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“ON THOSE GALLOWS I’D SEE SWINGING THE BODIES OF ALL THE COMPANY BOSSES WHO KNEW THEY WERE KILLING US, WHO KNEW THEY WERE KILLING OUR WIVES AND CHILDREN, WHO KNEW THEY WERE KILLING THIS TOWN AND OTHER TOWNS WHERE THEIR POISONED ORE WAS HANDLED. THEY KNEW IT AND THEY HID IT.”

— Libby resident Les Skramstad says of a recurring dream

Federal officials  
race to bring  
criminal case  
against Libby’s  
W.R. Grace



**LES SKRAMSTAD** and Gayla Benefield with wooden crosses for each miner, family member and Libby resident who died from exposure to asbestos from the mine that W.R. Grace and Co. operated for 30 years.

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# Decades of denial

Editor's note: Federal criminal investigators are forbidden to discuss much of their work. This story was pieced together by interviewing more than 20 of the dozens of people questioned by the Justice Department Environmental Protection Agency team.

BY ANDREW SCHNEIDER  
of The St. Louis Post-Dispatch

**LIBBY** — Les Skramstad said he often dreamed about a long row of wooden gallows on the pinkish-tan dirt of the abandoned vermiculite mine on Zonolite Mountain just outside this tiny town near the Canadian border.

"On those gallows I'd see swinging the bodies of all the company bosses who knew they were killing us, who knew they were killing our wives and children, who knew they were killing this town and other towns where their poisoned ore was handled. They knew it and they hid it," Skramstad said.

"I hope I live long enough to see them swing."

In November, Skramstad bought finished white pine boards to build his own coffin. Asbestosis from working with vermiculite at the mine that W.R. Grace and Co. operated for 30 years has hardened his lungs, making it nearly impossible for him to take an easy breath.

Last Monday, in what the government is calling "one of the most significant environmental criminal indictments in U.S. history," Grace and seven current and former employees were accused of multiple charges, including criminal conspiracy and knowing endangerment. They were accused of knowing that the ore from the Libby mine was deadly and concealing the danger from its workers and people living near the plants and the government. That ore ended up in plants across the United States — including two in St. Louis — and in attic and wall insulation in millions of homes and businesses.

Grace denied the charges and has said it looks forward to setting the record straight in court.

If those indicted are found guilty, Skramstad may live long enough to see some top officials from the world-wide chemical and building products conglomerate behind bars.

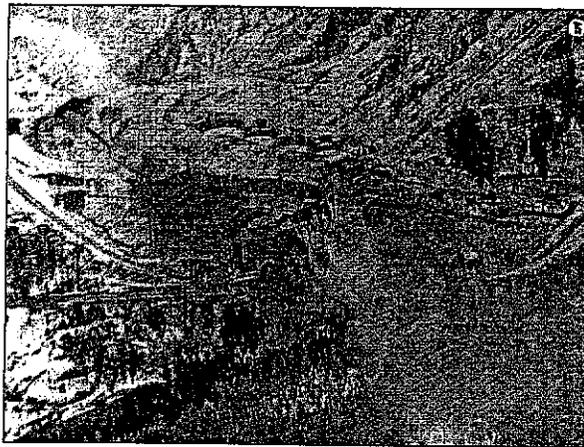
"It's not as good as hanging, but even prison is more than I ever thought I would see happen to those b —," Skramstad said.

The criminal charges were a hard-won victory for Skramstad and miner's daughter Gayla Benefield, who for years battled to get anyone to do anything about the dead and dying in their town.

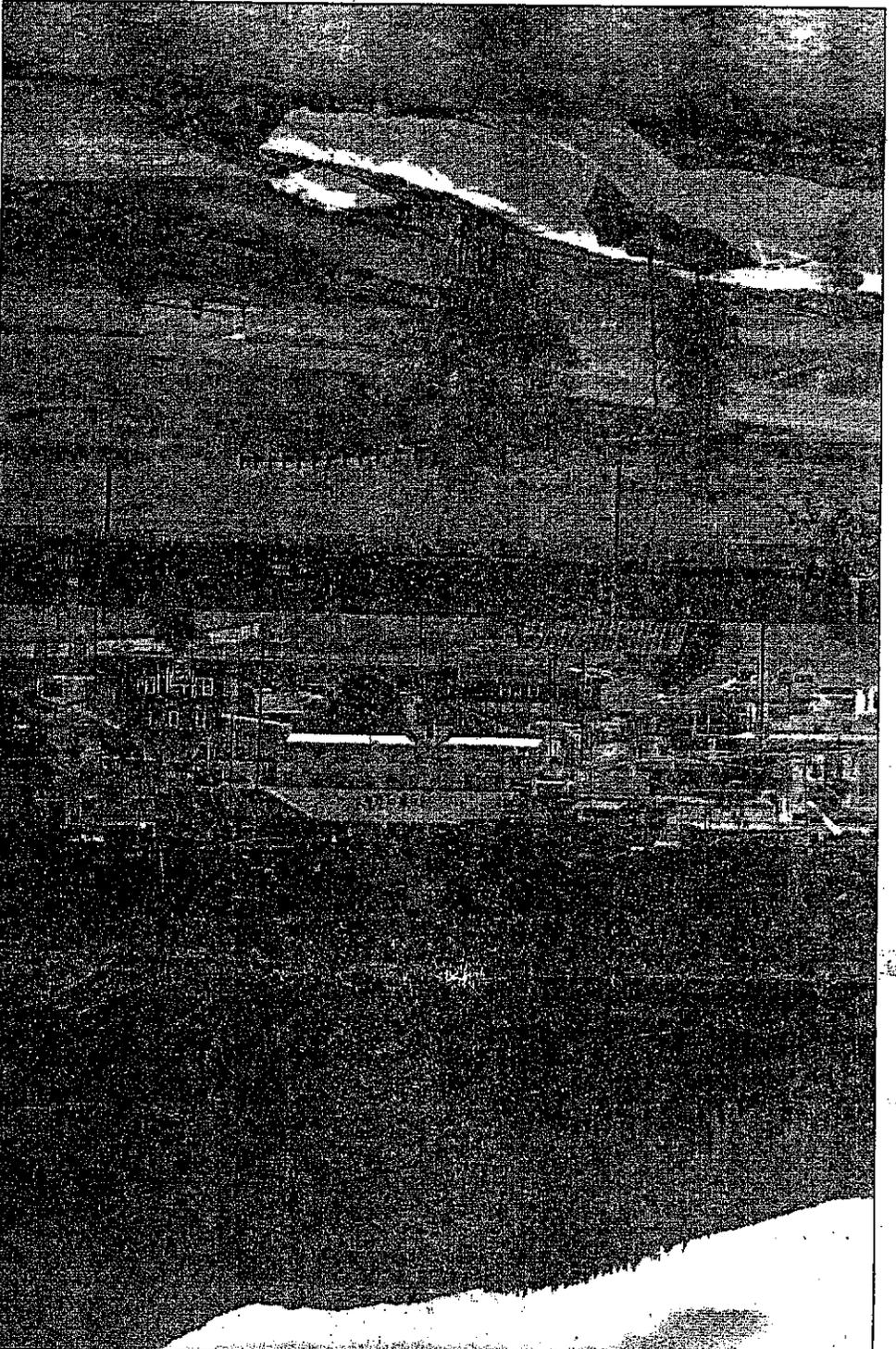
For years, everything happened with an excruciating slowness — until last year, when investigators and lawyers began a mad dash to beat the deadline to bring criminal charges. X-rays will show the scars from the asbestos-caused disease on Skramstad and Benefield's lungs. Their wounds from fighting Grace, the federal and state governments, and many people in their own town are less visible, but no less debilitating.

Benefield, 61, is a fiery, short-tempered, unrelenting crusader who refused to be stymied in getting people to understand that high levels of asbestos blanketed the beautiful town. But the opposition was tough. The town's leaders, real estate agents, developers and business owners discredited Benefield and Skramstad's warnings as "crazy," and tried to silence them before tourists fled elsewhere. The medical community insisted the deaths and

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**ABOVE:** Libby is surrounded by the Cabinet Mountains and the Kootenai River. W.R. Grace 5,000 pounds of asbestos fibers fell on the town every day the company's processing mill operated. **AT RIGHT:** An undated aerial photo of the Zonolite processing plant at the vermiculite mine outside Libby.



PHOTOS BY ANDREW SCHNEIDER

## Denial ...

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widespread breathing problems were not unusual and were caused by emphysema. The fact that many victims never smoked wasn't addressed.

State officials and the small Montana office of the U.S. Environmental Protection Agency ignored Benefield's plea for help. The state's Department of Environmental Quality said it was "unsubstantiated nonsense."

Even though Grace was quietly settling dozens of personal injury suits with miners and their families, they would get only scant notice in the local papers.

**The EPA arrived** in Libby on Nov. 20, 1999, three days after the Seattle Post-Intelligencer published the first of scores of articles on the town, on how Grace concealed the dangers to the people living and working there, and how the government knew what was happening and did nothing for decades. The agency's task was to determine the extent of the contamination and to start cleaning it up.

The EPA team of emergency coordinator Paul Peronard, toxicologist Chris Weis, physician Aubrey Miller and the region's senior civil enforcement lawyer, Matt Cohn, began testing the air and soil, interviewing people, and collecting and sorting thousands of Grace's memos, letters and reports.

The documents, they said, showed that Grace knew how dangerous the asbestos-tainted vermiculite ore was and how the corporation worked to conceal it. They documented a substantial risk to workers not only at Libby's mine and the town itself but also at hundreds of plants around the country that processed Grace's ore into consumer products.

They also showed that almost every official in the company knew how hazardous the material was, from then-company president J. Peter Grace to the health and safety, and marketing and legal departments.

For nearly five years, EPA and Justice Department civil lawyers in Denver have pursued Grace for a variety of environmental transgressions related to its operation of the mine. All were civil actions and limited to financial sanctions.

In winter 2001, two years into the cleanup, Peronard, Miller and Weis talked at a steakhouse on an elk-clogged road outside of Libby. They had just left another meeting where townsfolk demanded to know why the government hadn't jailed Grace officials.

"Grace has been telling the same lie for over 40 years," Peronard said. "They still maintain that insulation and other products made from Libby vermiculite has little or no asbestos in it. The courts have ruled that people have died because Grace concealed the danger from their workers, from the town, and from their customers."

**It was February 2004**, before the Libby team, including Kelcey Land, an EPA employee who had cataloged tens of thousands of Grace documents, could begin working on a presentation of potential evidence of wrongdoing by Grace. They wanted to give criminal investigators the opportunity to decide whether this was a case worth pursuing.

By the end of the month, they were ready. Daniel Horgan, a senior EPA criminal investigator, his boss, Lori Hanson, and Linda Kato, the Criminal Investigations Division's top lawyer, gathered in a conference room in the EPA's Denver office.

For almost two days, Peronard, Miller, Weis, Cohn and others presented documents to their colleagues from the criminal side.

They showed old aerial photographs of the vermiculite mine with white plumes spewing from the processing mill and Grace documents showing that about 5,000 pounds of asbestos fibers fell on Libby every day the mill operated. They explained that one fiber sucked into the right place in a person's lung could eventually kill that person.

They passed around documents they said showed that Grace knew its product was hurting and killing Libby employees and their families. They explained why they believed that Grace had lied repeatedly in response to EPA questions. They handed out copies of letters from a Grace vice president to former EPA Administrator Christie Whitman that insisted there was no danger of cancer-causing contamination in attic insulation made with Libby vermiculite, which was in millions of homes.

Then they presented Grace reports showing that its tests on the insulation had proved the insulation was dangerous. They wanted to give the criminal investigators a solid understanding of how Grace operated.

They succeeded. Assistant U.S. Attorney Kris McLean from Montana told the Libby team to keep working.

Leading the effort were Horgan; Bert Marsden, another criminal investigator; Susan Zazzali, an environmental engineer from the EPA's Montana office and, because of complex financial questions, Internal Revenue Service Special Agent John Nielsen.

**In May**, the team ended up in the home of Gayla Benefield.

Over the past five years, lots of visitors have knocked on her door to discuss asbestos-tainted vermiculite and Grace. The western larch log house beside the Kootenai River has hosted newspaper and magazine reporters and photographers from nine countries, would-be authors, documentary filmmakers and television crews from every major network.

But four visitors the evening of May 10 were different. All were federal agents, and at least two carried guns.

Benefield and three neighbors had just come from a board meeting of the EPA-created Citizen's Advisory Group that is formed at all Superfund sites to give citizens a venue for commenting on the agency's actions.

Eight people clustered around the kitchen table: three EPA employees and an assistant U.S. attorney, and four Libby residents who had their own tragic relationships with asbestos and Grace.

Skramstad worked at the mine for just two years. His asbestosis has progressed to the point where the once agile cowboy has a hard time walking. His wife, Norita, also has the disease, as do two of his four children.

Mike Noble was a miner, and asbestos killed his mother and father. Now he has asbestosis.

LeRoy Thom was the last union president before Grace closed the mine. He also has asbestosis.

And Benefield, whose father worked at the mine, and her husband have early signs of the disease, and she fears for her children and grandchildren.

By the time Benefield had made her second pot of strong Montana coffee, they'd gotten down to business.

"They didn't say a lot. They said they couldn't," Benefield said. "But it was obvious they knew what they were looking for. They wanted to know about the schools. They were really

*"Grace has been telling the same lie for over 40 years. They still maintain that insulation and other products made from Libby vermiculite has little or no asbestos in it. The courts have ruled that people have died because Grace concealed the danger from their workers, from the town, and from their customers."*

**Paul Peronard, EPA emergency coordinator**

interested in the ice rink at Plummer Elementary School and the running track at the high school."

Two years earlier, Peronard and his group learned that Grace had given waste rock containing asbestos from the mine to the schools. Soon after, they found letters proving that Grace knew asbestos was released when kids ran on the track. What terrified many sitting around the kitchen table that night, and many other parents in Libby, is that at least two generations of their children had rolled, tussled and played in the poisonous waste, especially at the elementary school.

"The feds had copies of the letters and they just sat there shaking their heads over what Grace had done," Benefield said.

In Missoula, in the team's war room, flow charts and financial notes covered the walls, and a computer system designed by people at the Justice Department allowed them to search 3 million pages of Grace documents. Evidence, including depositions of Grace officials taken over years of civil suits, was piling up but so was the anxiety over being shut down.

Indictment reviews may be routine in most cases, but the angst was never more

palpable than when the investigators were summoned to Washington in mid-October. There, Justice department lawyers from the Environmental Crime Section evaluated the team's progress, debated what else was needed to proceed with the prosecution and offered help.

"Political considerations never come into play in criminal cases," said David Uhlmann, section chief of the Justice Department's environmental crime section, but he refused to answer any questions about Grace.

Back in Billings U.S. Attorney William Mercer, who was at one of the Washington meetings, told investigators to keep at it. They made trips from coast-to-coast and north to south, questioning former and current Grace officials, workers and others. Twelve-to 15-hour days became the norm.

On Oct. 29, the Justice Department notified Grace that it and several of its current and former officials were targets of a criminal indictment.

The investigators and prosecutors were making last minute fixes to the indictment, but the November deadline loomed.

The presidential election had some team members holding their breath. The

Bush administration's pro-business stance was no secret, and going back to Ronald Reagan's days, Grace was often a White House favorite. Vice President Dick Cheney's former involvement with Halliburton and its \$4 billion plus tab for asbestos claims were discussed over a lot of beer, but team members shrugged it off because there was nothing they could do about it.

Right after the election they made their last appearance before the federal grand jury that was considering the Grace indictments. It met the first Wednesday of every month, for two or three days.

The statute of limitations was about to expire. There was no sign of the indictment.

"The deadline had come and gone," Benefield said. "None of us knew what was happening, but we expected the worst."

But in Missoula, new information, leads the team felt were worth following, had popped up. How could the clock be stopped? The answer came from Uhlmann's team in Washington. Tolling, it was called. The infrequently used statute allows the deadline to be placed in limbo for a short while, if Grace agreed.

It did.

Why would a corporation agree to give prosecutors more time to develop charges against it? Grace didn't volunteer an answer, but most companies do it to have more time to try to get the indictment dropped, or work out a plea bargain, or just postpone what they know will be bad publicity.

The "why" didn't matter to Horgan, McLean and their colleagues. They had more time — more trips, more interviews and another run at the grand jury.

They knew they had

another shot at the grand jury in January, and, at the most, one more shot in February. The jurors — two dozen people who travel to Missoula each month — were going to end their long ordeal on Feb. 2. They either voted to indict Grace and its officials on that date or the indictments would be dropped.

At 2 p.m. on Feb. 5, outside the courthouse in Missoula, Les Skramstad and Gayla Benefield beamed as they thumbed through copies of the thick indictment and watched as EPA's Hanson and Mercer announced the charges against Grace and its executives.

Mercer stressed that they have only been charged and only a trial can decide their guilt. That trial could begin within three months.

In the three days since the indictments were announced, Benefield survived a swirl of interviews by reporters from around the world. In the midst of it all, she was reminded of why she and Skramstad never gave up their fight.

Franklin Mick Mills, paramedic, nature photographer and the safety officer at Libby's old lumber mill, was exposed to trees covered with asbestos dust from the deadly ore. He died Wednesday of asbestosis.

"It's great that Grace will be made to answer for its actions," she said, "but Mick's death is a reminder of all the people who will be paying a horrible price for what that company did for years to come."

*Schneider worked at the Seattle Post-Intelligencer before coming to the St. Louis Post-Dispatch. He is the co-author with David McCumber of "An Air That Kills," which chronicles the poisoning of Libby, and the actions of W.R. Grace & Co. throughout the country.*