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Mr. Lawrence Smith
Director of Technical Application and
Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: Proposed FASB Staff Position, "Applicability of FASB Statement No. 143, Accounting for Asset Retirement Obligations, to Legislative Requirements on Property Owners to Remove and Dispose of Asbestos or Asbestos-Containing Materials"

Dear Mr. Smith.

PricewaterhouseCoopers LLP appreciates the opportunity to respond to the proposed FASB Staff Position (the "Proposed FSP"), "Applicability of FASB Statement No. 143, Accounting for Asset Retirement Obligations ("FAS 143" or "the Standard"), to Legislative Requirements on Property Owners to Remove and Dispose of Asbestos or Asbestos-Containing Materials." We believe the Proposed FSP should not be issued as it is currently written. We do not believe that the obligating event, which creates the liability, has occurred as concluded in the Proposed FSP. Although we are not legal experts, based on our review of the applicable asbestos regulations, in most cases, the legal obligation to remove and dispose of asbestos or asbestos containing material (ACM) does not occur until the asbestos is disturbed or as a result of some future event disturbing the asbestos. We further elaborate on our view below.

Determining the Obligating Event

The Proposed FSP cites paragraphs 35 and 36 of FASB Concepts Statement No. 6, *Elements of Financial Statements* (CON 6), for the three essential characteristics of a liability. Those characteristics are: "(a) it embodies a present duty or responsibility to one or more other entities that entails settlement by probable future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, (b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened."

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The first paragraph of the Proposed FSP Answer states, "The FASB staff believes that the legal obligation to remove and dispose of Regulated Asbestos Containing Material (RACM) in a certain manner when a building or a component of a building is either demolished or renovated satisfies all three of the characteristics stated in FASB Concepts Statement No. 6." We agree with that interpretation. However, we disagree with the staff's interpretation on the timing of that obligating event. The legal obligation does not occur until demolition or renovation is initiated. In other words, we believe a liability should not be recorded until the asbestos or ACM is disturbed by the demolition or renovation.

PwC believes that an asset retirement obligation (ARO) is recorded upon the occurrence of the obligating event, or in this case, upon the triggering of a legal obligation to dispose of or remove asbestos from a building. It is our understanding, based upon our reading of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and certain related O&A documents published on the website of the United States Environmental Protection Agency (EPA), that the legal obligation arises upon the disturbance of the asbestos, not the existence of the asbestos. Up until that point we do not believe that the definition of a liability in CON 6 is met. As a result, a company should not record an ARO until they renovate or demolish a building, or an action outside of the Company's control (for example, fires, boiler explosions, water damage, or natural disasters) disturbs the asbestos. We refer the FASB staff to the following question and answer obtained from Common Questions on the Asbestos NESHAP included on the website of the EPA, "Q: Does the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP) require a building owner or operator to remove damaged or deteriorating ACM? A: No. Not unless a renovation of the facility is planned which would disturb the ACM and it exceeds the threshold amount." Based on the above, in the absence of an existing legal obligation to retire the building (or perform some other activity that would result in the disturbance of the asbestos), we believe that a company ordinarily would not have a legal obligation to remove the asbestos until it is disturbed. Therefore, a liability should not be recorded until the asbestos is disturbed by demolition or renovation. This is consistent with the current accounting treatment for telephone poles and railroad tracks containing creosote.

Unless legally required by contract or "promissory estoppel" a company is not legally obligated to hold a building for any period of time, just as it is not obligated to demolish a building, renovate it, or sell it. The form and timing of the disposal is completely at the discretion of management. Each form of disposal will result in certain costs, the amount of which will vary by type, but incurrence of those costs (potentially including the costs of asbestos handling and disposal) will be the result of a discrete decision to dispose of the building in a particular manner.

During the AICPA National Conference on Current SEC Developments held in December of 2002, a member of the FASB staff indicated that an ARO could arise from a legal obligation as a result of a future event. In such a situation, it was our understanding that the staff concluded that a company should not record an ARO, even if they deem it probable that the event will indeed occur. The staff went on to cite an example regarding asbestos, and indicated that, if there is no existing legal obligation that forces the owner of the building to remove the asbestos unless it is disturbed, the owner might decide to leave the asbestos as is. Until the removal of the asbestos becomes a legal obligation (resulting, for example, from the renovation or demolition of the

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building), the building's owner should not record an ARO related to the asbestos. In a related matter, we believe that the event of a natural disaster or fire, which disturbs previously undisturbed asbestos, would qualify as the obligating event and an ARO should only be recorded upon the occurrence of the event, not the possibility that the event might occur.

Transition Guidance

We noted the following transition/implementation guidance posted on the FASB's website regarding FSPs:

"The guidance contained in an FSP will be effective for new transactions or arrangements entered into after the beginning of the first fiscal quarter following the date that the final, Board-cleared FSP is posted to the FASB website. If the effective date of a recently issued pronouncement that is the subject of an FSP has not yet passed, the guidance in the FSP should be incorporated into the adoption of the new pronouncement."

"Absent specific transition guidance in a particular FSP, an enterprise may apply the guidance in an FSP prospectively to future transactions or may apply the provisions of APB Opinion No. 20, Accounting Changes, to prior transactions (that is, by reporting the cumulative effect of a change in accounting principle). This transition approach is similar to the transition provisions for EITF consensuses under EITF Topic D-1, 'Implications and Implementation of an EITF Consensus.'"

The issue of asbestos and the determination of whether the obligating event has occurred is clearly a difficult judgemental issue. If the FASB staff decides to retain its current position as stated in the FSP and require the recording of an ARO based upon the existence of asbestos, we believe the FASB staff should provide clear transition guidance that would require this interpretation be recorded as a change in accounting principle in accordance with APB 20, Accounting Changes. We believe that the FASB staff should make clear that for entities that have adopted FAS 143, and did not initially include asbestos in their recorded ARO, that this was not an error in their initial adoption and would not result in a restatement of previously issued financial statements.

If you should have any questions regarding our comments, please feel free to contact Randy Vitray at (973) 236-7223 or Bud Thomas at (973) 236-4989.

Sincerely,

PricewaterhouseCoopers LLP