

BRUSHWELLMAN
ENGINEERED MATERIALS

Docket H-005C
Ex.2-2

EPILOGUE To
“A CHRONICLE OF
RECKLESS REPORTING,”

March 2000

Epilogue to “A Chronicle of Reckless Reporting”

How A Newspaper Continues to Choose Fiction Over Facts In Its

Search for the Sensational

The (Toledo) Blade's six-part series on Brush Wellman was an extensive and unfair indictment of the beryllium industry, culminating nearly two years of investigation by a Senior Writer of *The Blade*. Brush Wellman has strenuously objected to the falsehoods and numerous misleading statements contained in the series since its publication. Our response was collected in a document known as “The Chronicle of Reckless Reporting,” which was provided to *The Blade* and others as a point-by-point analysis of the series. The entire document is available on the web at www.BeFACTS.com.

The “Reckless Reporting” didn't stop with the end of the series on April 3, 1999. There have been 57 follow-up articles, which concerned beryllium and/or Brush Wellman. Before studying these articles specifically, it is critical that we examine the sheer volume for its own sake. Aside from regular beat reports, to what subject has *The Blade* devoted 57 articles in the same ten-month period? Or, for that matter, for any ten-month period?

Surely, the sheer volume of follow-up articles makes a statement about *The Blade's* commitment to maximizing the payoff from its massive investment in the beryllium story. The volume also provides evidence of the nearly obsessive nature of both the reporter's and the newspaper's hostility toward Brush Wellman, and the biased, unprofessional nature of their reporting.

There are five tactics *The Blade* employs in these slanted articles, which appear on the surface to be straightforward news reports.

They include: unprofessional and exaggerated self-congratulation; repetition of various lies; publication of egregious lies; use of dubious or technically unqualified sources; and omission of stories that do not support *The Blade's* bias. Finally, when Brush attempted to get a fair, unbiased hearing through *The Blade's* own “independent” ombudsman, our request was dismissed as “outside his purview.” Detail on each of these tactics follows.

Taking credit for developments in the beryllium industry

Of the 57 articles published by *The Blade*, only seven managed to run their course without mentioning *The Blade's* own series. Within those mentions are numerous, blatant attempts to take credit for any and every event that occurred after the series ran. Some of the claims are for government investigations, which started months or even years before *The Blade* series ran. Among these are:

- A Department of Energy Worker Compensation plan that was initiated in the autumn of 1998.
- A Department of Energy “action level” which had been the subject of a formal rulemaking process which began in December of 1996. Discussions on the need for a rulemaking have taken place since before 1990.
- An OSHA warning on the permissible exposure level which came from the placement of beryllium on OSHA's regulatory agenda in the fall of 1998.

Repetition of various lies

Throughout the series, *The Blade* mixes blatant pleas for credit with various lies and mischaracterizations, which are repeated time and time again. At least one of them is included in nearly every story. *The Blade* seems to employ the questionable practice of elevating itself to the status of “source.” Once the paper prints an editorial conclusion, that conclusion becomes its own version of the public record, and it is free to cite itself and its own opinions as unimpeachable in the future.

Editorial conclusions reached by *The Blade* include:

- “Brush Wellman put production in front of worker safety” – six times
- “Brush sacrificed workers’ lives for the production of beryllium” – six times

Brush Wellman has done no such thing. In fact, *The Blade* itself acknowledged this in response to a critical letter from the Brush Retirees Association on January 30, 2000 by noting, “the series stated that millions of dollars have been spent on safeguards and quoted a Brush Wellman official as saying that the company takes numerous precautions to protect workers, including quarterly medical exams and thousands of air samples a year, the results of which are posted in the plant.”

How can *The Blade* credibly say both? How can a company, which spends millions of dollars on safeguards, be sacrificing its workers? How can a company, which has the environmental health and safety programs that *The Blade* acknowledges, be placing production in front of safety? How can *The Blade*, in the same story, acknowledge these facts and still print these false statements about production and worker safety, twelve different times?

- “Brush knowingly allowed thousands of workers to be exposed to unsafe levels of toxic dust” – nine times

A substantial response is included in Brush’s *Chronicle of Reckless Reporting* concerning this issue. Despite *The Blade*’s allegations, the debate over what constitutes a safe exposure level for beryllium remains unresolved today – fifty years after the standard was initially established. Indeed, as recently as September, 1999, the American Conference of Governmental Industrial Hygienists (ACGIH), reviewed the current research on beryllium and concluded that there was no scientific basis for changing the standard at this time. Regardless, *The Blade* keeps repeating its allegations as if they were fact.

In addition, as part of its recent rulemaking on beryllium, the Department of Energy has reviewed the scientific evidence on exposure to beryllium and has stated:

“the occupational health community, including OSHA and the American Conference of Governmental Industrial Hygienists (ACGIH), does not at this time have sufficient exposure and health effects data to establish a new 8-hour TWA exposure limit for beryllium exposure.” (Dept. of Energy, 10CFR Part 850, Chronic Beryllium Disease Prevention Program; Proposed Rule, 12/3/98, page 66941.)

- “When manufactured or machined, beryllium produces a toxic dust that often causes an incurable, chronic lung disease” – three times
- “When inhaled, beryllium dust often causes a chronic, incurable lung disease” – three times

- 9 “As a result of exposure, many workers developed beryllium disease, a chronic and often-fatal lung condition” – four times

These are misleading statements which leave hanging in the reader’s mind the interpretation of the word “often.” The fact is that the vast majority of beryllium workers never get CBD. Brush Wellman, however, considers beryllium sensitivity and CBD a very serious matter, and the approximately 1-4% of workers who do contract CBD is unacceptable. Brush Wellman has committed massive amounts of resources to improving the safety of workplaces and to researching CBD.

However *The Blade*, in their series, continuously overstates the frequency of the disease. Despite numerous attempts by Brush Wellman to educate the newspaper, they have continually failed to identify and distinguish the various stages of the disease. In doing so, they overstate the number of people who will develop serious symptoms from CBD. Despite our efforts to help them understand the progression and advanced medical technology, they continually treat all cases the same. And they overlook that the majority of individuals with CBD do not die from that illness. The facts are that no one knows precisely the mortality rate for CBD, but one of *The Blade*’s own experts (Dr. Lee Newman), who has treated many patients with CBD, knows of only one fatality in his experience.

- 9 Brush risked the lives of thousands of workers by **knowingly** allowing them to be exposed to levels of beryllium above the federal safety limit – 12 times

Brush Wellman has never knowingly allowed any employee to be exposed to levels of beryllium that the company thought was capable of causing disease. Brush Wellman has always acted based on the best scientific knowledge available at

the time, has taken innumerable steps to promote worker safety and to maintain safe levels of exposure to beryllium, and will continue to do so in the future.

The Blade is infamous that the industry has a callous, wanton disregard for its workers. *The Blade* contradicts this in its January 30 response to a letter from the Brush Retirees Association, which is mentioned above. Taken to its logical conclusion, *The Blade* is saying that industry was callously, knowingly overexposing workers and spending millions of dollars on safeguards and medical surveillance *simultaneously*.

Publication of egregious lies

Among the 57 follow-up articles, some stand out for being particularly egregious in presenting the most misleading lies and distortions.

These include:

Brush Wellman blames 6 percent drop in stock on ‘98 losses and regulatory fears, April 1, 1999

Brush’s stock price is not a common source of news in *The Blade*. In 1998, Brush Wellman stock had fallen from nearly \$30 per share to below \$15. This 50% drop in share value merited no news coverage from *The Blade*, in either the “news” or business sections.

Yet, a small one-day drop in share value, in the wake of the launch of *The Blade* series makes page three news. This article is an almost embarrassing attempt by *The Blade* to infer that its stories have created business problems at Brush Wellman. In the article, *The Blade* asks an analyst to speculate about whether the series had an effect on the share price. He refuses to do so, and the article lists other potential causes including reduced profits and an expense write down. Yet, the story was still published.

Furthermore, the stock has since fluctuated as much as 20%. Yet, to date, *The Blade* has run no follow-up story.

Beryllium cases may become 'epidemic', April 29, 1999

This is an outrageous and inflammatory article based on an accusation from one physician, with no supporting or corroborating data whatsoever. To the contrary, Brush Wellman provided significant information that disproved the allegation. *The Blade* had each and every one of these facts in its possession months before the series ran. By running wild assertions about "epidemics" without allowing the reader to know about these important facts is irresponsible, and evidence of the newspaper's hostile attitude toward the company.

First, the notion of an epidemic is an outrageous and provocative statement. There is no evidence available – or provided – which supports such a dramatic charge.

Second, the article confuses metallic beryllium and beryllium alloy – two completely different products. The comparison of the risk between pure metallic beryllium and beryllium alloy is misleading. Most consumer products use alloys containing between 0.5% and 2% beryllium, with considerably less risk.

Third, one of the premises of the article is that as beryllium alloy has moved into a broader set of applications with numerous end-users, "difficult to understand" warning labels leave "most of the people working with beryllium" with no idea about the risk of CBD. This is an unsupported editorial conclusion and is irresponsible. *The Blade* did allow a Brush spokesman to "defend" the company's warnings, leaving the reader at an impasse. *The Blade's* reporter was provided with ample examples of the warnings on Brush Wellman products. Had he objectively reviewed these documents, and Brush Wellman's extensive

warnings program, which first began in the 1940s, he would not have reached the editorial conclusion he did.

In fact, Brush Wellman's product stewardship program is exemplary, and represents an effective deterrence against any possibility of an "epidemic." It ensures that customers have the kind of information and resources they need to be as educated as possible on the occupational health issues associated with beryllium. These resources include:

- Shipment of the most current Material Safety Data Sheet (MSDS) with a customer's first order of the year.
- Updated letters on health, safety and medical surveillance sent regularly to customers.
- Access to the Beryllium Consultant Network, a nationwide team of Industrial Hygienists trained in beryllium issues.
- Customer safe handling videos and Safety Facts sheets.
- On-site customer employee hazard communication training.
- Industrial hygiene assessments of customer facility and operations.
- A highly-trained internal sales and marketing force.
- A 24-hour health and safety information service.
- Internet access to the MSDSs.
- Active participation in American Industrial Hygiene Association conferences, at which Brush representatives share new knowledge and data about handling beryllium and about CBD.

Brush fined for unsafe conditions, December 29, 1999

After spending some six months incorrectly calling OSHA's enforcement of Brush "nonexistent," on July 14, 1999, *The Blade* reported on a new full-scale investigation taking place within the Elmore plant.

On December 29, a front-page headline and story appeared in *The Blade*, titled "Brush Fined for Unsafe Conditions," which seriously mischaracterized the results of a six-month OSHA inspection.

First, the article mistakenly indicates that three violations are related to workers being "overexposed" to beryllium. This is incorrect despite the fact that the reporter was repeatedly provided the correct information. Although the air samples recorded airborne beryllium particulate above the OSHA standard, the three instances involved workers who were wearing respirators at the time which provided a thousandfold protection factor against airborne beryllium.

Second, the article incorrectly indicates that there was a violation because "warnings for some beryllium products did not identify the materials as human carcinogens" In fact, the reporter is mistaken and he was provided information to the contrary. There is a carcinogen warning appropriately displayed; these warnings can be read on the various material safety data sheets which are supplied to all customers and posted on the Brush Wellman website. The OSHA citation actually refers to a disagreement over the specific wording of the warning. Brush Wellman warnings meet or exceed all requirements of the OSHA regulations.

Third, this article again makes reference, as did several articles over the previous six months, to the Elmore facility's history of OSHA inspections. *The Blade* has repeatedly stated that OSHA had only conducted one

major inspection of Brush Wellman in twenty years, calling OSHA's enforcement of Brush "nonexistent." The correct record is that OSHA has conducted four comprehensive inspections of the Elmore facility since 1974, including the one referred to in the article. Those inspections took place in 1974, 1978, 1993 and 1999. In addition, during the same time period, there were *at least three other substantial OSHA inspections* plus periodic responses to complaints or inquiries for which there were no citations issued. Lastly, Brush Wellman has worked extensively with the National Institute for Occupational Safety and Health – the statutory scientific arm of OSHA. How can OSHA's enforcement of Brush Wellman be non-existent when its scientists are collaborating with the company on research projects, and working directly inside of the Elmore plant?

The general tone of the reporter's article paints *a picture of the company that is not true*. In fact, the truth is much different, and the 1999 OSHA inspection report presents a much different picture. OSHA representatives told Brush at the closing conference that, overall, the company was doing a good job with its health and safety program, often going beyond the regulatory requirements. The agency complimented Brush both for its professional cooperation during the inspection and on its quick abatement action on issues brought to the company's attention.

There are generally five characterizations that are used to characterize an OSHA citation (ranked from most serious to least serious): egregious, willful, repeat, serious and other. Of the 19 OSHA findings at Brush, 15 were ranked as serious and four were ranked as other. Many of these findings related to situations such as a misplaced ladder or a tripping hazard and were immediately abated.

Although the front-page headline gives the impression of significant findings and fines,

the article belatedly acknowledges that the fine being levied by OSHA does not approach the level of some others recently levied by OSHA against other area companies. From the outset of the inspection, Brush was confident that OSHA would find that it had an excellent beryllium health and safety plan in place for its facility – and the result of the inspection confirmed Brush’s confidence in its program. In fact, the results of the inspection did not even merit issuance of a news release by OSHA. Any reporter who approached this event objectively, and did his homework regarding OSHA’s record and the agency’s thoroughness in conducting facility inspections would have been able to put this OSHA report regarding Brush in the proper perspective.

Tougher beryllium controls approved, December 9, 1999

On December 9, an article appeared in *The Blade* concerning actions by the Department of Energy to create an “action level” of 0.2 micrograms of beryllium per cubic meter of air.

It is important to know what Brush Wellman told *The Blade*, and what it chose not to print. First and foremost, an action level is not an occupational exposure limit. *The Blade*, in its article and resulting editorial, badly confused the two issues. The Department of Energy adopted an action level, which is a point at which protective action is taken. It is not a standard, which is a level of exposure that is not to be exceeded. Brush Wellman has for years used action levels below the permissible standard to prompt use of protective actions.

Despite what *The Blade* would like its readers to believe, the DOE rulemaking did not change the 2 g/m³ standard for beryllium. Under the new rule, DOE expressly requires that no worker covered by the rule be exposed to airborne beryllium that exceeds the OSHA standard, called a Permissible Exposure Limit

(PEL – the 2 g/m³ standard). DOE’s acceptance of the OSHA standard is not surprising. As we have already mentioned, the ACGIH has concluded that there was no scientific basis for changing the standard at this time.

It is true that OSHA is reviewing the PEL for beryllium. However, Brush Wellman operates by a more comprehensive set of guidelines than the PEL, and has for a number of years. Rather than simply aiming to achieve a specific numeric target, Brush Wellman consistently seeks to keep exposure as low as reasonably achievable. In addition, the company employs other best practices such as restricting the number of people exposed to beryllium, reducing overall levels of beryllium, and maintaining extensive medical surveillance of the workforce. These are the same principles the DOE is now adopting. This information was given to the reporter covering the story, who chose not to provide the reader with this context.

Additionally, *The Blade’s* biased reporting could lead the reader to believe that there have been no significant improvements in protecting workers from beryllium in the last **fifty** years. In fact, there have been many advances in the fields of engineering, medical research, epidemiology, personal protection, and industrial hygiene. On a serious subject affecting human life, it is the height of irresponsibility for the newspaper to leave the neighbors, family members and workers believing that no advances had been made in the beryllium field when it knew the exact opposite to be true.

Environmentalists seek new beryllium safeguards, June 16, 1999

On June 16, *The Blade* reported that Ohio Citizen Action had made a series of demands of Brush Wellman. Among these were lower dust counts inside and outside the plant, more air monitoring stations near the plant, and a

warning system for neighbors. While seemingly innocuous, these changes are unnecessary and *The Blade's* unbalanced reporting of these demands was irresponsible. Demands by Ohio Citizen Action serve only to misinform and possibly frighten the public, and their endorsement by *The Blade* only aggravates the situation.

Ohio Citizen Action has been an outspoken critic of Brush Wellman. However, no where has the group demonstrated the expertise in industrial hygiene, air quality, or public safety which is required to make pronouncements on those issues. Nevertheless, *The Blade* treated its suggestions as if it did, despite receiving factual information from Brush Wellman which disputed the basis of their demands.

- 9 In fact, Brush continues to make major efforts to further reduce dust counts within the plant. Brush takes thousands of air samples inside of its plants each year and provides the results of those samples to its workers.
- Air counts outside the plant are already at a historic low, and even *The Blade* has acknowledged that no one is known to have been made sick outside the plant. However, the newspaper failed to mention this in conjunction with Citizen Action's demands.

Even more egregiously, the article mentions examples of people living near beryllium plants in Lorain, Ohio, and Reading, Pennsylvania, contracting CBD, without mentioning that both of these instances occurred more than fifty years ago and prior to the implementation of air quality standards for beryllium.

- As for increasing the number and location of air monitoring stations, Brush placed those stations according to wind pattern studies. The Ohio EPA must approve the number and location of all stations. In

addition, Brush began monitoring the air around the Elmore plant beginning in the 1950's, more than 20 years before it was required by any regulation. The newspaper was in possession of this information, yet allows neighbors to wonder if they are being adequately protected.

- Finally, there is a warning system, which was designed by the Ottawa County Local Emergency Planning Committee, of which Brush is a member. These public officials have determined that the current system is the best approach, and *The Blade* offers nothing beyond simple allegation to suggest that it isn't.

Ex-worker says Brush wanted him silenced, November 14, 1999

In what perhaps is the prime example of *The Blade's* willingness to print without question information critical of Brush Wellman, *The Blade* printed the story of Glenn Petersen on page one of its Sunday Edition. Mr. Petersen had filed a whistleblower complaint with OSHA, against Brush Wellman, following his termination.

Working only through insinuation and accusation, the paper proceeded to list Mr. Petersen's many anti-company statements and activities, leaving the reader to conclude that he had been terminated because of them. In fact, Mr. Petersen's motivations and credibility should have come into question when he said "I thought I had been visible enough that Brush wouldn't be stupid enough to fire me because it is against the law," but *The Blade* proceeded unimpeded.

Furthermore, the great attention paid to Mr. Petersen's case is not consistent with *The Blade's* normal treatment of whistleblower cases. *The Blade* reports that 80 whistleblower complaints are filed in Toledo each year. All of these share in common the fact that they

were not the subjects of a front page story. In fact, none was the subject of any news story on any page of *The Blade*.

It is only after exhaustively detailing Mr. Petersen's anti-company statements and activities that the story gets around to including the facts and the specifics about Mr. Petersen's dismissal. Hugh Hanes, the Brush Wellman spokesman, was quoted as saying Mr. Petersen's dismissal "was a result of his job performance and nothing else. He was given every chance to do better, through a four-tier disciplinary process, which is followed at Brush Wellman, and he simply failed to do so." The specific facts substantiate Brush Wellman's contention that Mr. Petersen was fired for cause. A few weeks later, Mr. Petersen withdrew his complaint, saying, "he figured he was going to lose."

Use of questionable sources

Throughout the ongoing follow-up articles, *The Blade* followed its prior pattern of relying on sources who have demonstrated grudges against Brush Wellman, and those of dubious credibility and knowledge. These include:

- Theresa and David Norgard, a Brush Wellman employee and his wife who have filed four lawsuits against Brush Wellman. Several of those lawsuits have been dismissed by the court adjudicating those claims.
- Lee Newman, M.D., a paid witness for plaintiffs attorneys.
- Sarah Ogdahl, Ohio Citizen Action's spokeswoman who has acknowledged no expertise on these issues.
- Glenn Petersen, who was fired for cause from Brush Wellman, and who withdrew his whistleblower complaint.

However, it isn't the mere inclusion of these sources which is troublesome. Even more troublesome is the credibility with which *The Blade* treats them, especially when contrasted with the hostility and skepticism with which Brush Wellman officials are treated. No accounting is made for ulterior motives or a lack of expertise when quoting these sources. Examples of this range from the story about Mr. Petersen's OSHA complaint, to a number of quotes on health matters from Ms. Ogdahl.

Other sources of information were available. At a minimum, these would have lent balance and fairness to an otherwise unfair journalistic endeavor. *The Blade* ignored many letters to the editor, printing only eight of which were critical of the series. There was no contact with the many people with CBD and blood sensitization who are healthy. Other employees who support the company and its extensive efforts to fight CBD are quoted sparsely, if at all.

Omitting parts of the story

In September, a leading group of the nation's industrial hygienists and scientists met in Washington, DC, in a symposium on beryllium and the permissible exposure limit. The following is excerpted from an article in *The Synergist*, which is a trade publication of the American Industrial Hygiene Association.

"A proposed lower Threshold Limit Value® for beryllium appears to have little to no chance of being adopted in the near future after new information was presented at the Sept. 23 symposium 'Beryllium: Effect on Worker Health' in Crystal City, Va. The one-day symposium, co-sponsored by ACGIH and Brush Wellman, Inc., was marked by several stunning presentations that shed new light on worker exposures to the strong, lightweight metal. As a result, experts are rethinking the appropriateness of current and proposed occupational limits.

“It now appears that a TLV® based on particle size and the chemical form of beryllium is more likely to protect workers from sensitization and chronic beryllium disease (CBD). All of the current occupational exposure limits are based solely on total mass of beryllium.

“An apparent difference in individual susceptibility to disease and lack of a dose-response relationship has confounded researchers for more than 50 years.”

In other words:

Whereas *The Blade* says the company has known for years the standard wasn't safe, a review in a leading scientific publication in contemporary times calls the standard “confounding.”

Whereas *The Blade* states as an obvious conclusion that the current standard is not protective, a leading scientific group in contemporary times says the issue is still unresolved.

A reasonable reader would have to conclude, after 57 articles about beryllium since the beginning of April, that news like this would have made the paper. A reasonable reader would have concluded that this “stunning” symposium would be on the front page of the paper that has spent so much time on beryllium issues. Yet, from *The Blade*, only silence.

An attempt for a fair hearing

After enduring months of biased, unprofessional reporting like this, Brush Wellman finally took the route which *The Blade* advises disgruntled readers to take. An official of the company contacted Jack Lessenberry, *The Blade's* ombudsman in September of 1999. Mr. Lessenberry requested backup information and a formal complaint, promising to get back to the company. After sending the information, Brush Wellman waited for a response. They

waited for three and a half months before getting a response from Mr. Lessenberry, who returned a phone call saying that such an investigation was outside his purview, and that since he was a writing coach to the series author, he had a conflict.

This might well be the most astounding lack of professionalism exhibited by anyone associated with *The Blade*. It is unclear what Mr. Lessenberry meant by outside his purview, but if he meant the length and depth of the series was too much to handle, he must have been forgetting his only published review of *The Blade's* writing, which was a critique of the newspaper's coverage of the Toledo-Lucas County Port Authority. That coverage ran just as long and over just as many column inches as the beryllium series did, if not more.

And you have to wonder how the newspaper can have someone coach writing for its reporters and then present that same person to the public as a disinterested ombudsman.

But the most telling point may be the one that wasn't spoken. Why didn't Mr. Lessenberry simply tell the Brush Wellman representative that the story was outside his purview at the time of the original call? Why did he not disclose his coaching relationship with Sam Roe? Why, instead, did he ask for a complaint and backup information? Why did he promise that he would get back to the company? Didn't he know he was Sam Roe's writing coach? Didn't he know what his “purview” was? And why did it take him three and a half months to communicate these facts to the company?

This outrageous and highly unprofessional display is, at best, unconscionably incompetent. But after the coverage Brush Wellman had received in the previous months, the company could be excused for feeling misled and betrayed by its dealings with the person the newspaper chose as an ombudsman. And the company could be excused if it had trouble

reconciling Mr. Lessenbeny's excuses and the odd length of time it took to make them, and began to wonder a little.

Conclusion

We hope this epilogue **will** allow the reader to view *The Blade's* coverage in a new, and more balanced light. We encourage anyone interested in this topic to continue to monitor www.BeFACTS.com to learn more about this issue and to keep informed of new information as it develops.