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## Fate of Mountain View Grand asbestos may never be known

### Landfill operators, haulers claim ignorance of disposal at Bethlehem site

By LYN BIXBY  
COURIER STAFF

BETHLEHEM—There appears to be no question that renovations at the Mountain View Grand resort in Whitefield two years ago uncovered asbestos. But whether any of the asbestos was dumped illegally at the landfill on Trudeau Road is a mystery that may never be solved.

State prosecutors have accused resort owner Kevin Craffey of eight asbestos-related charges, including knowingly disposing of the cancer-causing substance at the landfill owned by North Country Environmental Services, Inc.

But NCES officials and their lawyer, Bryan Gould of Concord, said they know of no basis for the allegation. And the owner of the company that trucked demolition waste from the Mountain View renovations to the landfill said his drivers did not see any asbestos.

Geoffrey Ransom, the senior assistant attorney general who is in charge of the prosecution, said he cannot assure the residents of Bethlehem that they will ever know whether asbestos went into the NCES landfill, or if it did, how much.

"It depends on what evidence is used and what comes out, what the court may wish to suppress, or if the matter would even go to trial," he said. "I would absolutely have to have a crystal ball. I just don't know."

The Board of Selectmen has sent letters to state environmental officials and to the attorney general's office, asking for more information about the asbestos allegation and asking why

enforcement action had not been taken against NCES officials for allowing asbestos to be dumped in the landfill.

The Craffey indictment, the board said in a letter to Attorney General Peter W. Heed, "is obviously of great concern to this Board and the Town because of the potential impact on the health of the residents and on the environment."

Heed responded by saying he had forwarded the town's letter to Ransom "for careful review and any appropriate action."

Waste material torn out of the Mountain View Grand was put into roll-off containers supplied by Beattie Enterprises, Inc., of Lancaster, and hauled by the company, sometimes twice a day, to the NCES landfill.

"To my knowledge there was no asbestos in those containers," Michael Beattie, the owner of the trucking company, said in an interview. "Nobody told us there was. Nobody told us there wasn't."

He said he was surprised that neither he nor his employees have been interviewed by anybody from the attorney general's office.

Ransom said Beattie had not yet been interviewed because the case is a large one that has required search warrants in two states, many interviews and extensive analysis of records.

"We need to speak to him," Ransom said. "You can't get to everybody right away."

In response to a request from the attorney general's office last fall, NCES voluntarily provided "records of receipt of construction and demolition debris from

Beattie Enterprises for 1999 through May 2002," according to Gould, the company's lawyer, in a letter he wrote to state environmental officials.

written account provided by Craffey's lawyer in the criminal case file in Coös County Superior Court.

On Sept. 7, 2001, the account said, "citations

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*"To my knowledge there was no asbestos in those containers. Nobody told us there was. Nobody told us there wasn't."*

—Michael Beattie,  
owner of hauling company

In the letter Gould also said, "NCES is not aware of any facts to suggest that asbestos was deposited in the landfill."

Ransom said he first got involved in the investigation in November 2002 on a referral from the state Department of Environmental Services. That was almost a year and a half after an inspector from the federal Occupational Safety and Health Administration conducted an inspection at the Mountain View Grand in mid-July 2001, also after a referral from DES.

"During the on-site walk around, the OSHA inspector noticed what he believed to be asbestos material on the job site," according to a

were issued against Craffey and Company, Inc., for asbestos related violations arising from the company's failure to determine the presence of asbestos at the hotel and advise bidders and workers of the presence of asbestos at the job site."

The lawyer, William Christie of Concord, wrote that OSHA determined the violations were "not willful" and settled the citations in December 2001 with an agreement to pay the \$1,000 fine and to ensure that "full abatement measures would be enforced at the work site."

Craffey's company, according to Christie's account, had hired GEM Environmental, Inc., in July 2001, shortly after the

OHSA inspection, "to conduct asbestos abatement at several locations on the hotel property."

GEM officials did not respond to requests for an interview. Craffey's court file does not say how much asbestos GEM found or where it was taken, and Christie said he does not know where it went.

Beattie said the roll-off containers his drivers took from the Mountain View Grand to the NCES landfill were filled with "old junk lumber, lath, plaster, things like that." If crumbled asbestos was in the containers, he said, his drivers were not aware of it.

"We would have no way of knowing what was in there," he said. "The people at the landfill when it was dumped wouldn't know."

He said the machine operators at the landfill are well trained to spot prohibited material. He said he does not think anybody will ever know for sure whether the NCES landfill has asbestos from the Mountain View Grand.

"The chance of going through the landfill and finding any [asbestos] is nil," Beattie said. "Even if they did dig down and found some, they'd never know where it came from anyway."

Although OSHA found the violations at the Mountain View Grand were not willful, Craffey is

accused in Superior Court of intentional asbestos violations.

Christie said in one court filing that the Craffey case marks the first time in the history of New Hampshire that someone has been prosecuted criminally for asbestos violations.

But Ransom disputed that. He said he personally prosecuted three criminal asbestos cases over the past decade and obtained convictions in each one. All three cases took place in the southern part of the state and involved much smaller amounts of asbestos than alleged in the Mountain View case, he said.

But Christie said in an interview that two other charges against Craffey — knowing endangerment and reckless conduct — have never been used in an asbestos case in New Hampshire.

From a prosecutorial standpoint, Ransom said "intent" is the key to determining whether to pursue an asbestos case criminally or through civil enforcement, as OSHA did.

"It really depends," he said, "on whether or not there is a clear enough intent to violate the law."

Craffey has vowed that he will be vindicated when the case is tried sometime next year.

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