



Engineering Sciences Section – 2007

C22 Technical Issues in the Criminal Case of *United States of America v. W.R. Grace, et al.*

James R. Millette, PhD, and Whitney Hill, MS, MVA Scientific Consultants, 3300 Breckinridge Boulevard, Suite 400, Duluth, GA 30096*

After attending this presentation, attendees will learn information about dealing with complex technical forensic issues involved in environmental criminal cases.

This presentation will impact the forensic community and/or humanity by updating the current status of the Libby, MT - W.R. Grace federal criminal litigation through a discussion of the technical forensic issues.

In February 2005, W.R. Grace & Co. and seven of its top executives, both current and former, were charged by the U.S. Justice Department with knowingly endangering its workers and residents of Libby, Montana. The criminal indictment charged that their vermiculite mine, which closed in 1990, released dangerous, cancer-causing asbestos into the air for decades and that WR Grace Company officials knowingly concealed information about the deadly health effects. Some of the technical issues involved the testing of vermiculite containing as a contaminant, amounts of tremolite and similar amphibole minerals, and the microscopical methods that are used to measure asbestos in air, soil, and dust. As part of the case, the Government asked for a Daubert-type Hearing on the admissibility of the methodology used by Defendant Grace's analytical expert. The Government with the help of their expert witnesses contended that the Defense expert had incorrectly alleged that the Government's choice of an analytical method for asbestos air analysis was wrong. The Defense expert contended that the government should have used a Draft method produced by Yamate in 1984 instead of the method published by the International Standards Organization in 1995 (ISO 10312). The Government data showed how the Defense expert had added on another procedure to the Yamate method that they considered not reliable and not accepted by the scientific analytical community. The Defense presented contrary information. There was no testimony from the Defense expert. The Government's motion was denied and the expert allowed to testify at trial. This presentation will discuss the difficulties encountered by a forensic scientist in handling technical information in an environmental criminal case.

Vermiculite, Asbestos, Libby, Montana