



## **Kgalagadi Relief Trust Chairman's Report Financial Year Ending 2007**

### **Introduction**

I have great pleasure in submitting the first annual report of the Kgalagadi Relief Trust (KRT) which was registered with the Master of the High Court in South Africa in February 2006. The Board of Trustees held its first meeting on 13 March 2006. During March 2006, the trustees introduced the KRT to stakeholders and the trust became fully operational from 1 June 2006.

### **Background**

The KRT was formed when Becon, the company dealing with asbestos related issues on behalf of the former Swiss Eternit Group, agreed to establish a fund to provide financial relief to individuals who contracted an asbestos-related disease while employed between 1952 and 1981 at the Kuruman Cape Blue (KCBA) and Danielskuil Cape Blue (DCBA) asbestos mines. These mines were operated by Eternit and Becon was persuaded to enter into a voluntary agreement by Mr. Richard Spoor, a well-known lawyer who has acted on many occasions for victims of exposure to hazardous materials.

The KRT will provide financial relief over the next 20 years in strict accordance with the court-approved Deed of Trust which regulates the claiming procedure and formula for working out the payments. The amount of money that will be paid to the KRT by Becon is confidential. The trustees have been assured by the founders that the KRT will be able to meet its obligations.

The KRT is administered by the Asbestos Relief Trust (ART) in terms of a Service Level Agreement. The ART was established in 2003 to provide financial relief to the former employees of asbestos mines operated by Gencor Limited and Gefco. This avoids unnecessary duplication of costs and improves operational efficiency as some people claim against both trusts. The procedures and benefits of the KRT closely resemble that of the ART. All ART offices process claims on behalf of the KRT.

Qualifying claimants are:

- Those employed at the mines operated by KCBA and/or DCBA between 1 January 1952 and 30 September 1981 that have been diagnosed with an asbestos-related disease with lung function impairment of more than 10%.
- Dependants and children of any former employee who died from mesothelioma or asbestos-related lung cancer, less than three years before the claim is lodged.
- People who have contracted an asbestos-related disease from having lived in the immediate vicinity of the above-mentioned mines.

Qualifying claimants undergo a free medical examination. The results are reviewed by an independent specialist occupational medical panel that determines the degree of disability. Should the claimant have an asbestos-related disease (ARD), the administrators determine the benefit based on age and work history of the claimant, the nature and severity of the disease and the treatment needed. Compensation already paid from other sources such as the Medical Bureau for Occupational Disease (MBOD) or the ART, is deducted from the benefit paid by the KRT. This is to prevent "double compensation".

The KRT makes every effort to settle claims within six months of the claim being lodged. Environmental claims take longer as extra information is required.

The trustees are collaborating with their colleagues on the ART to establish guidelines for the payment of environment claims. Expert opinion has been sought on the meaning of phrases such as “Significant Exposure at or near a Qualifying Operation” and “proof of residence at or near a Qualifying Operation”.

### **Payment of Grants**

In the first 8 months of claims processing (July to end February 2007) the KRT paid or approved payments to a total of R9,2million with further R2,2 million in potential claims likely to be approved.

Occupational claims in the administration pipeline were likely to require payment of a further R2,5 million in benefits and environmental claims awaiting diagnosis and administration were estimated to carry benefits of approximately R5,2 million. . The total payable for claims made in 2007 would thus R18,9 million.

### **Community Liaison**

Two trips were made by the Trustees to the Northern Cape where several meetings were held with the community, community representatives and stakeholders to introduce the work of the KRT. It must be said that effective communication has proven to be one of the biggest challenges for the trustees. Given the extraordinary poverty in the communities where most of the former KCBA/DCBA mines operated, some stakeholders see the trust as the proxy representatives for the former mine owners. The trustees have to work hard to establish trust and confidence. Our work has been disrupted at times by certain interest groups who have tabled demands that fall beyond the remit of the trustees and simply cannot be met.

Third party agents of the ART and KRT are the “public face” of the two organisations and this sometimes causes further challenges in terms of communication and effectiveness.

We are exploring ways in which to improve communication with the key constituencies in the receiving environment and to facilitate direct access by potential claimants to the trust.

A positive working relationship has been established with regional and local government representatives. The Trustees have agreed that in the light of the obvious need for socio-economic development in the North West and Northern Cape, the KRT will seek to strengthen partnerships with public and private service delivery networks.

### **Promoting the work of the KRT**

During the course of 2006 the Trustees developed various strategies to attract potential KRT claimants who live in the main mining areas of the Northern Cape and elsewhere:

1. Information leaflets to inform potential claimants and interested parties about the creation of the KRT. This leaflet provides detailed information on the background to the creation of the Trust, the Trustees, the relationship with the ART, the criteria that need to be met in order to lodge a successful claim and, the claims process.
2. A pamphlet titled “How to Claim” which describes the claims process and the steps that each potential claimant should take when lodging a claim.
3. A website with the aim of informing and educating potential claimants, stakeholders and interested parties about the KRT, its activities and more generally about the dangers of asbestos. The website can be accessed at the following address: [www.asbestostrust.co.za](http://www.asbestostrust.co.za).
4. A document titled “Frequently Asked Questions” (FAQ) which highlights the main points/information that any potential claimant needs in order to successfully lodge a claim with the KRT. The KRT is currently working closely with a local radio training and production house to turn the FAQ into a series of Public Service Announcements and Mini Dramas. These will be translated into the predominant local languages and broadcast in the Northern Cape, North West and Free State provinces, where and near where we believe the majority of potential claimants reside.

**The Awards Schedule**

In terms of the trust deed, the KRT will use the ART Awards Schedule as the basis for calculating benefits paid. During the year, the KRT Trustees obtained permission from the founder’s representative to increase the amount payable in line with the inflation increase awarded by the ART.

It was anticipated that early in the current financial year, the KRT award schedule would increase by 5% to account for inflation. This figure is based on the CPIX index for 12 months to 31 December 2006 and applicable from 1 April 2007.

In addition to the inflationary increase the trustees were awaiting approval to align the skills category underground and above ground in the KRT award schedule in line with an earlier ART decision.

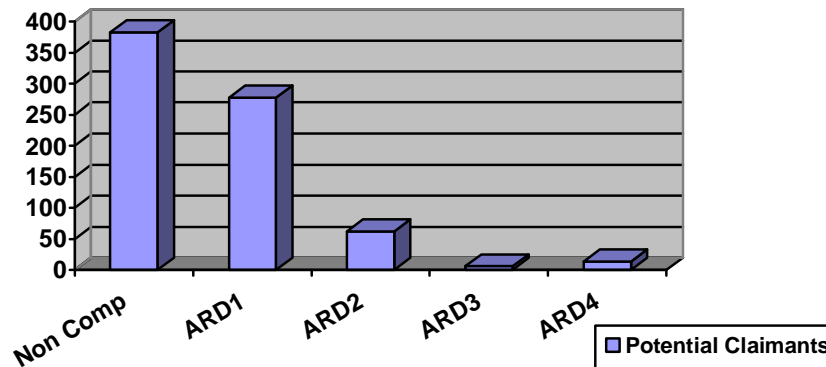
**Occupational Claims Received**

As of end February 2007 a total of 970 individuals had lodged claims against the KRT by virtue of their exposure to asbestos dust at or from Kuruman Cape Blue Asbestos or Danielskuil Cape Blue Asbestos.

Of these 743 were diagnosed by the independent Specialist Occupational Medical Panel (“SOMP”) appointed by the KRT.

Number Diagnosed	Disease
383	Non Compensable
278	ARD1 (asbestosis and pleural plaques with lung function impairment of between 10% and 39%)
62	ARD2 (asbestosis and pleural plaques with lung function impairment of 40% or greater)
6	ARD3 (lung cancer with a lung function impairment deemed to be 100%)
14	ARD4 (mesothelioma with a lung function impairment deemed to be 100%)
<b>743</b>	<b>Total Certifications</b>

**Graph 1: Total Potential Claims received to date - diagnosis**



Of these potential claimants, nine also had qualifying exposure with the ART. Having been diagnosed with an asbestos related cancer (two ARD3 and seven ARD4), already had their claims settled in full by the ART. Therefore they did not qualify to receive additional compensation from the KRT in terms of the Trust Deed and SLA with the ART.

**Environmental Claims Received**

Thirty one environmental claims were received and 29 (9 “KRT only” exposure and 20 “KRT and ART exposure”) remain outstanding pending the finalisation of the guidelines for the assessment and processing of these claims.

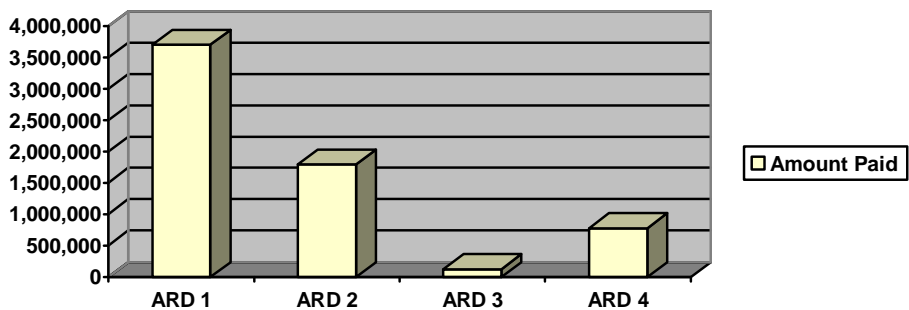
**Analysis of Payments Made**

The first payment made by the KRT (on 20 July 2007) was to an environmental claimant who was diagnosed with mesothelioma having been exposed to asbestos fibre whilst a child living with her parents on a qualifying mine.

As of 28 February 2007 a total of R6,401,474.50 had been paid. This included R835,800 paid to environmental claimants.

<b>Asbestos Related Disease</b>	<b>Number Paid</b>	<b>Total Amount Paid</b>
ARD1	140	R3,704,889.50
ARD2	29	R1,796,152.00
ARD3	1	R 122,490.00
ARD4	3	R 777,943.50
<b>Total</b>	<b>173</b>	<b>R6,401,474.50</b>

**Graph 2: Total Claims Paid as of end February 2007**

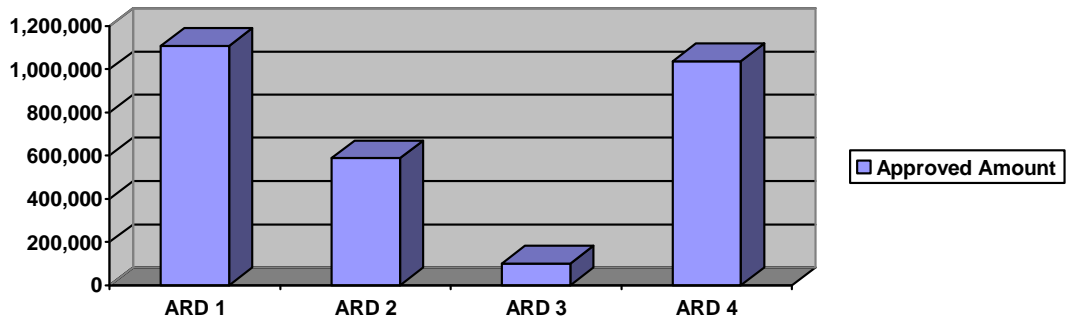


**Analysis of Payments Approved But Not Yet Paid**

Forty six claims had been approved but not been paid out to the claimant due to lack of banking details, and/or the Release and Discharge form. Once these documents have been received the claims will be paid out.

Asbestos Related Disease	Number Approved	Total Amount Paid
ARD1	34	R1,854,268.00
ARD2	8	R588,143.00
ARD3	1	R 100,150.00
ARD4	3	R1,057,938.00
<b>Total</b>	<b>46</b>	<b>R 2,854,268.00</b>

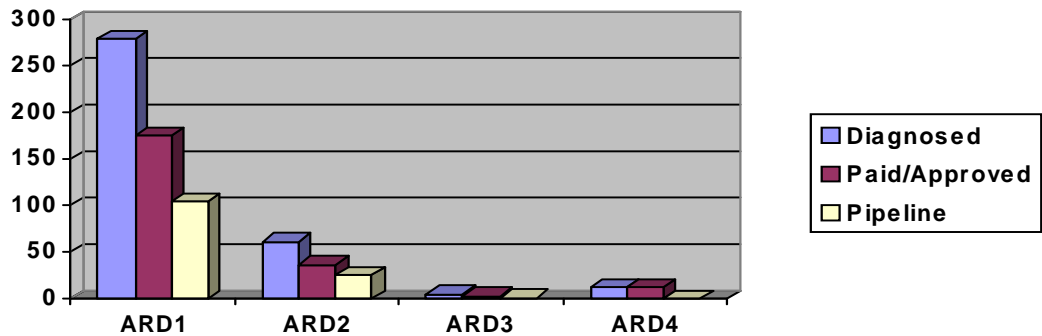
**Graph 3: Claims approved but pending payment**



**Claims not yet processed**

As at end February 2007 there were 227 occupational claims awaiting diagnosis while 141 files were being processed administratively. Of these 141 files, 87 claims, quantified at approximately R2,2 million, were likely to be approved.

**Graph 4: Comparison of Diagnosed, Paid/Pending & Pipeline - Diagnosed**



It was estimated that a further amount of approximately R5 million would be required to cover the outstanding 29 environmental claims which will be resolved as soon as the guidelines have been finalised.

### **Future Claims**

The next step for the KRT will be to investigate potential claims originating from Lesotho which was a "labour sending centre" for the asbestos mines of the Northern Cape.

Discussions with the Lesotho government and preliminary investigations have already led to the identification of approximately 160 potential KRT claimants residing within Lesotho. This number will likely increase once definitive steps are taken to find claimants within this area.

### **Operational Expenses**

As reflected in the financial statements, administration costs amounted to some R1,9 million, with a further R500,000 to be paid in terms of administration/claims related expenses that were not included in the attached financials due to the invoice/s being raised in the new financial year.

### **Social Responsibility Projects**

In terms of the trust deed, the KRT may use interest earned on funds provided by the founder for social responsibility projects. As of 28 February 2007 the interest earned from these investments totaled R1,0129,630.

The KRT Trustees committed to the following projects:

#### **1. The Neil White Bursary**

Professor Neil White was a well known occupational health specialist and academic based at the University of Cape Town and was very active in championing the cause of workers affected by occupational health diseases. Professor White tragically passed away in late 2004 and the decision was taken to start a bursary in his honor to ensure the continuation of his work.

The purpose of this bursary is to fund doctors/nurses from the area covered by the KRT to complete the Diploma in Occupational Health. This two year part-time diploma is offered by both the University of Cape Town and the University of the Witwatersrand.

The successful candidate will receive sufficient funds to finance tuition, travel, accommodation, books and other course related expenses to the current total value of some R70 000 over the two year period.

The first bursary was awarded to Dr Justinus Sekwayo, one of the KRT's accredited doctors who carries out evaluations on potential claimants of the KRT. Dr Sekwayo is based in the Northern Cape town of Kuruman.

#### **2. Provision of Palliative Care to Sufferers of Asbestos Cancers**

The Trustees have agreed to participate in a joint project with the ART to employ a nurse in the Kuruman region who will mainly provide palliative care to individuals who have been diagnosed with asbestos related cancer as well as establish home based care for them.

The project's first year budget for operational expenses has been set at R292,000 with the KRT undertaking to pay half of these costs, some R146,000.

### 3. A new method of diagnosing mesothelioma

In addition to the above mentioned projects at the request of the Trustees, our Medical Office is currently exploring a new approach to diagnosing mesothelioma in claimants. This is because previous methods were invasive, only available in cities and were often non-diagnostic.

The new process involves tapping a small amount of pleural fluid which would be sent to the University of Cape Town for cytology and immunohistochemistry, where the cells inside the fluid are tested for markers of mesothelioma. In experienced hands, up to 80% of patients can be diagnosed by this process, which is the new international norm.

If this procedure is successful the stress, problems and costs associated with the current diagnostic procedure will be minimized.

A joint KRT & ART Social Responsibility Subcommittee was recently formed to assess requests for funding and explore ways in which the KRT & ART can jointly discharge responsibility towards communities that have been affected by asbestos. We therefore envisage both participating in and initiating several such projects.

#### **Recognition**

Special thanks are due to my fellow trustees, Phiroshaw Camay and Dr Markus Heitz, who have demonstrated extraordinary wisdom and caring in meeting the challenges associated with setting up a Trust in an environment fraught with legacy issues and complex community dynamics.

The medical and administrative staffs at the ART/KRT offices have been ably led by Dr Jim Te Water Naude and Tina da Cruz respectively. They have worked hard under difficult circumstances to bring succor and relief to many sufferers.

Thanks are also due to the ART Trustees who have been pathfinders in establishing the systems, policies and procedures that allowed the KRT to make a significant impact within eight months of being established.

I would also like to recognize the role played by Richard Spoor in facilitating the creation of the Trust by the founders. He continues to provide valuable advice and guidance.

The support and encouragement of elected and appointment offices in both the provincial and local government structures in the Northern Cape and North West provinces is greatly appreciated and the Trustees look forward to strengthening these relationships in the future.

**Brian Gibson**  
**Chairman**  
**Kgalagadi Relief Trust**

**30 July 2007**

