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Asbestos dust case settled in El Dorado

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Prosecutors have reached a \$350,000 settlement with a pair of El Dorado Hills developers and a construction contractor accused of numerous public health offenses in blasting open hillsides that bear a particularly toxic form of asbestos.

Angelo K. Tsakopoulos and Larry Gualco, whose companies form West Valley LLC, and DeSilva Gates Construction of Dublin were accused of but not formally charged with 47 violations of air and water pollution laws based on documented observations by local environmental enforcers, according to Deputy District Attorney Gloria Mas.

The most serious allegations concern the thick dust clouds from explosions in areas the county had designated as known or likely to contain naturally occurring asbestos, Marcella McTaggart, head of the El Dorado County Air Quality Management District, said after signing the settlement Friday.

Left alone, asbestos poses no risk. Blasting, drilling and bulldozing, however, churns it up and releases its tiny fibers into the air. Breathable-sized fibers can lodge in the lungs, setting the stage decades later for debilitating, if not fatal, respiratory disease.

Air district inspectors photographed many of the explosions and issued several warnings in the past two years as excavators carved out building pads and roads for the 1,400-home Valley View subdivision south of Highway 50, air district records show.

In several instances, the thick dust clouds drifted far beyond the job site, "vastly" exceeding the permitted limit, according to the air district.

One of the most spectacular explosions in a designated asbestos area occurred Dec. 15, two days after West Valley's geologist reported his first asbestos find on the 982-acre property.

A contractor detonated 27,245 pounds of explosives, dislodging 28,000-plus cubic yards of shattered rock and dirt. A photo of it "was a screen saver for a lot of people here," said McTaggart, who created a computerized slide show of excavators' blasts as evidence. Spokesmen for West Valley said the development company went to extraordinary lengths to reduce dust and mud that construction vehicles had tracked onto public streets.

"These and other measures being implemented will ensure not only that there will be no future violations, but that the ... project is constructed so as to minimize the impacts on the project's neighbors and the El Dorado community," said John Poulos, a Sacramento attorney for West Valley.

West Valley and its contractors made no admission or denial of liability in the settlement.

West Valley is composed of Lennar Communities Inc. of Roseville, headed by Gualco, and Tsakopoulos' AKT Investments Inc. of Sacramento. Lennar manages the West Valley development, and AKT is the investor, according to spokesmen for the companies.

"AKT is monitoring the West Valley situation closely but is convinced that Lennar would not intentionally break the law," spokesman Chris Holben said Saturday.

Under terms of the settlement, the county district attorney and air district agreed not to pursue any of the violations.

According to the air district, the development company also violated county restrictions on construction dust in general as well as state limits on sediment runoff from construction sites into streams -- in this case, a tributary of Carson Creek.

The county agreed at the behest of the developers to make West Valley's earthmoving contractor, DeSilva Gates, solely responsible for the settlement payments, according to Mas, who negotiated the deal. "That was the arrangement made by the responsible parties," Mas said.

The settlement divides the \$350,000 among the county air district, the District Attorney's Office and the California District Attorneys Association's environmental circuit prosecution project, which assists rural counties. In calculating the total amount, prosecutors assigned the highest payments per violation to those involving asbestos dust, Mas said.

"Our county Board of Supervisors took a position of zero tolerance on construction-dust violations in areas of naturally occurring asbestos," Mas said.

While many areas of California contain asbestos, none poses as great a potential hazard as the fast-growing Sierra foothills near the El Dorado-Sacramento county line, according to the U.S. Environmental Protection Agency, which has conducted asbestos tests in the region and elsewhere in the state.

Belts of rocks and soil known to contain asbestos lie in the path of large housing developments, and much of the region's asbestos is a highly toxic form of the fibrous minerals, called amphibole.

El Dorado Hills' dense residential development and its many young families increase the potential health risk, EPA scientists say. Children are especially at risk because of their long life expectancy.

The land being excavated for the future Valley View homes contains pockets of amphibole asbestos. It borders busy Latrobe Road.

Poulos said West Valley did not detect asbestos in any soil samples taken at sites where blast dust allegedly exceeded regulatory limits. Mas said, however, that the developers' geologist found asbestos in the same construction unit where the blasting took place -- enough evidence to assert that violations had occurred.

An apartment complex is within a few hundred feet of the construction site, and the El Dorado Hills Business Park, which houses two day-care centers, is opposite the earthmovers' entrance and exit.

Scientists say there is no safe level of exposure to asbestos. And no study has been conducted in the region to determine to what extent, if any, the hazardous dust has caused injury or death.

El Dorado County, nonetheless, requires special dust-suppression measures, such as heavy watering for construction in areas known or likely to contain asbestos.

The "asbestos hazard dust mitigation plan" approved for the Valley View project called for certain dust-cutting measures in blasting operations, such as smaller and fewer bore holes for explosives and detonation delays between the holes.

McTaggart said the development company and its contractor all too often failed to abide by the plan.

"The blasts ... show no improvement in your efforts to control the release of fugitive emissions," McTaggart said in a letter to Lennar Communities following the huge Dec. 15 explosion.

"We were very disappointed to note that the agreed-upon measures to minimize ... dust were completely disregarded by your company."

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