witnessed the improper disposal of lead and asbestos at this job site. This has happened every day while I have been working here. They also have me doing abatement while I am not licensed in any state to abate lead. On October 21, 2011, I witnessed Adonais (Bristol's Supervisor) doing abatement with no mask, and no suit. There was also no containment or negative air pressure machine set up. He dug into

the asbestos, and spread it into the air all while laughing, and calling himself “dirty hands” in Spanish.

-Erik Trinidad, dispatched by WMS Solutions to Bristol Environmental for work at Northrop Grumman

The supervisor, Corey Chalkey, wanted us to do demolition to locate asbestos pipe that was concealed in columns. On April 11, 2011, Corey instructed us to make various holes in the walls in search of asbestos-covered pipes. The problem was that as we were smashing the walls with a sledge-hammer, the asbestos on the pipes was being disturbed and becoming airborne. There were no micro-traps and no respirators, but there were a whole lot of asbestos fibers in the air.

-Ernest Ojito, dispatched by WMS Solutions to Southern Environmental Solutions (“SES”) for work at the “Old Soldiers Home,” (AFRH)

We are made to take the lead tiles, along with all the block and grout debris, out in bags and pour it into an open container. From October 5 to 7, 2011, the bags were dumped, (not thrown away; emptied to re-use the bags), and workers were given neither respirator nor suits. As you’d dump the bag, your entire body - head, torso, and legs - would be blanketed by a thick cloud of lead and construction dust. The contractor only made respirators available to us when dumping the bags after employees demanded them. Still, they will not allow us to wear suits, and dust gets all over the facility.

-Ernest Ojito, dispatched by WMS Solutions to Bristol Environmental for work at Northrop Grumman

2. **Lead Pollution**

In the following excerpt, Ojito documents a particularly egregious example of lead pollution, this time occurring right under the nose of the U.S. Congress at the U.S. Capitol Power Plant.

I began working with ASI at the Capitol Plant in May of 2011. I ... began working with ASI supervisor Ellis Duley. [Duley] instructed his workers to dispose of the lead down the drain on May 24, 2011. This was reported to the EPA, and an investigation was supposed to take place. The job was shut down from May 25, 2011 to June 2, 2011 After the investigation, the job was reopened, despite evidence that ASI was dumping lead paint down the drain. The only thing that happened was they told [Duley] that I was the one who had blown the whistle on him.

-Ernest Ojito, dispatched by WMS Solutions to Asbestos Specialists, Inc. (“ASI”) for work at the U.S. Capitol Power Plant. ASI laid off Ojito soon after he made a report to authorities.

3.
Sending Workers to Remove Asbestos
Without Licenses

WMS Solutions is the major provider of temporary labor to asbestos contractors in the Baltimore-Washington area. Many of the problems in the industry begin with this company's practices. As the testimonials below show, WMS has at times provided contractors with workers who are untrained and unlicensed. Although WMS apparently nevertheless charges the contractor as if the workers were trained and licensed, WMS simultaneously pays the workers at unskilled, rock-bottom rates. The result is that workers are sent totally unprepared to deal with the toxic dangers they find on jobsites, as the following excerpts show:

I was sent to the Naval Research Laboratory (WASA LABS) in Washington D.C.; I was sent to work demolition. I was told by Harold Ortega (WMS Business Agent) on Nov. 6, 2010, that I was hired for this job because I was a US Citizen, unlike most of the workers they had. The sub-contractor was Potomac Abatement. I worked under a supervisor named Walter. On December 6, he told me that I was supposed to remove what they expected to be asbestos through a glove bag. At the time I had no idea what asbestos actually was, and, as previously mentioned, I had no training for the abatement of it. I also didn't know that one had to be licensed to handle the material. [I was] taking down a glove bag working with no protection and no abatement experience. I didn't seal the bags correctly, of course, because I did not know how.

-Ernest Ojito, dispatched by WMS Solutions to Potomac Abatement for work at the Naval Research Laboratory

They also have me doing abatement while I am not licensed in any state to abate lead.

-Erik Trinidad, dispatched by WMS Solutions to Bristol Environmental for work at Northrop Grumman

What I was hired for was to abate lead and asbestos. I can do lead, but have never had a lead license. I witnessed the improper disposal of lead and asbestos at this job site. This happened every day while I worked there. They wanted us to re-use lead-filled bags. In order to do this we had to dump out the lead debris into a container outside and get overcome by a cloud of lead dust while we did it. (With no respirator)

-Marcus Johnson, dispatched by WMS Solutions to Bristol Environmental for work at Northrop Grumman

I still remember one cold afternoon meeting in the main lobby, Jan 5, 2010, when Mark Lane, the supervisor, told all of us that Harold Ortega had lied to them, telling

WMS that we all had asbestos licenses, and had charged him 37 dollars per hour for our work.

-**Ernest Ojito**, dispatched by WMS Solutions to Abateco for work at the Fort Lee A3100 Barracks

4.

Gross Disregard for the Welfare of Workers

As the two testimonials below show, asbestos contractors exhibit a chilling disregard for worker welfare.

Just as we were doing this, another co-worker who was carrying a piece of plywood slipped and fell on top of me with all of his body weight. The plywood we were prying from the floor had nails sticking up, and the weight of this co-worker landing on top of my left foot drove the nail through my foot. The co-worker quickly got up and lifted the piece of plywood, pulling the nail out of my foot. At the moment the accident occurred, the Supervisor was not there - just the Superintendent. One of the workers told him what happened. He came over, and instead of asking me what I needed, he asked me if I could continue working on the demolition. He added that if I wasn't ok, I could grab a broom and sweep the floor, because that was easier. My bleeding wouldn't stop. Then a coworker tied a cloth piece [on my foot] to stop the bleeding. Out of fear of getting fired, I grabbed the broom and started sweeping. But after ten minutes or so of working, the bleeding would not stop, and my foot went numb, and I was getting dizzy.

At this moment I asked the supervisor, Pablo Hernandez, to take me to the hospital because I could not bear the pain. He answered ok but told me that I had to give a false name and address at the hospital. I agreed and asked him to take me to the hospital quickly because I could not bear the pain. But when I was checked out at the hospital, I gave my correct information and told them how the accident had occurred.

- **Yorlin Ochoa**, working for Team ACP at a project at Howard University

By the second week, we had graduated into demolition of walls, inside of which were concealed energized power circuits.... An inspector was sent out. He was spotted by the General Contractor (GC) on the job, and a great commotion began, as they grabbed the electrician and cut the power to the entire building at the main circuit. The moment he left, the power was cut back on, and we were again in danger of being electrocuted. The OSHA inspector, Edwin Rodriguez, called me, because he knew something was suspicious. I explained to him what happened, sent him [a] photo, and he agreed to return and sneak up. By now it was Nov 18, and by God's graces alone, an accident had not happened. So when the inspector snuck up, he caught them in the act, even though they tried to de-energize the building again.

-**Ernest Ojito**, dispatched by WMS Solutions to Potomac Abatement for work at the Bolling Air Force Base

5. **Worker Abuse**

Contractors have to employ a great deal of mental and physical intimidation to keep workers operating in dangerous and demeaning environments without complaint. Contractors cultivate a pervasive climate of fear by subjecting workers to constant threats of discharge, verbal abuse, and sometimes physical abuse as well, as the following testimonials demonstrate. In instances of abuse discussed below, the contractors involved, **Asbestos Specialists, Inc. ("ASI")** and **L&M Construction**, declined to take disciplinary action against the supervisors in question.

On July 25, 2011 I was working for the company ASI and being rented out by WMS Solutions to do asbestos and demolition. This site was a federal building located at 1800 F Street N.W., DC.... I had already been on the job with ASI for 2 months when I was physically assaulted on July 25 by the supervisor, Erick Salminen. Just two weeks prior to this incident, I had overheard Mr. Erick say that because all Latinos were illegal, they deserved to be treated however one wanted to treat them, and they could not do anything about it. On this day, I was working on pulling bags of asbestos out of the containment area. Suddenly, and with few words or a motive, Mr. Salminen smacked me in the chest, and one of his fingers poked my left eye. My vision is still damaged today as a result. The doctor's tests reveal that I have lost vision in my left eye. I was dizzy, so I went to sit down and had my hand covering my eye, which was in pain. I then called the police and filed an aggravated assault report....

I had been witness to Mr. Erick abusing and treating other co-workers that were from Guatemala like they were dogs. On one occasion, I saw him screaming and shoving a worker while he was taping the worker's hands together and humiliating the workers by forcing them to stand in a corner. We cannot allow ourselves to be humiliated for jobs. We are in America, and in America, laws are respected.

-**Luis A. Fonseca**, dispatched by WMS Solutions to Asbestos Specialists, Inc. ("ASI") for work at 1800 F Street

Since Ms. Garces became the supervisor of the project, she regularly refers to us as "faggots, bitches, motherfuckers, bastards, sons of bitches, and dogs." Her comments are made daily in a threatening and hostile manner. She even referred to Dora Martinez as an "old dog." We have finally had enough of this hostile atmosphere and no longer will tolerate it.

-Letter from Carlos Navaro, Froiland Orosco, Dora Martinez, and Hugo Garcia, employees of L&M Construction, to the owner Leela Oudit, the owner of the company, dated October 3, 2011

Current working conditions at this jobsite are degrading and intolerable. We believe that they are unacceptable as a matter of right and that they also may violate the law. The superintendent requires us to work without water breaks, which means that we are prohibited from properly hydrating ourselves during the workday. We are denied bathroom breaks, which is humiliating and unsanitary. Furthermore, the

superintendent, Giovanni Lopez, constantly threatens us with discharge if we take any breaks outside of our lunch break.

-Letter from Irma Santamaria, Reina Castillo, Jose Santamaria, and Ana Santamaria, employees of Barco Construction, to Ben Harrison, the company's owner, dated September 29, 2011

6.

Petty Graft

Even though working with asbestos and lead is dangerous, workers in this field nevertheless are among the lowest paid in the building and construction industry. These difficult conditions, however, do not stop WMS Solutions from taking additional opportunities deprive its workers of more of their hard-earned income, and the following testimonial shows:

I am often shorted hours on my paycheck even after I have given this company my blood, sweat, and tears - literally. Countless times, I receive my paycheck to see missing hours, and pay rate changes without any prior notice. My checks that reflect overtime have never been right the first time they were cut. Now, I am sometimes able to recover my hours by reporting it to the company, but several times I have been given the run-around: told there is nothing they can do, or that they will try and make it up to me in the future. This future never comes, as they are constantly trying to nickel and dime my coworkers and me every chance they get. In order to receive my paychecks, I must pay Ruth, a representative of WMS, \$5.00 every Friday. Ruth delivers over 200 checks and makes over one thousand dollars in non-taxable income every Friday simply by giving us our hard-earned paychecks. My coworkers and I have to deal with these issues on a weekly basis.

- **Ernest Ojito**, employee of WMS Solutions, Inc.

7.

Graduation Factories that Teach Nothing

In Virginia and Maryland, private companies provide asbestos safety training. These companies are responsible not only for training the workers how to work with asbestos safely, but also for administering the exams that determine whether the workers obtain required licenses. Under the law of both states, the exams are to be closed-book, and the workers must earn a score of at least 70% to pass. These private companies lack any incentive to conduct these exams with integrity, however. To the contrary, the contractors who send their workers to these companies for training fully expect the workers to return with licenses. Responding to the demands of their customers, the training centers churn out licensed graduates, but without bothering to provide the workers with the training the workers need to perform their work safely, as these testimonials demonstrate.

At the end of the class (during the exam), Nilda M. Robinson gave us the answers to 43 out of the 50 questions. Her reasoning for not giving all the answers was that we could not all have the exact same answers. (The questions she left us to answer were the simplest ones).... I do not feel that I was properly trained to deal with these potentially life-threatening materials. I feel that graduates of this class are endangering not only themselves, but the community as well.

-Ernest Ojito, describing his experience at the asbestos training course at Global Environment Solutions ("GES") a.k.a. Nilda's

On Friday, the entire group started the exam. I noticed that several other students asked the teacher for the answers out loud, and he answered them, which helped many complete the exam. My classmate and I answered about 20 questions, but we don't know how many were right. I noticed by this time that almost everyone had turned in their exams. We then approached the teacher and reminded him of our situation [that we were illiterate]. He asked us to sit close to his desk, and we did so. He approached us and answered the questions for us, because we did not know how to read the questions. He deliberately helped us cheat even though we had only answered 20 questions at best.

-Justinio Hernandez, describing his experience at the asbestos training course at Princeton Industrial Training Institute

SOLUTIONS

The conditions uncovered in this report are horrendous. Current conditions victimize not only the workers and the public, but also law-abiding contractors who must compete with the unscrupulous contractors who cut corners and break the law. This crisis demands immediate reforms for the protection of the workers, the public, and the lawful companies in the industry.

Because the asbestos industry already is heavily regulated, however, any reform of the industry must focus on improving the enforcement of current safety rules. **The lack of enforcement is the central problem in the industry.**

Virginia and Maryland have only three inspectors per state to police the entire industry. Inspectors in Virginia report that their agency lacks the resources to provide them with cell phones. As common sense tells you – and as the stories in this report demonstrate – this is not sufficient. A further problem is that, when violations actually are detected, the penalties assessed are not sufficient to deter repeat violations.

A logical response to this circumstance is to dramatically increase penalties so that violating the law become unprofitable. Furthermore, it is a privilege, and not a right, to hold a license to work in the asbestos industry. Serious violators of safety rules should face the possible revocation of their license to work in the industry. In addition, the law should make a revocation penalty applicable to all companies with substantially-related ownership, so that violators cannot evade the law by establishing shell corporations.

To increase the money available to fund enforcement, the law should mandate that fines assessed for asbestos safety violations be available for the exclusive purpose of funding more enforcement. This should provide agencies with a greater incentive to uncover violations and also should help insulate asbestos safety enforcement from the vagaries of taxpayer funding and the legislative appropriations process.

To achieve effective safety training programs, the examination process needs to be made independent of the centers that provide the safety training. Independent testing, either by the state directly or through a delegation to an independent testing administrator, will require the training programs to provide sufficient education so that workers can pass the exam without cheating, and it avoids reliance upon a under-resourced inspection system to ensure the integrity of the process.

In sum, the following steps should be adopted to reform the industry:

- 1) **Increase Maximum Fines.** The maximum fines in local jurisdictions for violations by asbestos contractors should be increased to the federal standard of \$25,000.
- 2) **Establish Minimum Fines.** Minimum fines of \$2,000 per violation should be established.
- 3) **Add License Revocation as a Penalty.** Revocation of asbestos licenses for a period of no less than a year should be added as a consequence of violations of asbestos safety standards.
- 4) **Make License Revocation Applicable to All Companies with Substantially Related Ownership.** The law should establish that any revocation of a license applies to all companies whose ownership is substantially related to the ownership of the penalized company. This is necessary to prevent violators from evading penalties by establishing shell corporations.
- 5) **Use Fines to Fund Agency Enforcement.** Fines imposed by agencies should be exclusively dedicated to fund further enforcement activity. Incentives matter, and a huge part of the current problems in the industry is that the government does not zealously enforce the laws on the books. Regardless of whether the problem is budget cuts or understaffing, forcing enforcement agencies to fund themselves by leveling fees will enhance enforcement.
- 6) **Asbestos Workers Should Be Given a List of Their Rights at the Beginning of Every Job.** To make certain that asbestos workers are aware of their rights, contractors should be obligated to give an approved notice of the workers' rights at the commencement of every job. Employees should be required to sign the notice to confirm receipt. The notice should include a phone number where workers can make anonymous complaints about safety violations.
- 7) **Asbestos Licensing Exams Should Be Independently Administered.** Examinations for asbestos worker licenses should be administered by a state agency or an independent testing company, rather than by private firms who provide training programs. This cost of administering the exam would be financed by the training programs, which enroll trainees to take the exam upon completion of the course.
- 8) **Asbestos Notices Should Be Available Online.** When contractors begin asbestos abatement activity, they are required to submit a notification report to the government. To make this industry's work more transparent, these reports should be made available online. This would allow the public to be aware of any potentially dangerous asbestos work occurring in their communities.



LiUNA! Mid-Atlantic Regional Office

12355 Sunrise Valley Drive
Suite 550
Reston, VA 20191

Phone: 703-860-4194

Fax: 703-860-1865

Email:

communications@malaborers.org

Website: www.liunamidatlantic.com

Facebook: LiUNA-MALaborers

Twitter: maLiUNA

YouTube: maLiUNA1