

### US STEEL NEVILLE ISLAND PLANT

In the 1950s there was a company known as Pittsburgh Coke & Chemical. What exactly happened to the corporate structure known as Pittsburgh Coke & Chemical, I am not sure, but eventually it became two separate entities, Shenango and Pittsburgh Chemical Company. Pittsburgh Chemical Company had three separate divisions:

1. Industrial Chemicals
2. Protective Coating
3. Activated Carbon

In 1964, US Steel purchased the assets of the Industrial Chemicals and Protective Coating Divisions including the Neville Island facility from Pittsburgh Chemical Company. US Steel did not purchase the Activated Carbon Division, rather, that was purchased by an entity known as Murk. What US Steel purchased became known as Pittsburgh Chemical Company, a division of United States Steel Corporation. In 1966, Pittsburgh Chemical Company and two other entities(? unknown at this time) formed the United States Steel Chemical Division of United States Steel Corporation.

When Dennis Eisenreich was at Neville Island, it was known as the United States Steel Chemical Division of United States Steel Corporation. The Neville Island Plant was operated by US Steel Chemicals until 1986 when USX sold the chemical division, including Neville Island facility, to Aristech Chemical Corporation.

On August 21, 1998, I conducted the deposition of Peter Serokis; Mr. Serokis was the top dog or plant manager of the Neville Island when Dennis was present. Mr. Serokis was kind enough to draw a map (see attached) of the Neville Island facility and on that he noted Shenango as being something separate and apart from US Steel.

If you are going to do any depositions of co-workers in this case, you have to get familiar with the lay out of the Neville Island Plant. Please be advised of the relevant areas of the plant:

1. Phatalic Anhydrid Plant or better known as the PA plant. According to Mr. Serokis, once United States Steel purchased Neville Island, they began to put some money in it to expand the existing units. In approximately 1967 or 1968, the old PA plant was going to be shut down and a new PA plant was going to be built. The old PA plant was not shut down until the new PA plant was built. Eventually, the old PA plant space was used for auxiliary units, incinerators and other equipment. On the map that Mr. Serokis drew, the new PA plant is in a



separate area from the old PA plant. Badger constructed in its entirety the new PA plant. Badger was completely responsible for getting the plant up and operating. According to Mr. Serokis, Badger was an engineering construction firm that would hire union workers. According to Mr. Serokis, the construction of the new PA plant took approximately a year and a half to two years. The name that Mr. Serokis associated with Badger was Peter Bishop. United States Steel project manager/engineer on the Badger job was James Degnan. Mr. Serokis thought the new PA plant started up in approximately Christmas of 1969. Since we are dealing with a chemical plant, most of the PA plant was outdoors except for a small enclosed area which was known as the control room. Mr. Serokis indicated that after Badger constructed the new PA plant, they would periodically come in since the start up of the plant by US Steel was very difficult. Mr. Serokis thought the last time he recalled Badger at the plant was in the late 1970s, early 1980s. According to Mr. Serokis, the PA plant shut down in the early 1980s.

Jimmie Harmon, our steamfitter client, ran the job for Badger as far as piping work. Jimmie told me there were hundreds of steamfitters from Local 449 working on this job. Jimmie recalled American Industrial Contracting (AIC) as the insulating contractor present on this job. When Dennis Eisenreich's cousin, Edwin Kline first met with me, he told me that when Dennis worked at Neville Island, he was employed by Red Smith/AIC, however, that was inaccurate. We later determined that Dennis was employed by AC&S. I can understand why Mr. Kline was confused because apparently AIC was the big insulation contractor at Neville Island in the late 1960s. AC&S just had very small job in comparison to AIC.

2. Maleic Anhydride Plant better known as the MA plant - in the late 1960s, a new MA plant was built but the old plant was not abandoned. Altogether, there were three MA reactors or units. Sometimes the MA units are referred to as trains. You will see on Mr. Serokis' map the MA plant. Within the MA plant he marked FA which stands for Fumaric Acid. When I asked Mr. Serokis about the fumaric acid he said "it is an adjunct to maleic, that's why I missed it. It's like you make it out of maleic, right next to maleic". In the late 1960s, early 1970s, a new product line evolved known as polyester resins. At this point in time the fumaric acid area developed.

3. There was another area of the plant known as the Plasticizers better known as PX. Once again, Mr. Serokis notes this on the map. In the latter part of the 1960s, the plasticizer area was expanded from one train or unit to three trains or units.

4. Sulfuric Acid Department - in the late 1960s the Sulfuric Acid area shut down.

I stated that United States Steel purchased the Protective Coating and Industrial Chemicals divisions of Pittsburgh Chemical Company. On Neville Island the Protective Coatings Division was separate and apart from the rest of the plant.

Mr. Serokis, as the Neville Island plant manager, was not responsible for Protective Coating, rather, the man in charge was Joseph Sholl (production superintendent). In the early 1970s, the Protective Coating Division went out of business, more specifically, it was sold to some other entity. According to Mr. Serokis, all around the PA, PX and MA plant, were tank farms which would hold raw material. In addition, on the map, Mr. Serokis drew the gate house which is the entrance of the plant. Not far from the gate house was the dispensary. If you travelled along from the dispensary, there was a maintenance shop and locker room area. When I spoke to Mr. Serokis about asbestos insulation, he noted that the insulation materials that were utilized by the Neville Island employees were stored in this maintenance shop area. If you look on the map he drew, by the maintenance shop and locker room area, he noted "storeroom". In addition, where the old PA plant was, he drew a small box and noted "insulation shanty". He told me to avoid having the insulation workers travel back and forth to the maintenance shop, often times they would store insulation materials in the insulation shanty. On Mr. Serokis' map is an area marked "packaging". He advised me that the products produced in the MA and PA plants were often times in liquid form and/or packaged in bags. This process occurred in the packaging department. On the map is an area marked "lab". The purpose of the lab was to test incoming raw materials to assure quality. Later the lab performed air and water sampling. The chief chemist in the lab was Robert Buckingham. Eventually, an industrial hygienist was present at Neville Island by the name of Steve Stockton.

Mr. Serokis told me Neville Island received various raw materials from US Steel Clairton including: (1) naphthalene (2) benzene (3) xylene (4) coal tar pitch which was used in the protective coatings division (5) sulfur acid.

I am sure I asked some stupid questions at this deposition because I am really not sure how or what these chemicals are used for. I do know this much that at the MA plant, benzene was converted to maleic anhydride. According to the witness, MA was used to make polyester resins which are used to make reinforced plastics, including car bodies. When I looked up maleic hydrazide in an industrial hygiene book, it was noted that it was made by treating maleic anhydride with hydrazine hydrate and alcohol. The author of the book went on to say that maleic hydride is probably the first plant growth regulator to be used in large quantities -- when I talked with Jimmie Harmon about what was being made at this plant, he thought it was fertilizer which would be consistent with what the authors of the textbook were saying. There are many chemicals added to plastics during processing to provide stability and durability -- including plasticizers which are plastic additives. Fumaric acid, as noted above, is used in the manufacturing of synthetic resins. The witness told me that PA was used to make polyester resins and paints. When I was looking it up in the Industrial Hygiene textbook, it was very confusing. I will try to consult someone who has a chemistry background to shed some light on this matter. For now, I can only imagine that whatever they were producing was not good to breathe and probably carcinogenic.

Mr. Serokis indicated that from 1965, when US Steel took over, until the early 1970s, he thought asbestos-containing materials were used by USS employees and outside contractors, including pipecovering, block, gaskets, cement and blankets. He recalls fireproofing being used by outside contractors but he was not sure if it contained asbestos. US Steel Neville Island workers did wear gloves, primarily rubber, but they may have also worn asbestos gloves. He discussed some potential exposure to asbestos blankets that were silver and white.

Mr. Serokis was familiar with Garlock gaskets and Kaylo insulation. He knew the following entities performed work at Neville Island: GV Hamilton, Power Piping, Sauer, Badger. He associated the name Carborundum with vacuum jets but thought it was certainly possible that they manufactured grinding wheels. According to Mr. Serokis, he recalled Industrial Rubber as the supplier of maintenance materials, possibly rubber hoses and other materials. He later told Tony Skees he was not sure if he was familiar with Industrial Rubber or US Rubber. Mr. Serokis knew Minotte as "a construction outfit primarily fabrication". He testified that Minotte Contracting was in and out of Neville Island. He had a specific recollection of Minotte coming in to replace a heat exchanger that had failed and the heat exchanger was either in the PA or MA plant. He also recalled Minotte coming in to replace tubes on heat exchangers or incinerators. The heat exchangers were insulated and he believed the work on the tubes would involve asbestos. Mr. Serokis knew that Westinghouse supplied a large motor within the PA or MA plant areas. He recalled Westinghouse coming in to service the motor. He also recalled a Westinghouse transformer. He did not know if asbestos was in any way involved with the transformer or motor. Mr. Serokis denied having any familiarity with the following names: Argo, Anchor, Durabla, Klinger, Carey, AC&S, A-Best, Peterson Canvas, MS Jacobs, Cafco, Harbison Walker, General Refractories/Grefco, North American Refractories/Narco, Rutland C-10, C-18, AIC, US Minerals and Hunter Sales. He was familiar with Stone and Webster but he did not think they ever performed work at Neville Island.

As far as who would oversee outside contractors work, it appeared to be the chief engineer, maintenance superintendent or the chief engineer would assign an engineer to a specific project (ie, project manager). He talked about the safety department having meetings with the outside contractors, but he never attended any of these safety meetings. He testified that prior to December of 1971, US Steel Neville Island workers were utilizing power tools and saws to cut pipecovering but wasn't sure what contractors were using. In 1971 he received a memo from Kenneth Morse, director of Environmental Health, at that point in time he was on notice that asbestos could cause lung cancer. He couldn't pinpoint a time period when he became aware of the disease asbestosis (see attached deposition summary for further details).

In answering Interrogatories, USS stated the following regarding the corporate history of Neville Island:

In 1964, the assets of the Industrial Chemicals and Protective Coatings Division of Pittsburgh Chemical Company, including its Neville Island facility, were purchased by United States Steel Corporation (now USX Corporation) and became the Pittsburgh Chemical Company, a division of United States Steel Corporation. In 1966, the Pittsburgh Chemical Company division, combined with two other entities to form the USS Chemicals Division of United States Steel Corporation. From that point, the Neville Island plant was operated by USS Chemicals until 1986 when USX Corporation sold its USS Chemicals Division, including the Neville Island facility, to Aristech Chemical Corporation.

When asked about additions or modifications at the plant, USS stated the following in Interrogatories:

USX states that currently it has been unable to locate information related to any "additions and/or modifications" that may have been constructed during the time period relevant to this matter. USX will supplement this answer if and when any such information becomes available. Nevertheless, USX believes that construction of the Phthalic Anhydride Plant and/or the Maleic Anhydride Plant were ongoing at Neville Island during the time period relevant to this litigation.

## DENNIS EISENREICH/CLAIM AGAINST US STEEL

We have a memo (West Virginia litigation) from John F. McMahon, executive assistant of the Mellon Institute of Industrial Research dated March 11, 1939. In the second sentence of the memo, Mr. McMahon noted that United States Steel Corporation renewed its membership to the IHF. He goes on to state "through the assistance of Dr. Weidlein, Dr. Zimmerman of the United States Steel Corporation has agreed to serve on the foundation's board. Dr. Meller and Dr. Hamor have been advocating his selection". US Steel conceded in Interrogatory #26 in the Eisenreich case, that US Steel has been a member of the IHF from 1935 to 1986. They further note in responding to the Interrogatory, that they did in fact receive the Industrial Health Foundation Digest "although it is unclear during what time period; USX can verify receipt of only a few issues". The IHF which was comprised of various industrial concerns banded together in the 1930s to pull resources and study common health and hygiene concerns. The IHF had engineers and industrial hygienist on staff to conduct testing or air monitoring at plant sites.

The IHF produced a digest known as the Industrial Hygiene Digest; in the digests are summaries of medical articles. I secured those digests from West Virginia. In 1944, there is an article that states the following: "among the chemical and physical agents causing occupational cancer is asbestos. Technical improvement in production methods are required to eliminate hazards and the use of substitutes for substances known to be carcinogenic". In the 1940s and 1950s, there are numerous digest articles linking asbestos exposure with lung cancer, especially in asbestos workers. We have the bulletin from the 20th Annual Meeting of the IHF from 1955. At that meeting, A.R. Fisher, the president of the Johns-Manville Corporation spoke and prepared an article entitled the Economics of Industrial Health. Present at the meeting was Harvey B. Jordan, executive vice president of United States Steel Corporation, Pittsburgh Pa. The President of Johns-Manville was talking about the need to label products that may harm workers. At the 21st Annual Meeting of the IHF in November of 1956, it certainly appears that once again, Harvey Jordan from US Steel was present, as an IHF trustee. The following other representatives were present: H.K. Clark, director of the Carborundum Company, A.D. Frasier, president of Rome Cable, chairman of the air pollution control committee Mr. Bishop from United States Steel Corporation. The legal committee in 1956 of the IHF included Mr. Weiss from Rome Cable. At the 21st annual meeting in 1956, the document we have in our possession is actually a transcript of what occurred at the meeting. There are various physicians discussing whether or not information on the presence of toxic or carcinogenic substances in industries should be given to labor unions and employees or only to management. The physicians present concluded that it was imperative for workers to be put on notice if they were working with a toxic or carcinogenic substance. Ironically, when I showed this document to Dr. Weddel, the plant physician from Clairton, he certainly questioned whether or not he would

tell employees of the dangers of a toxic substance.

In Eisenreich, US Steel is going to try to establish through the Asbestos Worker Magazine, that in the early 1960s asbestos workers knew that asbestos exposure could cause cancer and they began to x-ray members. What Local 2 knew about asbestos in the 1960s can't compare to what US Steel knew about asbestos since the 1940s. Counsel for US Steel, in cross-examining Dennis' cousin, Edwin Kline, utilized various documents that Regis Cole, former secretary of Local 2 produced many years ago (ie, old Asbestos Workers magazines and various sign in sheets from Local 2 meetings). We did not have in our possession the Regis Cole transcript and all of the documents. I secured from counsel for US Steel this material. US Steel advised me that they received Regis Cole's transcript and some of the exhibits from counsel for Duquesne Light.

As far as background information, before OSHA came into existence and published a regulation and/or TLV on asbestos exposure there was a published TLV on asbestos. Since the 1940s an entity known as the American Conference of Governmental Industrial Hygienist, (ie, ACGIH) published TLVs on various substances, including asbestos. I have attached for your review, the TLV for 1958; in 1958, the accepted TLV for asbestos was 5 million particles per cubic feet of air. It is interesting that in the 1958 guidelines it is noted on the first page, "threshold limits should be used as guides in the control of health hazards and should not be regarded as fine lines between safe and dangerous concentrations. They represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effects". In order to be a member of ACGIH, you had to be employed by the government, a regulatory agency or employed in an academic setting – you could not be affiliated with industry. Compliance with ACGIH standards was voluntary not required. It has been contended that the ACGIH essentially was controlled by industry, therefore, the authors were not concerned with health issues. US Steel should not have waited to do air sampling for asbestos when required by OSHA since there were TLVs regarding asbestos long before the 70s. In May of 1971, OSHA published a standard regarding asbestos which was ten fibers per cubic centimeter of air greater than five microns in length, (ie, two million particles per cubic feet of air). In July of 1972, the eight hour time weighted average exposure was limited to five fibers per cubic centimeters of air. In July of 1976, the limit was reduced to two fibers per milliliter.

US Steel answered Interrogatories in Eisenreich and produced various documents. It appears that the first industrial hygienist that was hired by US Steel was a gentleman by the name of Kenneth Morse. Mr. Morse unfortunately is deceased. He eventually became the Director of Industrial Hygiene/Director of Environmental Health; prior to his employment with USS in the early 1950s, Mr. Morse was a member of the ACGIH. We have a document which establishes that Mr. Morse distributed the threshold limit values published by ACGIH for 1958 to safety directors. In a 1959 memo disseminating the 1958 Guidelines, Mr. Morse

stated the following:

The enclosed list of "Threshold Limits" are known under a variety of names, such as "maximum allowable concentrations," "toxic limits", etc. They are not exact delineations between hazard and non-hazard conditions, since they are derived from a variety of sources. Some are based upon studies with human subjects, other upon opinions derived by interpolating from animal experimental data, while still others are based merely upon unsupported opinions from industrial medical and hygiene authorities.

Mr. Morse is conceding that certainly some of the ACGIH guidelines are based solely on what "industry" had to say -- often times "unsupported opinions". In 1966, a supervisor of the American Bridge Division of US Steel was concerned because Armstrong Cork Company was utilizing a fireproofing that contained asbestos. The supervisor wrote a letter to Mr. Morse regarding this matter. In responding to the memo, Mr. Morse, in 1966 stated "asbestos has long been recognized as a material which, if inhaled over a long enough period of time and in significantly heavy concentrations in air, it can and has produced serious pulmonary disability." This subject has received renewed attention on the part of industrial physicians and industrial hygienists at an international conference held last year in New York".

The medical department of US Steel would hold annual or semi-annual meetings. At these meetings, guest speakers would come in including speakers from the IHF. In addition, Mr. Morse would have an opportunity to speak about various industrial hygiene/health issues. In 1957, Mr. Morse spoke at the US Steel medical meeting and advised the participants that "not only asbestos and silica cause pneumoconiosis". In 1960, when Mr. Morse spoke at the medical meeting he noted that "in speaking of pulmonary dust diseases, one is speaking of conditions that take twelve to fifteen years to develop" (ie, latency period). Mr. Morse advised those who were in attendance "in the past one was concerned almost wholly with silica and asbestos. If these were not present, then the dust was considered merely a nuisance". At the 1960 meeting a physician was also present who showed "x-rays of a case of asbestosis caused by installing asbestos bats around pipecovering". There was significant discussion about the disease process asbestosis and how it could be disabling.

In December of 1971, Mr. Morse wrote a memo regarding the TLV for asbestos which was going to change pursuant to OSHA standards; this memo was forwarded to all the plant managers at the various US Steel sites. Keep in mind US Steel knew from IHF digests that asbestos exposure was linked with lung cancer since the 1940s, and Mr. Morse talked about asbestosis years beforehand. In this 12/71 memo to the plant managers, Mr. Morse states the following: "In the December 7, 1971 issue of the Federal Register, the previous standard for airborne concentration of asbestos dust was drastically reduced from that which appeared from the threshold limit listed in the original set of standards which appeared in the May 29, 1971 Federal Register. You may be cognizant of the considerable

**furor which has developed by some people on the development of lung cancer from long term exposure to very low concentrations of asbestos dust.** While some of this information is questionable, the fact remains that it is now accepted by the Federal Government with the result that the above action has been taken, and compliance with the standard is required". Mr. Morse goes on in his memo to list everything that is going to be required under the OSHA standard, including respirators, avoiding power tools, sweeping or blowing of asbestos and special clean up procedures. He mentions the fact that workers would need chest x-rays pursuant to the OSHA standard. In June of 1972, Mr. Morse once again issues a memo to the plant managers advising them that the OSHA standard changed and they would have to "inventory their uses of asbestos compound as to location, jobs and quantity use per month or year in order to establish a priority list of jobs and areas for monitoring". Mr. Morse lists all of the new OSHA requirements including respirators, change rooms, special clothing, caution signs and periodic physicals. OSHA requirements applied to those individuals who it was anticipated were exposed to asbestos above and beyond the accepted TLV. In order to determine if someone had an exposure or could have an exposure that exceeds the TLV, air monitoring had to be done. In regard to this matter, in 1972, Mr. Morse stated the following: "asbestos dust surveys will be conducted by headquarters-environmental health for the present, due to the detailed procedure which such a survey involves. Requests for such survey should be directed to K.M. Morse, Director of Environmental Health". Certainly based on this memo, I got the impression that prior to 1972, sophisticated air sampling was not being completed yet alone air sampling for asbestos exposure. Essentially Morse was telling the plant managers if you want any type of air sampling for asbestos exposure done at your facility, you need to contact me.

In the summer of 1972, Peter Serokis, the plant manager at Neville Island, wrote a letter to Mr. Morse requesting asbestos air sampling at Neville Island. John Masaitis, who was deposed in this case, was the industrial hygienist that went to Neville Island to conduct asbestos air sampling. In Mr. Serokis' letter to Mr. Morse, he notes "this initial survey is needed in order to establish a control program in accordance with instructions in your letter of June 26, 1972". Masaitis goes to the jobsite on four different days: 8/29/72, 8/30/72, 9/7/72 and 9/8/72 and observes five USS mechanics/insulators installing and removing asbestos insulation. In cross-examining Mr. Masaitis, I discovered that when he conducted the asbestos survey in the fall of 1972, the mechanics were wetting down the insulation and not utilizing a saw or powertools to cut or remove the asbestos pipecovering. Mr. Masaitis concluded the following: "The results of this survey indicate that the mechanics doing insulation work are not subjected to excessive asbestos concentration. In view of this, and the major manufacturers commencing to producing asbestos-free insulation in the upcoming year, no health problems from asbestos are anticipated at the Neville Island Plant from insulation work". This is a quote from a letter that was written by Mr. Morse to Mr. Serokis dated September 21, 1972. Ironically when Mr. Masaitis was deposed, he testified that despite the September 21, 1972 memo came from Mr. Morse, he actually prepared

the memo and knew so because when you look at the typed written document, the secretary notes the initial of the author as being J.B.M. (ie, Jack B. Masaitis). In the September 20, 1972 memo prepared by Mr. Masaitis but signed by Mr. Morse, it is noted that practice of wetting the insulation before handling must be continued to minimize asbestos exposure.

Masaitis proceeded to testify in Eisenreich, that at the time of trial, he would testify that since he looked at asbestos workers cutting and removing insulation at Neville Island in 1972 and their exposures did not exceed the TLV, one should assume that Dennis' exposures at US Steel Neville Island did not exceed the acceptable TLV. What I discovered by reading other transcripts of Mr. Masaitis, that Mr. Masaitis specifically told the USS mechanics/insulators, when he conducted the air sampling, to wet down the insulation material; he previously testified that he had no knowledge whether prior to 1972, mechanics were wetting down the insulation. After Mr. Serokis got the Masaitis/Morse memo of September 22, 1972, the chief plant engineer at Neville Island, Mr. J.S. Denis, prepared a Safe Job Procedure and forwarded it to Mr. Masaitis for his comment. The Safe Job Procedure which is dated December 27, 1972, discusses wetting down the Kaylo pipe insulation to avoid heavy dust exposure. It also talks about insulating cement being mixed in a ventilated area with "the individual standing upwind from the dust cloud that may bellow up". In addition, on the Safe Job Procedure, it is noted that a respirator should be used when cutting or removing old asbestos insulation unless "the foreman does not require the use of a mask".

After Masaitis had a chance to review the Safe Job Procedure, he issued a memo once again under Mr. Morse's signature to Mr. Denis, the chief engineer. In October of 1972, Mr. Morse/Masaitis states the following in a memo to Mr. Denis: "in general we agree with the operating procedures outlined but do not agree with the procedures for respiratory protection. We do not believe that it is prudent for foreman to determine when respiratory equipment is not necessary. Foreman are not qualified to make such a judgment since they have little or no training pertaining to toxicity or to chemistry and physics of airborne particulates. The need for respiratory equipment should be determined by a complete evaluation of an operation by a competent environmental health engineer. In this case, a survey was conducted and it was determined that respiratory equipment was not needed since all of the asbestos exposures were well below the current and proposed standards". Therefore, in 1972, despite all of what US Steel knew about asbestos, asbestosis, lung cancer, latency periods and proper precautions, the industrial hygienist department was advising the plant manager of Neville Island that respirators were not necessary.

When I asked Mr. Serokis at his deposition about his recollection of what occurred, he testified that he thought someone from industrial hygiene came to do the air survey but he couldn't recall any details. He did not participate in the survey nor did he testify that Jack Masaitis came to the job site. In regard to the five mechanics that participated in the study, I contacted Lou Kelly from the

steelworkers to determine whether or not these individuals are alive and willing to talk to us. Attached for your review is a letter I received in regard to that matter.

We have consulted Dr. William Longo who has prepared a preliminary report which has not been given to the defendants. In regard to USS he states in his report:

Dr. Longo will testify that he has reviewed the deposition transcripts of Mr. John B. Masaitis, retired industrial hygienist for US Steel concerning air studies performed at USX facilities. Dr. Longo will state that the Masaitis's air involved the cutting of thermal insulation in the early 1970s at US Steel. Dr. Longo will further state that these particular air studies are not representative of the work conditions that Mr. Eisenreich was subjected to while at either the Clairton or Neville Island works. The reason for Dr. Longo's opinion that the Masaitis's air studies are not representative, is based on the fact that both "wet down" procedures and the use of non-sawing type tools to cut the thermal insulation were used to reduce the amount of dust generated. Neither of these low dust producing techniques for thermal insulation were used by Mr. Eisenreich when he was working at the two US Steel plants in the late 1960s.

In addition in regard to Mr. Masaitis' deposition, he noted that he began his employment with US Steel in 1964 and was so employed until February of 1996 when he retired. As noted above, when he started, his boss was Mr. Morse; Mr. Morse would oversee all industrial hygienists. Mr. Masaitis served as an industrial hygienist for approximately six to seven years, thereafter, he became district industrial hygienist, assistant manager of industrial hygiene, manager of industrial hygiene and finally, from 1991 to 1996 he served as the director of industrial hygiene. When Mr. Masaitis first began his employment at US Steel in 1964, the industrial hygiene department consisted of four or five other hygienists, including Willard Bowman, James DeStefano and Howard Bumstead. Mr. Bumstead was an industrial hygiene chemist. Mr. Masaitis testified that Mr. DeStefano left early on and went to PPG. I spoke with Bob Hastings from Dickie McCamey, who apparently knows Mr. DeStefano, said DeStefano left US Steel to go with PPG due to problems at US Steel. Bob Hastings strongly urged me to conduct the deposition of Mr. DeStefano.

When I asked Mr. Masaitis during the time period from 1964 to 1970, did he ever go to US Steel Clairton to do air sampling for asbestos, he responded by saying, "I can't recall if I specifically did asbestos monitoring at Clairton but the chances are good that I did". On page 101 of Mr. Masaitis' deposition, I asked "do you have a recollection of doing air monitoring at the Keystone Project in the late 1960s for asbestos exposure" and he responded "no, not for asbestos". As you know, based on the documents produced by US Steel, Mr. Masaitis did go to Neville Island to do air monitoring for asbestos in 1972 at the request of Mr. Serokis.

When I asked Mr. Masaitis who would oversee outside contractors, he indicated that US Steel provided no direct supervision to contract employees. He

went on further to state "if they were observed doing something that was determined to be unsafe, it certainly would be brought to the attention of the supervisors and contractors". Mr. Masaitis testified that it was the job of industrial hygiene, engineering or a combination to secure the work of outside contractors. Mr. Masaitis testified that prior to 1971, US Steel relied on the ACGIH standards. Mr. Masaitis testified that asbestos products used by the steelworkers were secured through the purchasing department in Pittsburgh and at times, the products were purchased through the plant. He conceded early on in his career he attended IHF meetings. He testified that he felt confident that asbestos monitoring was done before 1971 but he couldn't say at Clairton and Neville Island. He could not testify that US Steel gave the outside contractors or their own employees written materials about the dangers of asbestos. He has no knowledge as to whether US Steel warned outside contractors of the dangers of asbestos between 1968 and 1972.

Mr. Masaitis testified that the corporate industrial hygiene department, which he was a member of, and corporate safety and medical worked hand in hand. Dr. Bundy was the corporate medical director during the time period that Dennis was at Clairton and Neville Island. During the 1960s and 1970s, the corporate safety man would have been Mr. Brown. Ironically, US Steel produced a document which is a letter from Dr. Selikoff to Dr. Merle Bundy dated July 23, 1970. Dr. Selikoff advises Dr. Bundy that he is curious about the increased lung cancer mortality among the coke oven workers. Selikoff opines that this may be a result of asbestos exposure. Dr. Bundy responded on August 7, 1970 as follows: "Thanks very much for your calling our attention to a potential explanation of our coke oven problem. My first inclination was to suggest that there was no appreciable asbestos use. However, I find that there is a fairly amount of asbestos rope that is used as piping around pipe as they emerge from the furnace and there are asbestos gaskets that are used on some of the lids attached to these pipes. This obviously gives us another avenue to pursue and I will keep you informed of our efforts to identify the agent responsible. I am bringing your letter to the attention of our medical department and will ask that they likewise check in their companies". Mr. Masaitis said he was never aware of Selikoff's letter until litigation was initiated. Despite the fact Masaitis went to IHF meetings, he denies seeing early IHF digests linking asbestos exposure with cancer. US Steel produced a document that is entitled "Management Guide for Contractors Safety Responsibility". I obviously need to read this in further detail, however, when I asked Mr. Masaitis about the guide, he indicated that it was used by management or people who would oversee the work of the outside contractors.

Before I took Mr. Masaitis' deposition, Carla took his deposition in regard to West Virginia litigation. Masaitis tested US Steel tiger brand wire and has testified no dust was emitted when the wire was utilized in any way. Rick Taylor did not let me ask any questions about his studies on tiger brand wire since we sued US Steel as a premises liability defendant in this case. After Mr. Masaitis' deposition, I secured his previous transcripts. Apparently there is significant

asbestos litigation in Pittsburg, California; there is a US Steel facility in California. Ironically, in regard to this litigation, Mr. Masaitis was asked about what facilities he did air sampling at in the 1960s. Mr. Masaitis testified at numerous facilities and the lawyer representing the plaintiff asked "all in the Mon Valley?" and Mr. Masaitis answered "well, no, outside the Mon Valley". Mr. Masaitis further testified that in approximately 1971/1972, US Steel prepared guidelines and discussed how to handle asbestos material, including wetting it down, not sawing it, cutting it, in order to minimize dust. In his transcript, Mr. Masaitis conceded that he had no knowledge prior to 1970s, whether US Steel employees wet down insulation before cutting it. He also testified that when he was doing air monitoring during this time period, he specifically directed workers to utilize the wet down procedure.

Recently, I secured Mr. Masaitis' trial testimony from the litigation in Pittsburg, California, where he testified on February 26, 1998. In Interrogatories in which we prepared in Eisenreich, we specifically asked US Steel whether they ever shifted responsibility from US Steel to the third-party contractor in regard to safety and/or asbestos exposure issues. US Steel objected to the Interrogatory and stated they had no documents in their possession regarding this matter and also noted that discovery was continuing. When I read Mr. Masaitis' trial testimony of February 26, 1998, I determined that when US Steel would hire outside contractors, the outside contractors and US Steel would execute a document entitled "US Steel Corporation, General Conditions Covering Work on Purchasers Premises". Pursuant to this contract, the contractor must protect the worker against any condition on US Steel's premises which could be dangerous. **INDUSTRIAL CONTRACTORS WERE REQUIRED TO PROVIDE THEIR WORKERS WITH ANY AND ALL INFORMATION ABOUT THE PRODUCTS BEING USED TO PERFORM WORK, NOT US STEEL.** After I read Mr. Masaitis' recent trial transcript, I immediately forwarded a letter to Rick Taylor requesting that they produce such contracts in regard to AC&S and the scope of their work at Clairton and Neville Island (see attached). I also discovered that US Steel has in its possession, all air monitoring it ever completed dating back to the 1950s. In regard to the documents that US Steel produced in Eisenreich, the earliest air sampling USS had done was in 1972 when Masaitis went to Neville Island. There are a few studies regarding asbestos exposure thereafter. I asked Rick to produce any and all documents regarding air sampling at US Steel, Clairton or Neville Island during the 1960s.

In the California deposition, Mr. Masaitis discussed contractor line up meetings. At these meetings, US Steel would advise the contractors of any hazards that were anticipated — Mr. Masaitis testified that hazards known to the contractor were not discussed. From that, I can only assume that US Steel will argue at the time of trial that they had no duty to warn the asbestos workers of the dangers associated with asbestos in 1968 and 1969 because the asbestos workers were well aware of those dangers. Masaitis did concede that if the safety department observed unsafe practices by an independent contractor, US Steel had the authority to stop a job or shut it down.

I recently conducted the deposition of Dr. James Weddell. Weddell is 81 years old and retired from US Steel on January 31, 1979. From September of 1941 to August of 1942, Dr. Weddell was a sole practitioner with a private practice in Elizabeth, PA. From the fall of 1942 to 1945, he was in the military. From 1946 until January of 1960, he continued his private practice in Elizabeth, PA. From 1946 to 1960, Dr. Weddell worked as a part time plant physician at USX Clairton. In 1960, he ceased to operate his private practice and worked exclusively for US Steel. From 1960, as a full time employee, to February of 1970, he was the Medical Director at USX Clairton. From February of 1970 to January of 1979, he was the plant physician at USX Homestead. The medical director of the plant would oversee the plant physicians. From 1946 to 1953, when Dr. Weddell went to Clairton, the physician in charge was Dr. John Hays (deceased). Both Dr. Hays and Dr. Weddell, during that time, worked part time, however, Hays was in charge. In 1953, when Dr. Hays retired, Dr. Weddell became the head physician. Dr. Weddell identified Dr. Wright and Dr. Castilenti as plant doctors who had private practices that worked at USX Clairton from 1960 to 1970. Dr. Weddell graduated from Pitt Medical School in 1940. He is not board certified in any area. He had no knowledge of an A reader, B reader or ILO. He never published any medical articles or never completed any medical research.

Dr. Weddell testified that the medical department would answer to the Industrial Relations Department at the plant. The names he associated with Industrial Relations was Ed Johnson and Harry Long. If Industrial Relations couldn't resolve a medical problem, and he assumed it was taken to the plant manager. Dr. Weddell recalled the following plant managers: Hobart Seiler, Dave Finney and James Phlasterer. I wanted to take Phlasterer's deposition because he was the plant manager when Dennis was at Clairton, however, he has passed away. Dr. Weddell also testified that the Safety Department and Engineering Department would answer to Industrial Relations. The name he associated with safety was James Sumpter and engineering, Warren Shuck.

According to Dr. Weddell, there were three divisions at US Steel Clairton: (1) steel, (2) coke and (3) maintenance. Each division had a superintendent. Dr. Weddell testified that the steel division shut down in the early 1960s; he could not recall the name of the superintendent of steel. When I asked him in what division the Keystone Project would fall, he indicated the Coke Division; the superintendents of Coke/Keystone that Dr. Weddell recalls were Philip Bornhurst and Mr. (first name unknown) Wiley. The maintenance supervisor Dr. Weddell recalled was Herbert Coe.

The corporate medical directors that Dr. Weddell served under were Dr. Robert O'Connor and Dr. Merle Bundy. When I asked Dr. Weddell about additional training he received by US Steel, he indicated that beginning in the late 1950s, he attended corporate annual or biannual medical seminars. He had a specific recollection of receiving written materials at these seminars. As a result of attending these medical seminars, he knew of the IHF and knew the IHF did

research in regard to occupational lung diseases. He could not recall if he ever attended a meeting where a representative of the IHF spoke.

When Dr. Weddell was in private practice, he had no specialization; he never read chest x-rays or interpreted pfts. He thought some of his patients in private practice may have had pneumoconiosis, however, he could not recall asbestosis. He could not recall while in private practice ever securing an occupational history from a steelworker. Dr. Weddell conceded that before 1960 when he became the medical director at Clairton, he knew of asbestosis and knew the disease process could cause x-ray changes and breathing impairment. He could not describe the radiographic changes the disease asbestosis could cause. He didn't know if asbestosis could cause a restrictive or obstructive impairment. He did concede that crackles and cyanosis could be consistent with asbestosis. He heard of pleural thickening and believed it was consistent with lung disease but never heard that it was consistent with asbestos exposure.

Dr. Weddell testified that between 1960 and 1970 he recalled Mr. Kenneth Morse the industrial hygienist coming to Clairton to visit. He also recalls Mr. Morse bringing information to the corporate medical meetings. Dr. Weddell, in the scope and course of his work as the medical director, would walk around the plant. He observed many steamlines and waterlines that were insulated with pipecovering. He testified that between 1946 and 1970 he had no knowledge asbestos was being used at the plant and today he has no knowledge whether asbestos was being utilized at the plant. He never disseminated any written material to any US Steel Clairton worker or outside contractor regarding the dangers of asbestos.

Prior to 1970, he did have a recollection of attending worker's compensation hearings where the claimant was contending that he had silicosis. He never recalled any worker's compensation claim ever during his career for asbestosis or an asbestos-related lung cancer. He told me that USX Clairton was not equipped to perform chest x-rays on steelworkers until some time in the mid 1960s. Since he didn't have experience reading chest x-rays, he believed that the chest x-rays were sent to McKeesport Hospital. If any abnormality was detected on a chest x-ray, he would have been responsible for advising the worker. When I asked Dr. Weddell why periodic chest x-rays would be done on certain workers as part of a complete evaluation, Weddell indicated that they were "we were looking for lung cancer". When I asked why they were looking for lung cancer, he stated the following: "there was a time when smoking and lung cancer were being related and we were of the opinion that we were doing employees a service to give them early warning in a case where we found something on their x-ray". He would not concede that x-rays were being taken to determine if people had lung cancer as a result of anything that they were exposed to in the mill. The doctor was able to define the term TLV but had no knowledge that from 1946 to 1970, there was a TLV for asbestos -- he was not aware of the ACGIH.

Dr. Weddell eventually conceded that between the late 1950s and 1970s, perhaps at one of the medical seminars, the dangers associated with asbestos exposure were discussed. He told me that he came to the conclusion that asbestos exposure could cause lung cancer sometime after he retired from US Steel in 1979. Despite the fact he knew of the IHF, he told me that he never saw any of the IHF digests. I spent a significant amount of time going through IHF digests from 1944 through the 1960s pointing out to him that the IHF Digest had numerous summaries of medical articles regarding the link between asbestos exposure and lung cancer. The doctor told me that "lung cancer in my day was almost entirely correlated with cigarette smoking".

Early on in this memo, I indicated that at the 21st annual meeting of the IHF in 1956, physicians were discussing whether workers should be told of toxic or carcinogenic materials in their environment. The physicians present at the meeting concluded that for any safety program to be effective, workers must be aware of toxic or carcinogenic substances. When I asked Dr. Weddell hypothetically, if whether he would of been at the meeting in 1956, would he have agreed with the proposition set forth by the attending doctors and he stated "I have no feelings one way or another about whether that is necessary". When I asked him if in the 1950s or 1960s, if he knew asbestos was dangerous would he have gone to Industrial Relations and advised them of the need to put plant workers on notice -- he indicated that that was not his job. When I asked Dr. Weddell about the Selikoff letter produced by US Steel, he indicated that he did not know Selikoff and had no knowledge of Dr. Bundy's 1970 letter. He testified that he had no knowledge that in 1970 there was increased risk of lung cancer among coke oven workers.