



THE DOW CHEMICAL COMPANY

1803 BUILDING
April 11, 1990

MIDLAND, MICHIGAN 48674

T. E. Burtch, 2020 WHDC
C. E. Golden, A-1230, Freeport

cc J. A. Gray, Eastern
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*Office (action)
File*

PLAINTIFF'S EXHIBIT

DOW-854

ST0073905

ASBESTOS - THE LONG (LEGAL) FIBERS

While in Washington, I picked up a copy of the asbestos industry brief for appealing the EPA asbestos ban. I am sending Paul Wright the brief so that he can evaluate it.

Tim Hardy, a coauthor on this brief and a good friend of Dow on PCB, Dioxins, etc. was very pleased with this brief and thinks they have a fair chance of winning a remand back to EPA. The main argument is procedured, especially the lack of "substantial evidence," but they have covered most of the other points that one would expect.

The Dow reason for this note is two-fold:

- Gaskets may not be banned. We had no basis to fight this in the stuff that we put in the record, but AIA is going after everything.
- A remand could put the diaphragm back in the picture. This is doubtful, and Tim said that there was nothing in this 100-page document that would do it but it is important enough to have an infrequent check with Tim Hardy or Ed Warren. Our legal group has good relations with these people and should be able to drop a question now and then.

K.L. Burgess

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Regulatory Compliance
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P.S. I only scanned the brief, but they sure convinced me that EPA. has made some errors in procedure.