

Narrative Report

Opening Conference Notes
<p>On March 9, 2023, Occupational Health and Safety Bureau (OHSB) Program Manager Gregory Marquez, Compliance Supervisor Melissa Romero, and Safety Compliance Officer (CO) Lorenzo Montoya visited the "Gateway Center" at the Gibson Health Hub, formerly known as the Gibson Medical Center. The following individuals participated in the opening conference: Operations Manager Douglas Chaplin, Family and Community Services (FCS); Assistant Operations Manager Leon Espinoza, FCS; Facilities Asset Manager Charley Salas-Ramos, FCS; Senior Project Manager Jesse Valdez, General Services Department (GSD); Maintenance Manager Vicente Martinez, GSD; and Project Manager Keith Reed, GSD. All were familiar with the asbestos concerns, had previously discussed or arranged asbestos surveys in the facility, and many felt there was a serious risk of asbestos exposures. Jesse Valdez stated that a survey conducted by Sendero Environmental on October 5, 2020, showed that there was no asbestos present in the Gateway Women's Shelter (GWS) construction area, and believed the concern was solely due to some ceiling fire-proofing material that was errantly knocked to the floor by construction workers.</p>
CSHO's evaluation of the Employer's Safety and Health System and applicable programs
<p>OHSB requested safety and health policies and/or administrative instructions relevant to asbestos, asbestos testing, and working with or around asbestos. OHSB presented the request to the following individuals: Chief Administrative Officer (CAO) Lawrence Rael; GSD Director John Craig; Environmental Health Department (EHD) Director Angel Martinez; Department of Finance and Administration (DFA) Director Stephanie Yara; and FCS Director Carol Pierce. The only items provided were a 2-page "Protective Clothing and Equipment" poster, a 1-page print from "oshatraining.com" that summarizes "Fall Prevention, Avoiding Falls from Portable Ladders," and a 1-page print from "oshatraining.com" that summarizes "Fall Prevention, Covers for Holes."</p> <p>The City's Risk Management division (RMD) developed an asbestos presentation with guidance to help educate and inform City employees at the Gibson Health Hub about asbestos, its hazards, and means of abatement. The City used training material that was appropriate, but it used the material ineffectively. EHD and GSD management were not familiar with the asbestos guidance prepared by RMD. Lawrence Rael stated that he wanted all City Project Managers to receive training and guidance on asbestos and correct asbestos abatement; he was not aware that RMD had already prepared such training.</p>
Documentation containing accurate and concise information about the employer and worksite
<p>The City of Albuquerque acquired the Gibson Medical Center in April of 2021, and renamed it the Gibson Health Hub. The "Gateway Center" is a project that will be housed in the Gibson Health Hub. The facility is located at 5400 Gibson Blvd SE, Albuquerque, NM 87108. The general contractor for the project is Consolidated Builders of N.M. LLC, owned by Samia Apodaca.</p>
Health Sampling Strategy
<p>Health Compliance Officer Kedrick Brown performed asbestos testing in the GWS construction area on March 17, 2023.</p>
Any other relevant comments/information that CSHOs believe may be helpful, based on his/her professional judgement
<p>The City acquired the Gibson Medical Center in April of 2021, and renamed it the Gibson Health Hub. The Department of Municipal Development (DMD) oversaw the renovation projects. The "Gateway Center" is a series of rehabilitation and shelter facilities serving the community's transient population. The first phase of the project is the GWS on the second floor. Project Manager Jesse Valdez was assigned the project. As part of the acquisition process, The City conducted an asbestos survey through the acquisition process to identify potential asbestos hazards in the structure.</p> <p>Sendero Environmental, LLC conducted this first sampling, a Limited Asbestos Survey, September 2, 2020, and completed their final report on the findings on October 5, 2020. A "limited survey" is a non-comprehensive, limited-scope survey, only taking representative and random samples. They discovered asbestos fibers in quantities greater than 1% in the following materials: black, non-friable roof vent penetration sealant tar; 9-inch by 9-inch vinyl floor tiles in the basement, including the black mastic beneath those tiles; and in thermal system insulation. Sendero did not take samples in this survey from the future GWS area on the second floor. However, Sendero Environmental warned, on page iv of the Executive Summary: "Conclusions made about the locations of ACBMs (asbestos</p>

containing building materials) were based on the number of samples collected and the selective locations of those samples. It is possible that ACBMs are present in areas that were not sampled... If an unsampled material is identified at a later date, then it may be assumed to contain asbestos, or it can be sampled and analyzed." OSHA regulations use the term "asbestos containing materials" (ACM).

The Department of Finance and Administration's (DFA) Risk Management Division, Loss Prevention section, reviewed the Limited Asbestos Survey and conducted a building inspection in response to management concerns regarding abatement of ACBs. The "Safety Inspection Lead/Asbestos" is dated May 12, 2021. The Loss Prevention section manager, Theresa Alling, also developed a brief presentation outlining the regulatory requirements meant to ensure employee safety, including additional guidance and regulatory information. RMD presented this guidance to Jesse Valdez and other members of management, including the city's Family and Community Services (FCS) Department who oversees the building and its tenants.

The "UNM Suite," a separate renovation project, is located on the second floor, adjacent to the GWS. Three types of flooring tile were identified in the UNM Suite, causing the flooring contractor to express concern that asbestos may be present. Havona Environmental conducted a second asbestos survey in the UNM Suite on April 1, 2022, and finalized it on April 8, 2022. The survey confirmed that a "cream vinyl floor tile / black mastic" contained asbestos. Havona Environmental warned: "The asbestos containing vinyl floor tile mastic is a non-friable, miscellaneous material... Removal of this ACM is classified by OSHA as Class II work and categorized by NESHAP as Category II, Non-Friable."

Keers Environmental (Keers) abated the ACM found in the basement through the Sendero Environmental survey in June of 2021. Keers also abated the ACM found in the UNM Suite in April of 2022 that was discovered through the Havona Environmental survey the same month. Phase One of the Gateway Center project, the GWS, began in late April of 2022. At this point, no asbestos surveys of the GWS area had been conducted. Foreman Jorge Enriquez, Consolidated Builders of N.M., LLC, stated that he had witnessed the containment measures put in place in the UNM Suite. According to FCS managers located at the Gibson Health Hub, the management team asked Jesse Valdez if a survey had been or needed to be conducted in the GWS, since asbestos was present in the UNM Suite on the same floor and was adjacent to the Shelter. Jesse Valdez told them that no asbestos was found in the area, citing the 2020 Limited Asbestos Survey conducted by Sendero Environmental, which did not sample the GWS. Before workers began demolishing the GWS area, Consolidated Builders' foreman Jorge Enriquez and his crew asked their leadership team if asbestos might be present. Business owner Samia Apodaca told employees that tests had been completed and the area was confirmed to be safe based on communications from Jesse Valdez. Employees then proceeded with the demolition.

On July 1, 2022, the General Services Department (GSD) was created to relieve some of the operational and administrative burdens on DMD. A handful of DMD divisions and the Gateway Center project were moved over to GSD. Jesse Valdez was also transferred to GSD, as his responsibility was the oversight of the Gateway Center project. Future phases of the Gateway Center would bring in additional project managers, with Jesse Valdez as the overall manager. Jesse Valdez was promoted to Senior Project Manager in August of 2022.

On February 10, 2023, a City Planning building inspector visited the GWS to inspect ceiling structural supports. The inspector issued a "yellow tag" to employees on location, instructing them to have an asbestos survey performed on some ceiling fire-proofing material that had been knocked to floor by workers. Jesse Valdez provided the inspector with the October 2020 Sendero Environmental report, then arranged for an asbestos survey to be conducted in the GWS. On Monday afternoon, February 27, 2023, DFA's RMD received City employee complaints about possible asbestos exposures. On Tuesday morning, February 28, 2023, Loss Prevention manager Theresa Alling, on behalf of Risk Manager Jeannette Chavez, sent an email instruction to Jesse Valdez to immediately halt work in the GWS area until the presence or absence of asbestos could be confirmed. Jesse Valdez did not respond to the email, but instead visited Theresa Alling in-person and stated that they were not disturbing any material that looked like asbestos. Theresa Alling and Jesse Valdez then arranged for RMD to visit on Friday, March 3, 2023, at 11:00 AM. On Wednesday, March 1, 2023, Tetra Tech surveyors visited the site and took several samples. On Thursday, March 2, 2023, Theresa Alling received another employee complaint alleging that multiple construction workers had arrived and were sanding and grinding the floors, creating dust and potentially spreading asbestos. The test results were not yet available, and work was supposed to have been halted. Theresa Alling tasked Miguel Reza with visiting the site a day early, due to this allegation.

Miguel Reza arrived on site and was escorted by Project Manager Keith Reed. Miguel Reza took photos and documented visible remnants of black mastic throughout the GWS area, noting that the floor had been ground and remnants of black mastic remained. Miguel Reza met foreman Jorge Enriquez, who was preparing to do more floor grinding work. Photos were taken by Miguel Reza of accumulated dust on the floors where grinding had taken place prior to his arrival, indicating that a wet control method was not in place. Jesse Valdez then arrived and told Miguel Reza that the only asbestos concern was the ceiling fire-proofing material. When asked why employees were grinding the floor when testing had not been conducted, Jesse Valdez stated that tests were taken the previous day. The scheduled RMD visit for the following morning was subsequently cancelled by Jesse Valdez. Despite RMD issuing a stop work order on Tuesday morning, February 28, in compliance with Administrative Instruction Number 8-5 "Safety Policy," work did not stop until Friday afternoon at 5:00 PM. When asked by CO Lorenzo Montoya why work did not stop, Lawrence Rael stated that work did stop Friday, March 3, and resumed on Tuesday morning, March 7. Work resumed because the City's Environmental Health Department (EHD) Director Angel Martinez stated that there was no asbestos hazard, citing Code of Federal Regulations (CFR) Subpart M Section 61.141 Regulated Asbestos Containing Material. RMD never approved for work to resume.

On March 7, 2023, multiple individuals contacted OHSB to file complaints regarding potential asbestos exposures. On March 9, 2023, OHSB Program Manager Gregory Marquez, Compliance Supervisor Melissa Romero, and Safety CO Lorenzo Montoya visited the location. During the opening conference with FCS management on location and Jesse Valdez, the March 1 Tetra Tech survey report, drafted by Keers, was received. The report was not reviewed at that time, as the inspection was underway. Jesse Valdez stated that the previous asbestos test from October of 2020 showed that there was no asbestos in the GWS area. FCS Operations Manager Douglas Chaplin stated that asbestos was present elsewhere in the building in the past. The report confirmed the presence of asbestos in 12-inch by 12-inch beige flooring tiles, black flooring mastic beneath the tiles, and black carpet mastic, in the north-eastern section of the GWS. During the walkaround of the GWS, there was evidence employees had been grinding the floors in preparation to apply coatings. The black mastic remnants in the dining and dayroom areas that were photographed by Miguel Reza on March 2nd were no longer present.

Discussion clearly addressing all items on any applicable Complaint or Referral

After the walk around, John Craig and Angel Martinez arrived to participate in the closing conference. During the closing conference, Angel Martinez stated that their office's Consumer Protection section had also received a complaint on March 2, 2023. EHD maintains an Asbestos Program section and has been delegated authority to regulate asbestos concerns in Bernalillo County by the Environmental Protection Agency (EPA). EHD also maintains a Small Business Assistance Program which could have assisted Consolidated Builders on working with asbestos if the company had requested it. Angel Martinez stated that previous surveys showed no presence of "regulated asbestos containing material," and that "asbestos containing building materials" were present but not in sufficient quantities or conditions to warrant additional protections. He stated that the only regulatory deficiency was that the contractor, Consolidated Builders, did not submit a notification to the Asbestos Program at EHD, and that any exposures were to quantities of asbestos deemed to be insufficient to warrant a violation or work stoppage, again citing EPA regulations.

On March 14, 2023, CO Montoya and CO Kedrick Brown visited the site to conduct additional interviews and review some of the flooring. The floor before the entry and within the shower room notably had residual black mastic, indicating that the mastic had indeed been ground away. An approximate 325 square foot area had been ground, with visible remnants of black mastic. The Keers report confirmed that this black mastic consisted of 2% chrysotile asbestos.

Following the second walkaround, CO Montoya and CO Brown interviewed Vicente Martinez (GSD), Jorge Enriquez (Consolidated Builders), Doug Chaplin (FCS), and Keith Reed (GSD). Over the next two months, OHSB interviewed additional individuals, including the City's Inspector General, Melissa Santistevan, Risk Manager Jeannette Chavez (DFA), several Department Directors, Jesse Valdez, Lawrence Rael, and some anonymous complainants. After reviewing documentation provided by the City and statements made during interviews, the complaint items can be best addressed in a summary list:

1) The City was informed of and recognized the hazards associated with asbestos exposure. The City's Environmental Health Department enforces EPA asbestos regulations in Bernalillo County and created an Asbestos

Program specifically to mitigate and control asbestos hazards. RMD created guidance material for Jesse Valdez and local managers to assist in mitigating and controlling asbestos hazards.

2) The City contracted for two surveys at the Gibson Health Hub, one with Sendero in 2020 and one with Havona in 2022, specifically to identify whether asbestos was present to inform City leadership whether precautions were necessary. Both the 2020 and 2022 asbestos surveys provided regulatory guidance on what measures would be necessary to comply with both OSHA's asbestos standards and the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations.

3) Prior to demolition beginning, several management-level staff at the Gibson Health Hub expressed concerns about asbestos exposure being possible in the GWS. Complainant's interview by OHSB stated that these concerns were brought up in routine management meetings, which occurred every Wednesday at 8:00 AM. The topic of "asbestos assessment" was documented in a 10:01 AM meeting on January 24, 2022, in which Doug Chaplin, Charley Salas-Ramos, and Jesse Valdez, were present. Interviewed employees stated that discussion on asbestos hazards came up regularly and often, and that Jesse Valdez refused to conduct a survey of the GWS area.

4) In an OHSB interview, Jesse Valdez stated that the general contractor, Consolidated Builders, had the expertise to identify asbestos and would let him know if surveying was necessary. Samia Apodaca stated that Consolidated Builders did not have asbestos experience or expertise, and the City relied on Southwest Abatement for asbestos work. Samia Apodaca stated that she was presented with the Limited Asbestos Survey by Jesse Valdez, but that she did not ask further questions when Valdez said the survey showed there was no asbestos in the area. Prior to receipt of the March 2023 Keers survey, Jesse Valdez stated that the October 2020 Sendero Environmental survey indicated that the GWS was free of asbestos. That survey did not include samples from that area and cautioned that further sampling would be necessary. OSHA regulations require surveying to be performed before work begins, where there is evidence that asbestos may be present, such as the 2020 and 2022 asbestos surveys.

5) When asked why work was not immediately halted when RMD issued a stop work order, Jesse Valdez stated that the RMD team "did not have the authority" to stop work. The City has an Administrative Instruction that specifically gives the Risk Manager the authority to stop work in any Department where there may be hazardous conditions. Jesse Valdez stated that evidence of a hazard should be necessary to issue a stop work authority. Jesse Valdez also stated that RMD should have visited the site before issuing a stop work order, "unless there's an unsafe practice that's happening there that needs to be stopped, right? Like, we're not going to have our workers working unsafe."

6) RMD issued the stop work order on Tuesday, February 28, at approximately 9:00 AM. The City did not stop work until Friday, March 3, at approximately 5:00 PM, cancelling a 4-hour Saturday clean-up and Monday work schedule. The City resumed work on Tuesday morning when Lawrence Rael released the worksite back to Jesse Valdez based on guidance received from Angel Martinez, EHD Director; Mr. Martinez cited EPA regulations when he stated that there was no hazard to employees and thus no reason to keep the work stopped. In an email sent to New Mexico Environment Department and New Mexico Department of Health leadership, Angel Martinez stated, "All inspections [conducted by City EHD] did not reveal any indication that improper handling or abatement was conducted that would have posed a danger to worker safety or the public. ... Based on the results of the inspections and the three surveys I do not see any reason for evacuation of neither employees or patients receiving treatment at the facility."

7) Angel Martinez insisted that employees were not exposed to a hazard because the material was "non-friable" and was thus safe. GSD Director John Craig and Jesse Valdez stated the same basis for determining work could resume.

8) Keers conducted sampling on March 1, 2023; however, samples were only taken from large, mostly intact sections of mastic in the northeast area, and not the remnant mastic in the dining and dayroom areas. On March 2, 2023, Miguel Reza photographed remnants of black mastic on the floors of the GWS dining and dayroom areas. When OHSB opened its inspection on March 9, little to none of the black mastic remained in the dining and dayroom areas. City contractors had removed the mastic using grinders as evidenced by the piles of dust and material photographed by Miguel Reza during his inspection on March 2. The City received the survey results from Keers confirming the presence of asbestos in the GWS on March 9 during the OHSB inspection.

9) CO Lorenzo Montoya cautioned Jesse Valdez, Doug Chaplin, and Vicente Martinez, to not dispose of the HVAC system air filters, and to ensure they are only handled by an asbestos professional as they may be contaminated. OHSB requested the City secure the filters upon removal for asbestos sampling. The City did not secure the samples, which were replaced and disposed of in a routine quarterly maintenance action on April 19, 2023.

10) Surveys conducted by DC Environmental (DCE) on July 6 and August 1, 2023, identified accumulated asbestos dust resting above the ceiling tiles in the "Interim Women's Shelter" on the ground floor, below the GWS. During the demolition, Consolidated Builders bored holes in the floor of the GWS, including through asbestos-containing tiles and the asbestos-containing black mastic. DCE also found silica from the cutting and grinding of concrete in these areas, indicating a lack of proper containment and dust control measures.

In conclusion, OHSB identified multiple violations during the inspection and recommends citations. The investigation established employer knowledge prior to demolition beginning including: guidance from surveys in other areas of the building; language used in the contract adopted by the City regarding asbestos abatement; manager-level employee concerns; and an attempted and ultimately disregarded intervention by the RMD office. The City's heightened awareness indicates disregard for employee health and safety by multiple members of City leadership. The City of Albuquerque violated its own protocols and bypassed its own risk management measures, potentially exposing dozens if not hundreds of individuals to the risks associated with asbestos over the course of a year. Multiple individuals stated that Jesse Valdez told them that the October 2020 survey detected no asbestos in the GWS area, that the general contractor had the expertise to identify and abate asbestos, that the materials present did not look like the previously identified ACM, and that a survey was not necessary. The general contractor stated to OHSB that they had no asbestos expertise and were not capable of handling asbestos, and that they were told that the GWS area was free of asbestos by Jesse Valdez.

Closing Conference Notes

CO Lorenzo Montoya provided the City a summary of hazards identified at the worksite via email on March 29, 2023. OHSB made a subsequent records request on April 5, 2023. While the City was responsive to the request, there were significant deficiencies with the training and policy material provided. The City demonstrated substantial knowledge concerning asbestos present in the Gibson Health Hub. RMD produced guidance material to educate employees on asbestos in the Gibson Health Hub. The City did not provide OHSB with adequate documentation of policy, training, and communication on asbestos hazards for employees working at the Gibson Health Hub. City Administrative Officer Lawrence Rael indicated during his interview that City Project Managers working for the Department of Municipal Development and General Services Department may not have received any asbestos training as part of their employment with the City of Albuquerque. OHSB recommended that the City develop a program for more effective training for project managers and enforcement of RMD's existing stop work order policy.