

FILE NAME: CertainTeed (CERT)

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1 Appearances:

2 For the Plaintiffs:

3 HAMBURG RUBIN MULLIN & MAXWELL
4 BY: EDWARD RUBIN, ESQ.

5 For the Defendant Turner & Newall, Ltd:

6 JOHN P. MASON, ESQ.

7 For the Defendant CertainTeed Corporation:

8 SWARTZ CAMPBELL & DETWEILER
9 BY: G. DANIEL BRUCH, JR., ESQ.

10 CURTIS M. PONTZ, ESQ.

11 LaBRUM & DOAK
12 BY: JAMES D. HILLY, ESQ.

13 For the Defendant Cassiar Asbestos Corp., Ltd:

14 SHEA & GARDNER
15 BY: DAVID BOOTH BEERS, ESQ.,
16 ELIZABETH S. GIBSON, ESQ.

17 For the Defendant Lake Asbestos of Quebec, Ltd:

18 PORZIO & BROMBERG
19 BY: MYRON J. BROMBERG, ESQ.

20 For the Defendant Johns-Manville:

21 MARSHALL DENNEHEY & WARNER
22 BY: THOMAS C. DELORENZO, ESQ.,
23 ANNE M. KENNEY, ESQ.

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 BY: EDWARD B. JOSEPH, ESQ.

1 Appearances: (Cont'd)

2 For the Defendant GAF:

3 MESIROV GELMAN JAFFE & CRAMER
4 BY: EDWARD GREER, ESQ.

5 For the Defendant Southern Asbestos:

6 WHITE & WILLIAMS
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8 For the Defendant Bell Asbestos Mines, Ltd:

9 POST & SCHELL
10 BY: F. JAMES GALLO, ESQ.

11 For the Defendant Turner & Newall, Ltd:

12 SULLIVAN & CROMWELL
13 BY: RICHARD J. RAWSON, ESQ.

14 For the Defendant Carey Canadian Mines, Ltd:

15 HARVEY PENNINGTON
16 BY: JOEL D. GUSKY, ESQ.

17 For the Defendant United States of America:

18 WILLIAM R. HERMAN, ESQ.
19 Civil Division, U. S. Department of Justice

20 - - -

I N D E X

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(Horowitz Deposition Exhibits Nos.
1 through 25 were marked.)

LEON DAVID HOROWITZ

having been duly sworn by the Notary-Reporter, was examined
and testified as follows:

EXAMINATION BY COUNSEL FOR DEFENDANT CASSIAR

BY MR. BEERS:

Q What is your full name, Mr. Horowitz?

MR. MASON: The usual stipulations?

MR. BEERS: Yes. They are in the Federal Rules,

Mr. Mason.

A Leon David Horowitz.

Q Where do you live?

A I live in Burlington, Massachusetts, 78 Macon
Road, Burlington, Massachusetts 01803.

Q Where do you work?

A I work with American Mutual Liability Insurance
Company, in Wakefield, Massachusetts.

Q How old are you?

A I am 62 years old.

Q What is your position at the insurance company?

A I am Chief of the Industrial Hygiene Section of
the company.

1 Q How long have you held that position?

2 A Twelve years.

3 Q Can you just generally tell us what your duties
4 are there?

5 A My duties are to train and advise and be
6 available for consultation on industrial hygiene matters for
7 the company.

8 Q Where were you born and brought up?

9 A I was born in New York City. Until the age of
10 40 I lived in New York City.

11 Q Did you go to high school there?

12 A Yes, I went to high school in Brooklyn, New York.

13 Q Did you go to college?

14 A Yes, I went to City College of New York.

15 Q When did you graduate?

16 A I graduated as a Bachelor of Chemical Engineering.

17 Q When?

18 A 1942.

19 Q Have you done any graduate work?

20 A I went to the University of Colorado, but I did
21 not get a degree. I went one semester.

22 Q What did you do after getting out of college?

23 A I went to war, World War II, and then after

1 World War II, I got a job in the Division of Industrial
2 Hygiene for the New York State Department of Labor.

3 Q What year was that?

4 A That was 1947.

5 Q What was your title at that time?

6 A I started as an Industrial Hygienist and ended
7 as a Senior Industrial Hygienist.

8 Q When did you end?

9 A In 1956.

10 Q What were your duties there, in the State of New
11 York?

12 A My duties were examining industrial exhaust
13 systems for the control of toxic gases and fumes for all of
14 industry in New York State, as well as surveying industry
15 in New York State for exposure to industrial toxic dust,
16 gases and fumes.

17 Q What kind of toxic dust, gases and fumes did
18 your job deal with?

19 A All dusts, gases and fumes that were considered
20 toxic at the time.

21 Q Did your work embrace asbestos?

22 A Yes, it did.

23 Q Can you tell us how and to what extent?

1 A Not too much. I visited one shipyard, Todd
2 Shipyard in Brooklyn. I don't recall why I was there,
3 probably to survey -- not really survey, to see an exposure
4 where a contractor was making insulation for purposes of
5 use on a ship. But this was not on the ship, it was outside
6 the ship.

7 Then I also went to an asbestos glove
8 manufacturer in upstate New York, I believe Amsterdam. I
9 don't recall where.

10 Q What did you do at the glove manufacturer?

11 A Specifically, I don't recall. I would evaluate
12 what I considered was the exposure, which could have meant
13 taking samples, but I don't recall taking samples.

14 Q When you say evaluate the exposure, what were
15 you measuring it against?

16 A Basically, my experience as to what is an
17 exposure, which basically related to time of exposure to the
18 dust, as well as concentration, either visually or by
19 measurement. Again, I probably measured it, but I don't
20 recall.

21 Q Was there a measurement standard in effect at
22 that plant?

23 A Yes, there was.

1 Q Do you remember what it was?

2 A It was the Midget Impinger Method, which was a
3 normal dust count method for all toxic dust like silica and
4 so on.

5 Q Was there a prescribed level of asbestos in the
6 ambient air that was prescribed for that plant?

7 A Yes, there was, for that --

8 Q Type of plant?

9 A For that type of exposure, not for the plant.

10 Q And what was that prescribed level?

11 A Five million particles per cubic foot of air.

12 MR. BROMBERG: Mr. Horowitz, you are starting
13 to answer before he finishes his questions. It makes it very
14 difficult for the Reporter.

15 THE WITNESS: I'm sorry.

16 Q I called it a prescribed level. Was it a
17 standard that the plant had to meet?

18 A It was a level considered or advised by the
19 American Conference of Governmental & Industrial Hygienists
20 to be an exposure below which it was considered safe for at
21 least 80 percent of people exposed to that level.

22 Q Had you been led to believe that exposures to
23 asbestos dust above that standard might be harmful to health?

1 MR. RUBIN: Objection as to form.

2 MR. BEERS: Off the record.

3 (Discussion off the record.)

4 A Would you ask the question again?

5 Q Yes. Prior to the time that you visited that
6 asbestos glove plant, had you been led to believe that
7 exposures to asbestos above the standard that you just
8 described might be harmful to human health?

9 MR. RUBIN: Objection as to form.

10 A I can answer now?

11 MR. BROMBERG: What is the objection as to form?

12 MR. RUBIN: I believe it is a grossly leading
13 question.

14 Q All right.

15 A We were taught and our understanding was to
16 interpret the list of threshold limit values in general,
17 not asbestos specifically or any specifically. In general,
18 those values were guidelines to those of us in the industry
19 to aim for that level for a safe value. In other words,
20 when you designed an exhaust system you would try to get it
21 below that level, in general. So it was a guide. It was
22 not an absolute figure.

23 Q What was the role of your state agency in

1 visiting that asbestos glove plant?

2 A It functioned in several ways. One way was
3 where the arm of the Department of Labor, the safety inspection
4 arm would enter a place and if there was a potential hazard
5 relating to industrial hygiene, they would call our division
6 in to make the evaluation.

7 The other was to be consultative and help
8 industry protect the health of the worker by engineering
9 methods, as well as to measure the atmosphere to determine
10 whether they were above or below this guideline.

11 Q When you were with the State of New York did
12 anyone tell you that exposures to asbestos at any particular
13 levels might be harmful to human health?

14 MR. RUBIN: (objection as to form.

15 A Asbestos was considered one of the toxic
16 materials by the fact of its threshold limit value. No
17 specific discussion was made about asbestos more than any
18 other material. The discussions would generally go to where
19 we had more work. Silicosis was definitely a greater
20 amount of discussion than asbestos at that time.

21 Q Now, when did you leave the State of New York?

22 A I left in 1956.

23 Q What did you do after that?

1 A I became a consultant in industrial hygiene in
2 New York City.

3 Q How long did you remain in that --

4 A For four years, until 1960.

5 Q Let me finish my question.

6 A Oh, I'm sorry.

7 Q Did you deal with asbestos exposure in that
8 position?

9 A I don't recall any asbestos exposure in that
10 position, no.

11 Q Did you deal with other problems of industrial
12 dust control?

13 A Yes.

14 Q Can you explain what you did do and what your
15 duties concerned?

16 A Similar to what it was with the Division of
17 Industrial Hygiene. I represented mostly small industry,
18 but some large industry, in designing industrial exhaust
19 systems for removal of toxic materials. I would make
20 surveys, noise surveys, dust surveys; and I did other work
21 besides industrial hygiene, as a licensed professional
22 engineer in New York State.

23 Q Did you design dust control equipment?

1 A Yes, I did.

2 Q Can you give me some examples of your clients
3 during that four-year period?

4 A Well, I did a beryllium survey for RCA in
5 New Jersey.

6 I did another RCA survey in another plant in
7 New Jersey with respect to employee complaints during their
8 work hours, which was the third shift, and there were a
9 mixture of chemicals so I can't specify which chemicals.

10 Most other clients were small clients, small
11 businesses in New York City.

12 Q What did you do after you left that consulting
13 position?

14 A I was hired by Keasbey & Mattison, of Ambler,
15 Pennsylvania, as a dust control engineer.

16 Q How did you first make contact with Keasbey &
17 Mattison?

18 A They had an advertisement for a dust control
19 engineer in the New York Times and I responded to that.

20 Q To whom did you respond?

21 A To the address that was in the paper.

22 Q Who at --

23 A A personnel man was my first contact.

1 Q Who was that?

2 A I don't recall his name. He was not the head
3 of the department. Apparently, they had an office in the
4 Rockefeller Center at that time and I went to that office in
5 particular, but I don't remember his name. I'm sorry.

6 Q Did you discuss the substance of the job with
7 that person?

8 A He discussed it with me and I told him my
9 experience and apparently that is what they were looking for.

10 Q What was the next step in the hiring process?

11 A The next step was to go to Ambler at their
12 expense and be interviewed by a more technical person.

13 Q Do you remember who that was?

14 A I believe it was Al Spedding.

15 Q What was Mr. Spedding's position at the time?

16 A Well, he was the head of the Engineering
17 Department at that time.

18 Q Do you know to whom he reported?

19 A He reported to, I believe, the vice-president
20 of Engineering, Mr. Schneider.

21 Q Do you remember Mr. Schneider's first name?

22 A No, I don't.

23 Q Do you remember to whom Mr. Schneider reported?

1 A I don't really know who he reported to. Probably
2 the president, as a vice-president. I am not sure.

3 Q So you went down to Ambler and met with Mr.
4 Spedding?

5 A Right.

6 Q Did you meet with him once or more than once?

7 A Once.

8 Q Did he describe the position to you?

9 A He told me they were looking for a specialist
10 in dust control engineering.

11 Q Do you remember anything else he told you about
12 the background of the problem or the purpose of the job?

13 A I don't remember anything else, no. I did meet
14 Mr. Schneider at the time, but that is all I really remember.

15 Q Did Mr. Spedding explain to you why they were
16 looking for someone with your capabilities?

17 A No. I just assumed they needed somebody who
18 knew a little more about dust control than they had at the
19 time.

20 Q Did you accept thereafter?

21 A Yes, I did.

22 Q Without any further interviews?

23 A I had no other interview.

1 Q When did you go to work?

2 A I believe it was May of that year, 1960.

3 Q What was your title?

4 A I believe my first title was Dust Control
5 Engineer.

6 Q How long did you remain Dust Control Engineer?

7 A I was Dust Control Engineer until a few years
8 later, after CertainTeed took over and when I took over
9 duties as corporate Safety Director. I don't know the exact
10 year, but it may have been '65.

11 Q How long did you remain corporate Safety Director?

12 A From '65 to '68, when I left the company.

13 Q What did you do when you left the company?

14 A I joined American Mutual Liability Insurance
15 Company.

16 Q When you first started with Keasbey & Mattison
17 were your duties company-wide or did they relate to a
18 particular plant?

19 A They were company-wide with respect to dust
20 control engineering and I added, with their agreement, to
21 do industrial hygiene work.

22 Q Did the industrial hygiene work pertain to all
23 plants or just to a particular plant?

1 A All the plants that they had at the time.

2 Q Did you visit all the plants?

3 A In what time space?

4 Q Well, at any time you were at Keasbey & Mattison
5 or CertainTeed?

6 MR. BRUCH: I object to that question because
7 of the confusion with the plants.

8 A I believe I did. I believe I visited every plant.

9 Q Every plant that was owned by -- well, Mr.
10 Bruch's point is well taken.

11 * Let's go back to just the period when you were
12 working for Keasbey & Mattison. That would be prior to 1962.
13 Do you remember what the plants were?

14 A Well, I visited every plant in the Ambler area,
15 which was a shingle plant, an insulation manufacturing plant
16 at the same plant they had asbestos paper and rubber, if I
17 recall, and the pipe plant too. That was in the Ambler area.
18 I do recall going to the St. Louis plant and I believe I
19 visited the Perth Amboy roofing plant once.

20 Let's see, what other plants did they have?

21 Q Did you ever visit the plant in Meredith, New
22 Hampshire?

23 A Yes, I did. Definitely.

1 Q Keasbey & Mattison did not have a plant in Texas
2 or California at that time, did it?

3 A Not at that time. No, they didn't have a plant.

4 Q After you started work with CertainTeed did you
5 visit all the plants that CertainTeed owned, at one time or
6 another?

7 A In all the years, yes, I visited all their
8 plants, in all the years. While I was still a Dust Control
9 Engineer I don't remember visiting all the new plants that
10 came with CertainTeed, but I continued visiting the plants
11 that dealt with asbestos and cement.

12 Q Mr. Horowitz, I think you described your job as
13 falling into two parts, dust control engineering on the one
14 hand and industrial hygiene on the other?

15 A I considered them as one. They both functioned
16 together. That is why I brought them in. But, yes, they
17 considered it both parts; right.

18 Q Did you work for the same people while doing
19 both functions?

20 A Yes.

21 Q Who was your immediate supervisor at Keasbey &
22 Mattison when you first went there?

23 A Al Spedding.

1 Q Was there anyone who worked with you on the same
2 level that you were on?

3 A John McGinley was a young graduate of Drexel, I
4 believe, and Al Spedding asked me to train him in dust
5 control engineering, as well as in industrial hygiene, to
6 sort of work with me.

7 Q Did you work with anyone else directly?

8 A I believe Art May, who had done some of the
9 hygiene work prior to my -- or even design. I am not too
10 sure about that. But when you say work with, we were all in
11 the Engineering Department and we talked over problems
12 together.

13 Q How long did Mr. Spedding remain your supervisor?

14 A Just for the two years until CertainTeed took
15 over.

16 Q Then who became your supervisor, immediate
17 supervisor?

18 A That is a very hazy area. I don't know. I
19 think Mr. Schneider took that role for several months. Then
20 I think Mr. Anderson, who was later plant manager in
21 Hillsboro, took it for several months, and maybe a year or
22 two passed before a Mr. Alpine took that job.

23 Q Mr. Alpine?

1 A Yes.

2 Q Do you remember what his first name was?

3 A Burt, I believe.

4 Q Do you remember what his position was?

5 A He was given the position of head of the
6 Engineering Department, the same as Al Spedding had.

7 Q How long did Mr. McGinley work with you?

8 A I don't know the length of time, but he left to
9 go to another job and then came back after some space of time
10 and was hired as a regular engineer, not to work with me.

11 Q Did someone replace him in working with you?

12 A No.

13 Q Was there anyone else who had as his primary
14 role either dust control engineering or industrial hygiene?

15 A Nobody had industrial hygiene, but when I took
16 over the safety work I dropped the dust control, except in
17 an advisory capacity to a draftsman that they assigned that
18 role to.

19 Q Who was that?

20 A I am afraid I don't remember his name. His
21 first name was George.

22 Q Let's go back to 1960, when you first went to
23 Keasbey & Mattison. Tell us what your duties were with

1 regard to dust control engineering.

2 A It is hard to remember. My duties, in general,
3 were to improve old areas that may need improvement, as well
4 as design new areas that needed dust control exhaust systems,
5 in general.

6 Q I guess maybe I didn't ask you this. When did
7 you stop doing dust control engineering work?

8 A When I was given the function as safety
9 supervisor of the company.

10 Q And when was that?

11 A I just don't remember the year, but I think it
12 was about '65.

13 Q It was after CertainTeed took over?

14 A Oh, yes, definitely.

15 Q Did your duties in the dust control engineering
16 phase change significantly from 1960 to when you became
17 Safety Director?

18 A Just about the same. Several new plants were
19 being built, so a lot of it had to do with new plants.

20 Q And did some have to do with existing plants?

21 A Yes.

22 Q Retrofitting existing plants?

23 A Yes.

1 Q Who made the decisions as to what dust control
2 equipment, new dust control equipment was needed in old
3 plants?

4 A Generally, the --

5 MR. BRUCH: May I object again. Are you talking
6 from '60 to '62 in that question?

7 Q Let's take it one at a time. From '60 to '62?

8 A If it were a new system --and I am just talking
9 generally because I cannot spot that there were new systems
10 between '60 and '62-- but if it were a new system, it would
11 generally come from the plant manager, who would ask the
12 Engineering Department for complete engineering for the
13 installation of new equipment, and I would be assigned the
14 dust control that had to do with that new equipment.

15 Q Were any of the dust control engineering
16 projects that you worked on approved by company-wide manage-
17 ment?

18 A I don't remember any kind of formal approval.
19 It was accepted as to what was needed. I would work out the
20 complete cost analysis and, in general --and I imagine this--
21 a decision was made to go ahead or not to go ahead.

22 MR. RUBIN: Note my objection, please.

23 MR. BRUCH: The same objection.

1 Q Do you have any reason to believe that
2 company-wide management participated in the decision, or was
3 it entirely left to the local plant manager?

4 MR. RUBIN: The same objection.

5 A Well, I don't know the workings of the
6 economics of the plant, whether decisions had to be made --
7 somebody had to probably make an okay as to what expenses had
8 to be paid for any particular plant, and what the protocol
9 was I have no idea.

10 Q Who made the decision that more dust control
11 work at a particular plant needed to be done, either by
12 fixing up existing equipment or installing new equipment?

13 A Well, I tied in the industrial hygiene work
14 with the dust control work because you needed that type of
15 information to make a decision. So I would survey or take
16 air samples where I thought it was needed. I would take
17 samples and then I would write my report to Al Spedding
18 that so-and-so area was what I would consider above the
19 guideline and would recommend new or improved dust control,
20 or I would say it was okay. So I would initiate it. But,
21 of course, systems were initiated for other reasons.

22 Q Did your proposals have to meet the approval of
23 Mr. Spedding?

1 A Yes, I imagine so.

2 Q Did he take your proposals and his recommendations
3 to Mr. Schneider?

4 A I believe so, yes.

5 MR. RUBIN: Note my objection to all of his
6 answers.

7 MR. BEERS: Mr. Rubin, is there any problem as
8 to form that you would like to tell me about?

9 MR. RUBIN: No. I am just assuming, Mr. Beers,
10 that this may be used for trial, and any answers in which he
11 assumes or imagines or guesses I think are objectionable and
12 I just want to note my objection so when we review it --

13 THE WITNESS: I can only respond that way
14 because I did not ask them what they did.

15 Q But it was your understanding that Mr. Spedding
16 cleared your proposals and his recommendations with Mr.
17 Schneider?

18 A I believe he would have to, yes.

19 Q You don't know whether Mr. Schneider had to
20 further clear the matter with anyone else in the company-wide
21 management?

22 A Purely assumptions on my part.

23 Q What was the nature and scope of your duties in

1 the industrial hygiene function from 1960 to '62, when you
2 were working for Keasbey & Mattison? How did you tie that in
3 with dust control engineering?

4 A Well, could I answer that by giving an example?

5 Q Absolutely.

6 A Well, let's take the Meredith plant. The
7 Meredith plant was the only textile plant they had.

8 Q Is that in New Hampshire?

9 A That was in New Hampshire; right.

10 I was asked to make a visit and evaluate their
11 existing dust control. I would go up and measure the air
12 flow in the dust system. I would look at the type of dust
13 collecting they had. I would take air samples in worker
14 exposure.

15 I would then report what I found, make a
16 judgment, a professional judgment as to adequacy and the
17 need and make recommendations as to what I thought was
18 necessary.

19 Q To whom would you make those recommendations?

20 A All reports of mine went to Al Spedding.

21 Q Who reported then to the plant manager?

22 A I believe a copy went to the plant manager.

23 Q Can you explain to me how the decision got made,

1 the final decision got made as between the Engineering
2 Department and the plant manager?

3 A I believe it was an economic decision. And,
4 again, I believe. I didn't ask anybody and nobody told me
5 this. It was made on the same basis of any expenditure in
6 the plant. If a new boiler had to be put in, the boiler man,
7 who happened to be Art May, would make his recommendations.
8 It would go to Al Spedding, and then in all probability the
9 decision had to be made between the manager and corporate, as
10 to whether the expenditure should be made for that year.

11 Q Your understanding --

12 MR. RUBIN: Note my objection to the answer.

13 Q Your description of this process applied
14 throughout all the Keasbey& Mattison plants?

15 A As far as I understand it.

16 Q Was a similar system for decision-making
17 applied at CertainTeed after 1962?

18 A I believe so.

19 Q Did you --

20 MR. RUBIN: Note my objection.

21 MR. BRUCH: I object to that question in one
22 respect. Mr. Spedding never went with CertainTeed, nor did
23 some of these other people that have been mentioned.

1 MR. RUBIN: Mr. Beers, can we agree that I will
2 have a continuing objection to any answer with respect to
3 what he believes or guesses, so I don't have to keep
4 interrupting, or would you rather I interrupt?

5 MR. BEERS: If your objection is as to form, I
6 think I would like to have it.

7 MR. RUBIN: These are not as to form, but I ask
8 that the answers be stricken.

9 MR. BEERS: You may have all the objections
10 continuing you want on that subject.

11 MR. RUBIN: Fine. I just don't want to keep
12 interrupting unless it is necessary.

13 Q I am now talking about the period after
14 CertainTeed took over. Although different persons may have
15 held the different positions that you have described, was
16 the decision-making process that you told us about with
17 regard to Keasbey & Mattison similar to that during the period
18 when you worked for CertainTeed?

19 MR. RUBIN: Objection as to form.

20 A As much as I knew of the decision-making
21 process in Keasbey & Mattison, I knew just as much with
22 CertainTeed.

23 Q Did you receive copies of the annual budget

1 when you were with Keasbey & Mattison?

2 A I did not.

3 Q Did you receive copies of the annual budget when
4 you were with CertainTeed?

5 A I did not.

6 Q Did you receive any economic or financial
7 information from management that included items for dust
8 control when you were with Keasbey & Mattison?

9 MR. MASON: Do you understand what he is asking?

10 THE WITNESS: I am afraid perhaps I don't.

11 Q Did you ever see any budget projections that
12 included items for dust control?

13 A No.

14 Q Any memoranda from company-wide management that
15 discussed the cost of dust control?

16 A I was not included in that type of information.

17 Q One more question on this subject. When you
18 went to Meredith to evaluate dust conditions, what did you
19 understand the dust to be made up of? What were some of
20 its component parts?

21 MR. HILLY: I object to the form.

22 A My understanding was it was at least 90 percent
23 asbestos plus some cotton and some synthetics.

1 Q Did you do similar surveys at the Ambler plants
2 when you were working for Keasbey & Mattison?

3 A Yes.

4 Q What did you understand were the component
5 parts of the dust whose level you measured at Ambler?

6 A That varied from the operation where the raw
7 material was added in certain areas as 100 percent asbestos,
8 in certain areas where silica was added, and cement. Then,
9 after the mixture was made, my understanding was there was
10 about 14 percent asbestos in the final product, bound up in
11 the cement.

12 Q What was your understanding as to the component
13 parts of the dust that was measured at St. Louis when you
14 worked for Keasbey & Mattison?

15 A Similar.

16 Q The same as in Ambler?

17 A Yes.

18 MR. BRUCH: I object to that question. The
19 same as in Ambler with respect to the cement pipe plant or
20 with respect to the other plants in Ambler during the
21 Keasbey & Mattison days?

22 Q Mr. Bruch would like that clarification. Can
23 you help us?

1 A The same as the asbestos cement pipe plant only.

2 Q After 1962, when you worked for CertainTeed, did
3 you also work with the dust levels at some of the other plants?

4 A The same as the asbestos cement plants prior to
5 that time.

6 Q Could you just tell us that in a complete
7 sentence, what your understanding was as to the component
8 parts of the dust levels in the plants, say, at Hillsboro and
9 at Santa Clara?

10 A The answer would be the same at Hillsboro and
11 Santa Clara, which would be 100 percent asbestos as one of
12 the raw materials to make asbestos cement pipe, 100 percent
13 silica to make the cement, and 100 percent cement, as raw
14 materials; and then the final product as 14 percent asbestos,
15 with the rest as a finished cement, combined cement.

16 MR. BEERS: For the next little while or long
17 while we are going to be dealing with a series of 20-some
18 documents.

19 This is off the record.

20 (Discussion off the record.)

21 Q I have asked the Reporter at the beginning of
22 the deposition to mark each of these documents as Horowitz
23 Exhibits 1 through 25. I would like to turn to the document

1 that has been marked as Horowitz Exhibit No. 1. Do you have
2 that in front of you, Mr. Horowitz?

3 A Yes, I do.

4 Q Just to make sure we are all working with the
5 same paper, would you just read what appears to be the title
6 of that document?

7 A Memorandum on Proposed Epidemiological Study
8 of Lung Cancer in Asbestos Workers for the Asbestos Textile
9 Institute.

10 Q Have you ever seen this document before?

11 A Yes.

12 Q When did you first see it?

13 A I can only guess that I picked it up during my
14 meetings between 1960 and 1962 at the Asbestos Textile Institut

15 Q Is this a document that you brought to Keasbey&
16 Mattison?

17 MR. BRUCH: Objection as to form.

18 A I don't recall.

19 Q Could it have been a document that was at
20 Keasbey& Mattison when you got there?

21 MR. BRUCH: Objection to the form of the question.

22 A I don't think so.

23 Q You don't think what?

1 A I believe I picked it up at the Asbestos Textile
2 Institute.

3 Q Do you see the little handwriting next to the
4 title that appears to say 1956?

5 A Yes.

6 Q With a question mark?

7 A Yes.

8 Q Do you know who put that date there?

9 A That is my handwriting.

10 Q Do you remember when you put that mark there?

11 A I was curious to know when the first knowledge
12 of the hazard due to asbestos was available, and in the
13 report they mention 1956. I believe I put it there because
14 I didn't know the date of this memorandum. So I just put it
15 there for my own information.

16 Q Do you remember when you put it there?

17 A No, I don't.

18 Q Do you remember --

19 A I have a feeling it was done recently, but I
20 don't know.

21 Q Is it your recollection that you put the date
22 there when you were still with Keasbey & Mattison or some
23 time later?

1 MR. MASON: He said he believed that he did it
2 recently but he does not know.

3 THE WITNESS: That is right. I don't know. I
4 believe I did it recently, but I do not know.

5 Q By recently you mean after you left CertainTeed?

6 A Yes, but I am not sure.

7 Q Did you place this document in some file at
8 Keasbey & Mattison?

9 A My personal file.

10 Q Are you clear that you first saw the document
11 while you still were at Keasbey & Mattison?

12 A Yes.

13 Q What personal file was that that you placed
14 this document in, Mr. Horowitz?

15 A I kept files of everything relating to the
16 hazards relating to the job, having to do with the job, and
17 I would have it in my desk or a file near my desk.

18 Q Could you be a little bit more specific about
19 what you mean by hazards relating to the job?

20 A Well, any papers or any documents relating to
21 silica, how to sample any new concepts relating to silica,
22 diatomaceous earth, asbestos or any materials that I would
23 be responsible for for the company I worked, I kept files

1 on. I always have done that.

2 Q Did you take those files with you when you left
3 ~CertainTeed?

4 A Yes, I did.

5 Q Did you leave any documents that had been
6 contained in your personal file that you just described at
7 CertainTeed?

8 A I took my personal files with me.

9 Q Do you know whether any other copies of this
10 document were ever located at Keasbey& Mattison or Certain-
11 Teed?

12 A I have no idea, no.

13 Q Did you make any copies?

14 A I don't recall. I don't know.

15 Q Do you know who wrote this document?

16 A No.

17 Q Do you have any reason to believe that it was
18 written by someone connected with the Asbestos Textile
19 Institute?

20 A Yes. It's called a memorandum for ATI. It
21 says so on the last page. In fact, on every page it says
22 that.

23 Q Do you have any other knowledge or information

1 or understanding whatsoever as to the source or origin of
2 this document?

3 A I have no idea.

4 Q Did you discuss this document with anyone while
5 at an Asbestos Textile Institute meeting or gathering?

6 A I don't have total recall. I am sure I did,
7 but I don't have total recall.

8 Q Did you discuss this document with anyone at
9 Keasbey & Mattison?

10 A Again, I don't have total recall. All I know is
11 in the function I had it was my responsibility to pass on
12 information that might be not known by the company.

13 Q To whom did you normally pass on such information?

14 A To the one I was directly responsible to, and
15 that would be Al Spedding.

16 Q Did you ever pass on such information to Mr.
17 Schneider?

18 A In general discussion, yes. Specifically, I
19 can't recall.

20 Q Do you remember whether or not you ever discussed
21 this document or its contents with any plant managers or
22 other employees at a particular plant?

23 A Not the document in particular, no.

1 Q How about the contents of the document?

2 A The whole concept was in general discussion at
3 various times.

4 Q While you were at Keasbey & Mattison?

5 A Again, I don't have total recall.

6 MR. BRUCH: I object. I would like to note my
7 objection to the term "whole concept". I don't know whether
8 the witness is referring to asbestos or --

9 THE WITNESS: By whole concept I mean all
10 hazards.

11 Q Did you ever discuss with anyone at Keasbey &
12 Mattison the study or survey that is referred to in this
13 document?

14 A Which survey is that, in particular?

15 Q On page 2, Mr. Horowitz.

16 A Could you specifically point to which area?

17 Q Do you see on page 2 --

18 A Oh, the results of the preliminary survey? I
19 have no specific recall on that.

20 Q Did you ever discuss either this document or
21 its contents with anyone at Turner & Newall?

22 A No.

23 Q Did you ever discuss the subject of the risk of

1 cancer from asbestos exposure with anyone at Turner & Newall?

2 A Yes.

3 Q Do you remember when you first had such a
4 discussion?

5 A A visit was made by a Dr. Knox from Turner &
6 Newall and he brought the subject up.

7 Q A visit to where?

8 A To Keasbey & Mattison.

9 Q Do you remember when that was?

10 A I believe it was 1960.

11 Q What was Dr. Knox's full name, do you know?

12 A I don't recall his first name.

13 Q What was his position at Turner & Newall at the
14 time?

15 A I believe he was a medical consultant to Turner
16 & Newall from an association on asbestos, and I don't have
17 recall of the name. I don't know even whether he was
18 employed full time or as a consultant. I have no knowledge
19 in that area.

20 Q What was the occasion of his visit to Keasbey &
21 Mattison?

22 A I believe his purpose was to advise the
23 management of the hazard of asbestos.

1 Q Did that meeting take place at Ambler?

2 A Yes.

3 Q Do you have any recollection as to who was
4 present at the meeting?

5 A Mr. Schneider and Mr. Spedding were present.

6 Q Do you remember anyone else?

7 A Again, I don't have total recall. Mr. Hutchcraft
8 might have been present.

9 Q c-r-o-f-t?

10 A It might be.

11 MR. BRUCH: I object to the last name on the
12 basis that he is not certain. He so stated.

13 He is guessing as to who was at the meeting and
14 you are allowing him to continue. You never gave him the
15 instruction in the beginning not to guess at answers.

16 What are you looking at me so incredulously
17 for? He is guessing. He says he doesn't know.

18 THE WITNESS: I don't have total recall.

19 Q Do you remember how long the meeting lasted?

20 A Approximately an hour.

21 Q Do you remember why Dr. Knox was given the
22 task of coming to give advice to Keasbey & Mattison?

23 A I don't know at whose instigation his visit was

1 made. All I know is that he was going to come and I was
2 invited to the meeting.

3 Q Do you remember what interest Turner & Newall
4 had in the affairs of Keasbey& Mattison at that time?

5 MR. MASON: I object to the form of that question

6 A I can still answer that?

7 Q Yes, sir.

8 A I believe Dr. Knox felt that in England they
9 were much more aware of the hazard of asbestos and that in
10 America, the United States, we were not that much aware.

11 Q Do you remember whether or not T & N, Turner &
12 Newall, had any relationship with Keasbey& Mattison at the
13 time?

14 A I only know of the relationship that I understood
15 that they owned Keasbey& Mattison.

16 Q What did Dr. Knox tell you at that meeting?

17 A His concern as well as the general knowledge
18 that seemed to prevail in the British Empire, that cancer was
19 associated with asbestos.

20 Q Did he discuss any particular form of cancer?

21 A Yes. He mentioned mesothelioma.

22 Q What did he say about mesothelioma?

23 A That it was a unique cancer, that a person could

1 get it with even low exposure, and they were not sure about
2 whether it was due to ingestion or -- well, I shouldn't say
3 they were not sure. They think it might have been caused
4 both by ingestion as well as inhalation.

5 Q Did Dr. Knox tell you what the basis of his
6 conclusions was?

7 A He showed us a picture of a slice of a lung
8 showing a mesothelioma which was, I believe, taken from a
9 past worker in England.

10 Q Do you remember whether he reported that that
11 was a past Turner & Newall worker?

12 A He did not.

13 Q Did he tell you what the source of his data was?

14 A He said many people worked in this area in
15 England, but I don't recall any specific source.

16 Q What do you mean by "in this area"?

17 A Wrote papers, medical pathologists or people who
18 were interested in the toxicology of asbestos.

19 Q Did he say anything more than you have
20 described to us about comparisons between the level of
21 understanding in Europe and the level of understanding in the
22 United States with regard to the hazards of asbestos
23 exposure?

1 MR. HILLY: I object to the form.

2 A I have heard him say it at other times when I
3 heard him at a meeting, but I don't recall that he said it
4 at that time.

5 Q Did he make any recommendations to you or to
6 anyone else at Keasbey & Mattison about coping with the problem
7 that he had raised?

8 A Nothing specific. The general feeling was that
9 he was trying to inform us to be more concerned than he
10 thought the American attitude towards the disease was.

11 Q By the general feeling do you mean the general
12 feeling between you and other members at the meeting?

13 A No; general attitude in the United States.

14 Q I'm sorry. I think you started that last
15 answer, Mr. Horowitz, by saying that the general feeling was
16 that he had come for such-and-such a purpose.

17 A Oh, I'm sorry.

18 Q Do you mean the general feeling --

19 A I don't know what the general feeling of the
20 people there was. Nobody told me that he came either at the
21 request of somebody or what have you. I just thought he was
22 interested in getting a company that was owned by Turner &
23 Newall to make a specific visit, although he was in the

1 country for other reasons, in that same area, he came to
2 visit and would give a personal visit on that same subject to
3 us.

4 Q Could you turn to page 2 of this Document No. 1,
5 Mr. Horowitz. I want to ask you a question about the
6 paragraph that begins under the heading, Results of Prelimi-
7 nary Survey. Do you see where it says that visits were made
8 to seven member plants of the ATI?

9 A How far down is that?

10 MR. MASON: Right at the beginning (indicating).

11 THE WITNESS: Oh, yes.

12 Q Do you know whether any visits were made to a
13 Keasbey& Mattison plant?

14 A No. I don't know this study at all. It was
15 just a report that I picked up. This was prior to my time,
16 1956.

17 Q Let's turn to the document that has been marked
18 Horowitz No. 2. Would you read the heading on that document.

19 A Proposed Industrial Hygiene Program For All
20 Keasbey& Mattison Plants.

21 Q Have you ever seen that document before?

22 A I wrote it.

23 Q Is this a copy of a document that you wrote?

1 A Yes.

2 Q Can you tell us the circumstances under which
3 you wrote this document?

4 A I believe it was a result of Dr. Knox's meeting.
5 I was asked to work up a program for all the Keasbey &
6 Mattison plants.

7 Q Do you remember who asked you to do that?

8 A I think it was a consensus of Mr. Childs, Mr.
9 Schneider and Mr. Spedding.

10 Q Who is Mr. Childs?

11 A My relationship with him had to do with his
12 knowledge in the workman's compensation area.

13 Q Do you remember what his first name was?

14 A I think it was H. B. Childs, but I don't know.

15 Q Do you know where Mr. Childs is now?

16 A I have no idea.

17 Q Did he stay with CertainTeed after 1962?

18 A I don't think so.

19 Q What was his position at Keasbey & Mattison in
20 1960?

21 A I thought he was an insurance man, but I am not
22 sure.

23 Q Was he an employee of Keasbey & Mattison?

1 A Yes, he was.

2 Q At Ambler?

3 A At Ambler.

4 Q In the corporate headquarters?

5 A In the corporate headquarters.

6 Q To whom did you give this memorandum?

7 A To Mr. Spedding, who probably gave it to Mr.
8 Schneider, but I don't know. I am sure he did.

9 Q Do you know anyone else who was likely to have
10 gotten a copy?

11 MR. BRUCH: I object to the form.

12 A I believe Mr. Porter got a copy.

13 Q Who is Mr. Porter?

14 A President of the company.

15 Q Do you know whether any of the plant managers
16 received a copy?

17 A I do not know that.

18 Q I would now like to turn to the document that
19 has been marked Horowitz Exhibit 3. Could you read the
20 heading of that document.

21 A The heading of that is, Notes on Papers at 13th
22 International Congress on Occupational Health.

23 Q Would you read the date also.

1 A The date is August 3rd, 1960.

2 Q Have you ever seen this document before?

3 A I wrote it.

4 Q This document is a correct copy of the document
5 that you wrote with that heading?

6 A Yes.

7 Q May I take it that you did attend the 13th
8 International Congress on Occupational Health?

9 A Yes.

10 Q Where was that congress held?

11 A I believe it was the Waldorf Astoria in New York
12 City.

13 Q Did anyone else attend from Keasbey& Mattison?

14 A I can't answer that. I don't know. I don't
15 think so.

16 Q Who authorized you to attend?

17 A Mr. Spedding.

18 Q Did Mr. Spedding or Keasbey& Mattison have a
19 policy about your attending health-related conferences?

20 A There was no written policy, but any time I
21 asked to attend I would attend.

22 Q Did other Keasbey& Mattison personnel sometimes
23 attend with you?

1 A Not the specific meetings that I attended.

2 Q To whom did you deliver these notes, if anyone?

3 A Mr. Spedding.

4 Q Anyone else?

5 A A copy may have gone to Mr. Schneider, but I
6 don't have any recall and I don't have any note to that effect.

7 Q Did you discuss this conference with anyone else
8 at Keasbey & Mattison?

9 A No.

10 Q Do you know of any action taken by Keasbey &
11 Mattison as a direct result of these notes?

12 A No. It was general information, bringing
13 up-to-date the knowledge that I acquired and giving that same
14 knowledge to my superior.

15 Q Would you turn now to the document marked
16 Horowitz Exhibit 4 and read the heading and the date.

17 A This is a copy of a letter I sent to Mr. Charles
18 D. French, relating to dust collection on a cut-off saw in
19 Plant 8, which was an asbestos cement plant.

20 Q Who is Mr. French?

21 A He was plant manager of Plant 8 at the time.

22 Q Was this letter written by someone named A. W.
23 Spedding?

1 A It appears so, yes.

2 Q Do you remember that he wrote it?

3 A I haven't read it, or maybe I did read it
4 recently, but I don't recall what is in there except that my
5 guess is it has something to do with dust collection that I
6 may have designed or should have designed in Plant 8.

7 Q Do you remember getting a copy of this letter
8 at about the time it was written?

9 A Yes.

10 Q Who is Mr. J. V. Gear?

11 A J. V. Gear?

12 Q Down at the bottom of the page, on the left.

13 A At one time I thought he was plant manager of
14 Plant 8, but that is the only recall I have of his name. But
15 since Charles French was plant manager, I am confused about
16 that.

17 Q Was he a Keasbey & Mattison employee?

18 A Yes.

19 Q At Ambler?

20 A At Ambler.

21 Q Who is Mr. J. M. Gladeck who is also shown?

22 A Gladeck was another engineer in our engineering
23 office. He probably had to do with installation of some of

1 the equipment.

2 Q I would like to ask you to read the first
3 sentence of that document. Would you read that aloud?

4 A "You are probably aware that it is Central
5 Engineering Division's responsibility to maintain a healthy
6 and dust-free industrial atmosphere in all K & M plants."

7 Q Was that a policy of the Central Engineering
8 Division?

9 A That was a policy --

10 MR. HILLY: Objection.

11 A -- we hoped to live by, yes.

12 Q Who set that policy?

13 A I believe Mr. Spedding and Mr. Schneider.

14 Q What did you understand by the expression dust-
15 free industrial atmosphere?

16 A It is not an absolute term. It is a term which
17 relates to the threshold limit or guidelines, to bring it to
18 below the recommended guidelines is a dust-free industrial
19 atmosphere.

20 Q Did you understand that the expression dust-free
21 embraced asbestos dust?

22 A Yes.

23 Q What was the purpose of having a policy of

1 maintaining a dust-free industrial atmosphere?

2 A For health reasons.

3 Q Did you design the cut-off saw that is referred
4 to in this document, the dust collection system for the
5 cut-off saw?

6 A May I read it just to recall?

7 Q Certainly.

8 (Pause.)

9 A Apparently, it was my design that they were
10 trying to correct, from their existing design to my design,
11 and he was urging him to do it.

12 Q I would like you to now turn to a document that
13 has been marked Horowitz Exhibit 5. Could you read the
14 heading of that document.

15 A It is written to Mr. A. W. Spedding on September
16 14, 1960. Asbestos Textile Institute Meeting, September 8th
17 and 9th, 1960.

18 Q Have you ever seen this document before?

19 A Yes. I wrote it.

20 Q This is a true copy of the document that you
21 wrote?

22 A Yes.

23 Q Can you tell us what this document is all about?

1 A May I look at it?

2 I believe it was my first meeting as representing
3 Keasbey & Mattison at the Air Hygiene & Manufacturing Committee
4 of the Asbestos Textile Institute. I believe I asked them
5 what their experience was with compensation claims due to
6 occupational disease, and I reported to them what they said.

7 Q Can you look at the people listed as attending
8 that meeting for a moment.

9 A Yes.

10 Q Can you tell us who Mr. R. B. Smith was? Do you
11 remember?

12 A He seemed to have chaired most of the meetings.
13 He represented Raybestos-Manhattan, but I don't recall.

14 Q Do you know anything about his background?

15 A About his background?

16 Q Or training?

17 A I was impressed with the fact that all of the
18 people on the ATI Air Hygiene Committee were not industrial
19 hygienists, that they were production people, and I think Mr.
20 Smith was one of them.

21 Q How did you know they were not industrial
22 hygienists?

23 A By talking to them.

1 Q Were they knowledgeable about dust control
2 engineering?

3 MR. HILLY: Objection.

4 A They were aware of it.

5 Q Do you remember anything about Mr. J. L. Mitchell

6 A I remember he was associated with H. K. Porter,
7 and not too much more.

8 Q Anything else more?

9 A He was a production man.

10 Q How about Mr. H. E. Palm?

11 A Vaguely the same thing.

12 Q Mr. Atkinson?

13 A Vaguely the same thing.

14 Q Do you remember what his first name was?

15 A No.

16 Q How about Mr. Mullinson?

17 A I don't remember the name.

18 Q Do you remember the English Asbestos Company?

19 A No.

20 Q Would you look at the second paragraph of the
21 discussion, where it says, "These members responded readily
22 to my questions concerning their experience ratings with
23 respect to compensation claims," and so forth. Did you at

1 the time know what Keasbey & Mattison's experience ratings
2 were with respect to compensation claims?

3 A I didn't know their ratings and I didn't
4 understand ratings. But Mr. Childs made me aware of the
5 kinds of claims we had, and they were very few.

6 Q Were there asbestos-related claims at the time
7 of this meeting?

8 A Yes.

9 Q Do you remember who the members were who
10 responded readily to your questions?

11 A Not all, but some. I don't remember who.

12 Q Do you remember any of them?

13 A I don't remember, no.

14 Q Do you remember whether or not they said that
15 they had experienced compensation claims arising out of
16 asbestos exposure?

17 A I think they were very cagy about that. I
18 don't really know. I was fishing for information.

19 Q Do you see the sentence that reads, "It was the
20 general consensus that the industry must accept dust control
21 in order to stay in business"?

22 A What paragraph?

23 Q Right there in the second paragraph.

1 A Yes, I see that.

2 Q What did you mean by that statement?

3 A The meaning was that more expenditure, capital
4 expenditure had to be given to the area of dust control.

5 Q Why?

6 A That it was more of a problem than they thought.

7 Q In the next paragraph do you see the second
8 sentence, where it says, "Two members claimed that they
9 attempt to keep concentrations below $2\frac{1}{2}$ MPPCFA"?

10 A Yes.

11 Q Do you remember which members those were?

12 A No.

13 Q In the next paragraph do you see where it says,
14 "One member related his company's experience with
15 occupational disease"?

16 A Yes.

17 Q Do you remember who that member was?

18 A No.

19 Q Would you look at the last paragraph on that
20 page, where it says, "In summary, all members claimed to
21 have good dust control programs with frequent dust
22 monitoring."

23 A Yes.

1 Q "Pre-employment physicals including large-size
2 X-ray as well as yearly X-ray to compare with previous picture
3 to check progression," and so forth.

4 A Yes.

5 Q Was Keasbey & Mattison one of the members who
6 claimed that?

7 A I was the only representative of Keasbey &
8 Mattison at the meeting. Therefore, I didn't make the claim,
9 so nobody from Keasbey & Mattison made it.

10 Q You did not make the claim?

11 A No.

12 Q When you say all members here, you did not
13 include Keasbey & Mattison?

14 A Let me review that. (Pause.) I was reporting
15 on all the other members, not on myself.

16 Q I would like to turn to the document that has
17 been marked Horowitz Exhibit 6. Would you please read the
18 heading on that document.

19 A The original document was made by myself on
20 October 13th, 1960 in Ambler. It was a memo to all plant
21 managers, and the subject was respirator program for all --
22 first it was K & M plants and then when we switched over to
23 CertainTeed, I kept the same memo and just crossed out K & M

1 and used CPC, to mean CertainTeed Products.

2 Q Would you look at the document that has been
3 marked as Horowitz Exhibit 20.

4 A Yes.

5 Q Would you look at the last page of that document.

6 A Yes.

7 Q Could you identify that for us?

8 A It's the same as the one I just mentioned,
9 Respirator Program for all K & M Plants.

10 Q Did you write that document?

11 A Yes.

12 Q And this is a copy of it?

13 A Yes.

14 Q That is your signature down at the bottom?

15 A Yes.

16 Q Now let's jump back to No. 6 and see if I
17 understand correctly. The document attached to Exhibit
18 No. 20 is the original form and the document that is marked
19 No. 6 is a revised form?

20 A I don't even know if I made a revision on it.
21 I may have made -- may I look at 20 again?

22 Q Yes.

23 A Apparently, I made some additions when I changed

1 it to the CertainTeed Products Corporation.

2 Q Is that what CPC stands for?

3 A CertainTeed Products Corporation; right.

4 I added one statement there. Do you see that?

5 "Individual clean containers must be provided to each
6 employee for storage of his personal respirator if a
7 central storage cabinet is not available." That was added
8 to the CPC. That wasn't on the original.

9 Q Did you also add the note at the very bottom?

10 A Yes, I did.

11 Q Do you see the handwriting next to the note in
12 which there appear to be dates?

13 A Yes.

14 Q Can you explain those notations?

15 A It indicates the fact that the addition and the
16 added statement on the bottom was put in on that date.

17 Q Which date was that?

18 A It was 1967, 8-9-67.

19 Q How about the date below that?

20 A There is a little delta reference to it on
21 December 6, 1967 and I don't have any recall why that was
22 put in.

23 Q When this document was first issued by you on

1 October 13, 1960 in the form that is attached to Exhibit 20
2 was it communicated to K & M employees?

3 A It was communicated to all plant managers.

4 Q Do you know what the plant managers did with it?

5 A That was not my responsibility.

6 Q Do you know what in fact they did with it?

7 A I don't know what in fact they did with it.

8 Q Look at paragraph one, if you will: Dust
9 respirators must be used by K & M or CPC personnel at all
10 operations. Do you know whether or not the plant managers
11 enforced that requirement?

12 A Not 100 percent, but they tried.

13 Q The plant managers tried?

14 A I believe so, yes.

15 Q Do you know how they communicated this policy
16 to the employees, if they did?

17 A No total recall. I believe signs. And when I
18 visited I asked them about it and they said they provided
19 respirators, not everybody was willing to use them; that
20 kind of a discussion.

21 Q Look at paragraph No. 5, if you will, for a
22 moment. Do you see where it says: "Operating personnel
23 must be warned that, if they persist in performing their

1 job in dusty areas without the use of respirators which have
2 been provided, it will be necessary to request disciplinary
3 action through proper channels"?

4 A Yes.

5 Q Do you know whether that requirement was
6 enforced by the plant managers?

7 A I have no knowledge that it was.

8 Q Do you know that it was not?

9 A Nor that it was not.

10 Q Did you send this memorandum to anyone else at
11 corporate headquarters either in 1960 or in 1967?

12 A This memo was made for the Loss Control
13 Committee and they got a copy of it and Mr. Spedding and Mr.
14 Schneider got a copy of it. I know that.

15 Q Did somebody instruct you to write this
16 memorandum?

17 A Yes.

18 Q Who?

19 A The Loss Control Committee.

20 Q Did you discuss the substance of this memorandum
21 with any union official either before or after you wrote it?

22 A I had no responsibility nor mandate nor
23 requirement to discuss with anybody but my supervisors.

1 Q Do you know whether anyone at Keasbey& Mattison
2 discussed the substance of this memorandum with union
3 officials?

4 A I have no idea.

5 Q Look at paragraph 5, if you will, the very last
6 line that I read, "it will be necessary to request
7 disciplinary action through proper channels." Do you know
8 what those channels were?

9 A It's a general statement that means -- my
10 understanding would be you just can't do a thing like that
11 without discussing it with whatever protocol there was at
12 the particular plant, either union or contract or what. So
13 it's a very general statement.

14 Q Did you understand that proper channels
15 included some consultation with the union?

16 MR. RUBIN: Objection to the form.

17 A It was my understanding in the industrial
18 relations situation, yes. When I write a thing like that,
19 that is my understanding of it.

20 Q Was that generally true at all the Keasbey&
21 Mattison plants?

22 A I have no knowledge of that.

23 Q But was it your understanding that proper

1 channels for discipline included consultation with the union
2 throughout the Keasbey & Mattison system?

3 A This was my understanding --

4 MR. RUBIN: Excuse me. Objection as to form.
5 I'm sorry.

6 Q Go ahead.

7 A It was my feeling that this is the way the thing
8 should be done.

9 Q Would you look at paragraph 2, Mr. Horowitz.
10 Who made the decision to specify the particular respirators
11 that are noted there?

12 A I did.

13 Q What did you base that instruction on?

14 A The state of knowledge at that time was that
15 this was the only respirator available that could provide
16 some degree of protection against the hazardous materials
17 that we were asking them to use this for, which included
18 silica, cement, mica, talc and asbestos dust.

19 Q How did you learn what the state of the art was?

20 A Through professional meetings and discussions
21 and asking other people. In general, at that time there was
22 no approval agency, but generally through other people in
23 the industry.

1 Q Would you please turn now to the document that
2 has been marked Horowitz Exhibit 7. Would you read the
3 heading of that document.

4 A November 22nd, to Mr. G. Barge --

5 Q Excuse me. November 22nd?

6 A November 22nd, 1960.

7 Q Yes. Excuse me. Go ahead.

8 A To Mr. G. Barge. Re: Industrial Hygiene
9 Foundation Meeting, October 27, 1960, Pittsburgh, Pennsylvania.

10 Q Would you look to page 2 of this document.

11 A Look where?

12 Q Down at the bottom. Do you see the name H. B.
13 Childs?

14 A Yes.

15 Q Do you know whether or not he wrote this
16 memorandum?

17 A Yes, I believe he did. It's his signature.
18 That is, I don't recognize his signature, but it is signed
19 H. B. Childs and I assume it's his, yes.

20 Q Do you know how you got a copy of this memoran-
21 dum?

22 A No, I don't know. It's not written to me, nor
23 am I privy to a copy, according to the letter here. But I

1 got a copy somehow or other.

2 Q You did get a copy of this?

3 A Apparently, yes.

4 Q Was this a document that was in your personal
5 file at Keasbey & Mattison?

6 A Yes.

7 Q Did you go to the Industrial Hygiene Foundation
8 Meeting in Pittsburgh on October 27, 1960?

9 A I went to many Industrial Hygiene Foundation
10 meetings. I can't specifically say I went to this one, but
11 I probably did, and maybe I went with H. B. Childs. I don't
12 know.

13 Q Who is H. B. Childs again?

14 A As far as I know, he may have been a
15 comptroller, he may have been an insurance rep. -- not rep.,
16 but took care of the insurance area at Keasbey & Mattison,
17 insurance problems, but I don't recall his title.

18 Q He was a Keasbey & Mattison employee?

19 A He was a Keasbey & Mattison employee.

20 Q Who was Mr. G. Barge in 1960?

21 A I can't remember.

22 Q Was he a Keasbey & Mattison employee?

23 A He was an executive of some sort, yes.

1 Q You don't know what branch of management he was
2 in?

3 A No.

4 Q Was it finance?

5 A I don't know.

6 Q Would you again look to page 2. Could you
7 identify for us the persons who are listed as having received
8 or destined to receive carbon copies of this document? I
9 think you have told us who Mr. Spedding is.

10 A Yes, Mr. Spedding was the head of the Engineering
11 Department.

12 Mr. Dougherty, he had some semi-executive role
13 at that time, but I don't know. The same with Mr. Scranton.

14 Q Do you remember Mr. Scranton's first name?

15 A No.

16 Q The document marked as Horowitz Exhibit 8, would
17 you read us the heading of that document.

18 A Exhibit 8 is to Mr. H. B. Childs on December 1st,
19 1960, Dust Control.

20 Q Have you ever seen this document before?

21 A Yes.

22 Q Do you remember receiving a copy of this
23 document at or about the time it was written?

1 A Vaguely. The letter brings recall, but if I
2 didn't have it in front of me I wouldn't have remembered.

3 Q Do you remember it was in --

4 A It was in my file, yes.

5 Q It was in your personal file at Keasbey &
6 Mattison?

7 A Yes.

8 Q Look at page 2, Mr. Horowitz.

9 A Yes.

10 Q Do you recognize Mr. Scranton's signature?

11 A I don't remember his signature, but I am sure
12 it is his. It says original signed.

13 Q Do you know what the circumstances were that led
14 to the writing of this memorandum to Mr. Childs?

15 A I think it related to the Loss Control
16 Committee and some of the other letters we have been dis-
17 cussing.

18 Q Do you know who received copies of this
19 document, other than the persons who were shown as receiving
20 carbon copies?

21 A No, I do not.

22 Q Do you know whether this document was ever
23 discussed with union officials?

1 A I do not, no.

2 Q Look at page 2, please. Look at the paragraph
3 *numbered 2. Do you know what Mr. Scranton meant by the
4 following sentence: "Poor working conditions can lead to
5 employee dissatisfaction and action by the union, which is
6 not in the best interest of the company"?

7 MR. RUBIN: Objection as to form.

8 Q Go ahead, Mr. Horowitz.

9 A I wasn't listening 100 percent, but I believe
10 recall tells me that Mr. Scranton had to do with industrial
11 *relations and the fact that you bring this paragraph up
12 reminds me of that, but again I can't be sure.

13 Would you ask that question again, please?

14 Q I will ask you a different question.

15 Did you believe at the time that poor working
16 conditions could lead to employee dissatisfaction and action
17 by the union which is not in the best interest of the company?

18 MR. RUBIN: Objection as to form.

19 A Well, my area of belief is in the area of clean
20 and healthful conditions for good worker -- not so much
21 *relations as for good worker health, and that was my area of
22 interest. The subjective attitudes of people were not my
23 area of interest.

1 Q Look at the second sentence of that paragraph 2,
2 if you will, where it says: "For example, at St. Louis the
3 State Inspectors were brought into our plant to inspect the
4 dust conditions at the request of the union." Do you see
5 that sentence?

6 A Yes.

7 Q Do you remember that incident, the incident
8 referred to by that sentence?

9 A Not specifically, no.

10 Q Do you remember like incidents?

11 A In general, there were a few incidents where
12 employees complained to the State, but it is a very
13 general -- I don't remember any specific --

14 Q You don't remember at which plants?

15 A No.

16 Q Do you remember which union or unions represented
17 the employees at any of the Keasbey & Mattison plants, Mr.
18 Horowitz?

19 A I do not.

20 Q Would you look at paragraph numbered 3. Do you
21 see the first sentence ends with the phrase, "in areas where
22 dust conditions are noticeably bad"?

23 A Yes.

1 Q Do you remember any incidents when the labor
2 force that is referred to in that paragraph refused to accept
3 employment in areas where dust conditions were noticeably bad?

4 A No.

5 Q Is that because that was not your area of
6 responsibility?

7 MR. HILLY: Objection.

8 A It's only in letters that I would get the idea
9 that dust control was important to the management, but nothing
10 specific.

11 MR. MASON: That wasn't his question.

12 THE WITNESS: I'm sorry.

13 MR. MASON: Do you want to ask your question
14 again?

15 A Would you like to ask the question again so I
16 would answer specifically?

17 Q No; but I was going to ask you whether there
18 were other letters which had --

19 A If there were, I don't recall.

20 Q -- problems like the one referred to here?

21 A If there were, I don't recall.

22 Q Do you remember whether there were areas at
23 Ambler where dust conditions were noticeably bad, in your

1 view?

2 MR. BRUCH: In what time period?

3 Q At Keasbey & Mattison?

4 A Perhaps it needs a little explanation.

5 The making of pipe constitutes a cutting away
6 of a certain amount of material. So making dust is part of
7 making pipe. Dust control is needed for two reasons. First,
8 to take the dust away so that you can make the pipe.
9 Otherwise, it would pile up. And also for the reason of
10 taking away the very fine particles that go into the air and
11 could create a hazard.

12 So to answer your question, the whole operation
13 consisted of making dust.

14 Q Do you remember particular areas that were
15 noticeably bad, to use Mr. Scranton's phrase?

16 A There were areas which I would evaluate
17 objectively, rather than subjectively, the way a layman
18 would, by taking air samples; and when I found those areas
19 I reported that and recommended correction.

20 So to answer your question, there were some
21 areas, yes.

22 Q At Ambler?

23 A Yes.

1 Q While Keasbey & Mattison owned the plant?

2 A I imagine so. I can't be specific. In two
3 years there must have been a few. It's a constant thing.

4 Q I would like you to turn to the document that
5 has been marked Horowitz Exhibit 9 and ask you to read the
6 heading.

7 A Dust Control Report, December 6, 1960.

8 Q Would you turn to the last page, page 4.

9 A Yes.

10 Q Do you see who is listed as having written this
11 document?

12 A Dr. Stabler.

13 Q Have you ever seen this document before?

14 A Yes.

15 Q When did you first see it?

16 A I have no recall, but I must have seen it almost
17 immediately after it was written.

18 Q Why would you conclude that, Mr. Horowitz?

19 A As a member of the Loss Control Committee, dust
20 control was my area of interest.

21 Q Was this document placed in your personal file
22 at Keasbey & Mattison?

23 A I placed it there.

1 Q Who was Dr. Stabler?

2 A I believe he was a consultant or a medical
3 doctor hired by the company, but not an employee of the
4 company.

5 Q Do you know what the circumstances were that led
6 to Dr. Stabler's writing this memorandum?

7 A I believe he was asked to write the memorandum.

8 Q Do you remember who asked him to write it?

9 A I believe he sat in on Loss Control Committee
10 meetings and was asked then. I can't be sure about that.

11 Q Do you know who received this report or copies
12 of it?

13 A I know I received it. That is all.

14 Q Would you look at the first sentence in the
15 second paragraph, which says: "Asbestosis of the lung is a
16 constant fear of all employees and a problem to management."
17 Do you know what Dr. Stabler's basis for that statement was?

18 A It appears to be a generalization.

19 Q Did you ever discuss that matter with Dr.
20 Stabler?

21 A Not the fact that it's a constant fear of all
22 employees, no.

23 Q Well, what did you discuss with Dr. Stabler?

1 A The problem of asbestosis.

2 Q Would you turn to page 3. I would refer you
3 to the heading marked: C. Program We Need. Would you just
4 take a minute to review the eight points that Dr. Stabler
5 listed under the heading Program We Need.

6 A Yes.

7 Q Do you remember that Dr. Stabler recommended a
8 program along the lines set forth in this document?

9 A I didn't remember until I read it.

10 Q Now that you have read it do you recall that he
11 recommended a program along these lines?

12 A My memory fails me completely, but I am sure he
13 did it, yes.

14 Q Do you remember whether or not Keasbey & Mattison
15 adopted a program along the lines recommended by Dr. Stabler?

16 MR. HILLY: I object to the form.

17 A Certain parts were followed, yes.

18 Q Can you tell us which parts?

19 A The parts that I had recommended.

20 Q Which parts were those, Mr. Horowitz? I don't
21 mean in detail, but if you would just identify them off the
22 page here, that would be helpful to us.

23 A Extensive dust control, respirator program,

1 those were followed through. No. 6, cooperation with other
2 asbestos manufacturing companies. An attempt was made for
3 a standard method of dust collection. An attempt was made
4 for a standard method of x-ray. And No. 8, with the
5 cooperation of other companies.

6 Q Would you look at 7b, Mr. Horowitz.

7 A Yes.

8 Q You didn't list that?

9 A He did.

10 Q Excuse me?

11 A Yes, he listed that.

12 Q Yes, but you didn't list it as one of the things
13 that the company followed through on.

14 A I have no knowledge of what they did with the
15 union, so I couldn't respond to that.

16 Q So you don't know whether or not the company
17 followed through on his recommendation No. 7?

18 A Not No. 7, no.

19 Q I would like you to turn to the document that
20 has been marked Horowitz Exhibit 10.

21 A Do you want me to read it?

22 Q Yes, just the heading.

23 A December 16, 1960. To Mr. A. W. Spedding.

1 Asbestos Textile Institute Meeting, December 15, 1960.

2 Q Did you ever see this document before?

3 A Yes.

4 Q Who wrote it?

5 A I wrote it.

6 Q This is a copy of a document you wrote?

7 A Yes.

8 Q Would you look at the persons listed as attending.

9 Do you remember Mr. D. T. Austin?

10 A Vaguely as a member of U. S. Rubber Company.

11 Q How about Mr. Hans Walter?

12 A Yes, I remember him.

13 Q What was his position at American Asbestos

14 Textile Corporation?

15 A I believe he was either a design engineer or a
16 production man.

17 Q Can you read the handwriting on the top right-
18 hand in the margin of this document?

19 A Yes. Some of it is deleted, but I can read some
20 of it, yes.

21 Q Who wrote that?

22 A That is my handwriting.

23 Q Can you tell us what it says? I am curious.

1 A Use blue something instead of photocopies.
2 Blueprint, it must be blueprint. Blueprint of onion skin
3 copy where available. Looks better and is cheaper and
4 identifies Engineering Department. Save money if other
5 departments do the same.

6 I have no idea why it was written.

7 Q Is that just commendable housekeeping?

8 A Probably. One of my functions was to save money.

9 Q Do you remember if anyone else from Keasbey &
10 Mattison attended this meeting in December of 1960?

11 A I don't think so. I would have put it down if
12 they did.

13 Q Who generally got your reports of the minutes of
14 the ATI meetings that you attended?

15 A I would report it to Mr. Spedding and he would
16 make a decision whether to send it up to Mr. Schneider; but
17 that is the only knowledge I have of anybody getting the
18 report.

19 Q Did he from time to time send copies up to Mr.
20 Schneider?

21 A I believe he did.

22 Q Did he tell you that he did?

23 A I would sometimes see a copy that he did, with

1 a note that he did.

2 Q Look at the last paragraph on page 1, if you
3 will, Mr. Horowitz. Do you see where it says: "It was
4 interesting to discover that J-M uses two large rooms to
5 collect the dust created at some of their cards"?

6 A Yes.

7 Q Why was that interesting?

8 A It is interesting for many reasons. First of
9 all, it is a relatively inexpensive way to collect dust. It
10 was a method used in the cotton industry for that same type
11 of operation. And it was interesting to me because I
12 considered it a relatively poor way to collect dust, so I
13 pointed it out as not a method to use.

14 Q Keasbey& Mattison did not use this method?

15 A No, I didn't see it at any of their operations.
16 It was sort of a common method used in textile mills, but we
17 only had one textile mill and we didn't use that method.

18 Q How did it compare to the method that Keasbey&
19 Mattison used?

20 A The design of the method they used was a
21 better method, much better.

22 Q Who is "they"?

23 A That Keasbey& Mattison used was a better method.

1 Q Would you turn to page 2.

2 A Yes.

3 Q Do you see the last paragraph which is headed,
4 Technical Paper on Dust Control in Asbestos Industries?

5 A Yes.

6 Q Do you see the name Dr. Shaw right in the middle
7 of that paragraph?

8 A Yes, I do.

9 Q Who is Dr. Shaw?

10 A I believe he worked with ATI and was a
11 consultant sometimes to Keasbey & Mattison.

12 Q Do you remember what his first name was?

13 A No.

14 Q What kind of a consultant?

15 A Mostly in production methods, how to make
16 asbestos textile products. He was a research --

17 Q I would now like to ask you to turn to the
18 document that has been marked Horowitz Exhibit 11 and ask
19 you if you would read the heading of that document.

20 A To Mr. A. W. Spedding. March 9, 1961. Asbestos
21 Textile Institute Meeting, Air Hygiene & Manufacturing
22 Committee, March 2nd and 3rd, 1961.

23 Q Have you seen this document before?

1 A Yes, I have.

2 Q Did you write it?

3 A I wrote it.

4 Q This is a copy of the document you wrote?

5 A Yes.

6 Q Do you remember whether anyone else went to this
7 meeting with you, Mr. Horowitz, anyone from Keasbey & Mattison?

8 A I don't believe anyone did.

9 Q Dr. Stabler didn't go to this meeting with you,
10 did he?

11 A No.

12 Q I would like you to turn to the document that has
13 been marked Horowitz Exhibit 12. Would you read the heading
14 of that.

15 A March 14, 1961. Dr. A. C. Stabler. Subject:
16 Environmental Health Survey by Air Hygiene and Manufacturing
17 Committee of Asbestos Textile Institute (ATI).

18 Q Have you seen this document before?

19 A Yes, I have.

20 Q Is it a copy of a document you wrote?

21 A Yes, it is.

22 Q What were the circumstances under which you
23 prepared this document?

1 A I wrote it to inform Dr. Stabler of the medical
2 information that I obtained from a discussion given by Dr.
3 Kenneth Smith of Johns-Manville.

4 Q Was Dr. Stabler at that time a consultant to
5 Keasbey & Mattison?

6 A I believe he was.

7 Q Do you know who else got a copy of this document?

8 A Well, the second page shows Mr. Spedding and Mr.
9 Childs.

10 Q Do you know whether anyone else got a copy?

11 A I have no idea.

12 Q I would like to ask you to look at the last
13 paragraph on page 1. Would you just take a quick look at
14 that. My question is this, Mr. Horowitz: Did Keasbey &
15 Mattison maintain any kind of file or collection of books or
16 articles on industrial hygiene or occupational disease?

17 A None other than what I collected.

18 Q Did you collect books and articles from time to
19 time on these subjects?

20 A Mostly abstracts.

21 Q Where did you get your abstracts?

22 A The Industrial Health Foundation in Pittsburgh
23 would provide abstracts, in general.

1 Q Abstracts of what?

2 A Of all subjects relating to industrial hygiene
3 ,and toxicology.

4 Q Did that include --

5 A World-wide publications.

6 Q How often did those abstracts arrive on your
7 desk?

8 A Well, presently I get it once a month. I don't
9 recall how often it was then.

10 Q Do you have any reason to believe that it was
11 less frequently than once a month when you were with Keasbey &
12 Mattison?

13 A It might have been quarterly. I don't recall.
14 Keasbey & Mattison and CertainTeed were a member of the
15 * Pittsburgh --

16 Q The Industrial Health Foundation?

17 A The Industrial Health Foundation.

18 Q Did you regularly get articles that dealt with
19 asbestos?

20 A I would cull it from the literature wherever I
21 * got it.

22 Q Did you get some articles dealing with asbestos
23 from the Industrial Health Foundation, or abstracts of

1 articles?

2 A Probably, yes.

3 Q Did you get abstracts from any other source?

4 A I asked an insurance company what knowledge they
5 had. When the problem of cancer came up, I tried to get
6 more information and I got a few abstracts from them.

7 Q Do you remember who the insurance company was
8 at the time?

9 A American Mutual, the one I work for now.

10 Q Did they give you additional information on --

11 A A few abstracts. They gave me photocopies of
12 published references on the subject, articles or papers that
13 had been written in England and South Africa.

14 Q That dealt with asbestos?

15 A That dealt with asbestos -- well, lung cancer
16 was a question at the time.

17 Q So the abstracts dealt with the potential
18 relationship between asbestos and lung cancer?

19 MR. HILLY: Objection.

20 A Right.

21 Q I would like you to turn to Horowitz Exhibit 13
22 and read the heading of that.

23 A June 12, 1961. To Mr. A. W. Spedding. Asbestos

1 Textile Institute Meeting, Air Hygiene & Manufacturing
2 Committee, June 8th and 9th, 1961.

3 Q Have you ever seen this document?

4 A Yes.

5 Q Is it a copy of a document you prepared?

6 A Yes.

7 Q This is the meeting that Dr. Stabler went with
8 you, I gather?

9 A Yes, because Dr. Smith was going to talk, I
10 believe.

11 Q Did you tell Dr. Stabler in advance that Dr.
12 Smith was coming to talk?

13 A That was the reason we invited him.

14 Q Was it because Dr. Smith was going to talk about
15 the relationship between asbestos and cancer that you
16 particularly asked Dr. Stabler to attend?

17 MR. HILLY: Objection.

18 MR. BRUCH: Objection.

19 A I state here, in a paragraph heading, Asbestos
20 and Cancer, underlined.

21 Q Asbestosis and Cancer?

22 A Asbestosis and Cancer. I'm sorry. "A meeting
23 of all ATI committees was called on June 8, 1961, specifically

1 to hear Dr. Kenneth Smith of Johns-Manville report on this
2 subject which is of the utmost importance to all member
3 companies. His report follows."

4 So that answers your question.

5 Q Was it because you knew the purpose of the
6 meeting that you asked Dr. Stabler specifically to attend?

7 A All committees -- this was one of the few times
8 that it wasn't just the Air Hygiene & Manufacturing Committee
9 meeting, but we invited other committee members to visit and
10 listen to Dr. Smith.

11 Q Would you go back to paragraph 1. Do you see
12 the sentence that says: "Each member submitted its dust
13 counting technique and existing medical program"? Do you see
14 that sentence?

15 A Yes.

16 Q Did Keasbey & Mattison submit --

17 A Yes.

18 Q Keasbey & Mattison submitted its dust counting
19 technique and existing medical program?

20 A Yes, we did.

21 Q Did you review the dust counting techniques and
22 existing medical programs submitted to the group by other
23 members?

1 A Yes.

2 Q Were Keasbey & Mattison's techniques and programs
3 comparable to those of the other members?

4 A Yes. They were the accepted method of the time.

5 Q Did Dr. Smith talk about any particular forms
6 of cancer in his talk, do you recall?

7 A I don't recall the meeting. I have no recall
8 except for what is in this report.

9 Q Do you know why you labeled this document
10 confidential in sending it on to Mr. Spedding?

11 A All my reports to Mr. Spedding were marked
12 confidential.

13 Q Well, that is what intrigued me, Mr. Horowitz.
14 If you will look back to Exhibit No. 11, which is also a
15 report of minutes, it wasn't labeled confidential, and I
16 wondered what happened.

17 A I am sure not all of them. Really what I meant
18 was that my reports to him were only to him. Probably
19 somewhere along the line somebody said mark them confidential.
20 I have no idea. I don't know whether I did this on my own
21 or whether they told me. I have no idea at all.

22 Q Would you now turn to Exhibit No. 14.

23 A Right.

1 Q Would you please read the heading of that document

2 A September 12, 1961. Mr. A. W. Spedding.

3 Subject: Asbestos Textile Institute Meeting, Air Hygiene &
4 Manufacturing Committee, September 7 and 8, 1961.

5 Q Have you ever seen this document before?

6 A Yes, I have.

7 Q Is it a copy of a document you prepared?

8 A Yes.

9 Q Do you recall whether anyone else from Keasbey &
10 Mattison attended this meeting?

11 A Not at this meeting.

12 Q Would you please turn to page 2, the very top
13 line. Do you see where it says, "Mr. R. R. Porter objected
14 to this proposal"?

15 A Yes.

16 Q Do you remember who Mr. R. R. Porter was?

17 A He was the president of Keasbey & Mattison.

18 Q So he attended this meeting?

19 A No.

20 Q When did he object to this proposal?

21 A When I recommended that we join with the other
22 companies and ask the U. S. Public Health Service to make
23 this study.

1 Q Do you remember when you made that recommendation
2 to Mr. Porter?

3 A Probably as a result of a previous meeting. I
4 don't know if I did it directly to him, but I did it to --
5 was it in my previous -- maybe there were some minutes of
6 another meeting that you don't have or I didn't have.

7 Q But you do know that your recommendation was
8 communicated to Mr. Porter?

9 A Apparently, yes.

10 Q How did you learn that he objected to the pro-
11 posal?

12 A I think his objection was given to me for
13 purposes of responding, to convince him that there was a
14 need for this kind of study.

15 Q Did you convince him there was a need?

16 A He had a particular reason for objecting to it
17 and I don't recall what the particular reason was. I
18 responded to that and I think he eventually agreed that we
19 should cooperate.

20 Q Thank you. Would you now turn to the document
21 that has been marked Horowitz Exhibit No. 15 and would you
22 read the heading of that document to us.

23 A This one was apparently private and confidential.

1 Q Yes.

2 A To Loss Control Committee. The date was
3 October 9, 1961. Subject: Analysis of Environmental
4 Conditions in Ambler Plants From the Industrial Hygiene
5 Point of View Referring to Recent X-rays.

6 Q Have you ever seen this document before?

7 A If I wrote it I did, yes.

8 Q Is this --

9 A Yes, this I did.

10 Q This is a copy of a document you wrote?

11 A Yes.

12 Q Tell us about the Loss Control Committee, Mr.
13 Horowitz. Was that a Keasbey & Mattison committee?

14 A Yes.

15 Q Who was on it and what did it do?

16 A I only recall Mr. Childs, myself, Mr. Spedding
17 and Mr. Schneider.

18 Q Was Dr. Stabler on it?

19 A I think he was.

20 Q How about Mr. D. W. Keach, who is referred to
21 on page 2 as someone getting a copy of this document?

22 A I think he was.

23 Q Who was Mr. D. W. Keach?

1 A Either in industrial relations or -- I think
2 industrial relations. I am not sure.

3 Q What was the purpose of the Loss Control Committee

4 A I believe a decision was made after Dr. Knox's
5 visit to form a Loss Control Committee to respond to his
6 suggestion.

7 Q Would you look at the first paragraph, in the
8 first sentence, where it says, "X-rays were made of 653
9 Keasbey & Mattison employees in May 1961." Do you know where
10 those employees were located, at what plants?

11 A No, I don't. I probably was just reviewing what
12 Dr. Kirshner had submitted. I do not know.

13 Q Who is Dr. J. J. Kirshner?

14 A I don't recall.

15 Q Did you ever meet him?

16 A I don't recall meeting him, no.

17 Q Was he an employee of Keasbey & Mattison?

18 A I don't believe he was, no.

19 Q Was he a consultant?

20 A Probably.

21 Q You don't know anything about the arrangement
22 between Keasbey & Mattison and Dr. Kirshner?

23 A No, I have no recall about Dr. Kirshner.

1 Q You wouldn't know where those x-rays are, would
2 you?

3 A No.

4 Q Do you know what happened to them?

5 A No. I had nothing to do with x-rays.

6 Q Would you look at page 2. I changed my mind, Mr.
7 Horowitz. Would you move on to the document that has been
8 marked Horowitz Exhibit No. 16. Would you read the title of
9 that.

10 A Mr. A. W. Spedding. December 13, 1961.
11 Subject: Asbestos Textile Institute Meeting, Air Hygiene and
12 Manufacturing Committee, December 7 and 8, 1961.

13 Q Have you ever seen this document before?

14 A Yes, I have.

15 Q Did you write it?

16 A Yes, I did.

17 Q It bears your signature on page 2?

18 A Yes, it does.

19 Q Do you see the handwriting, the two sets of
20 handwriting on the top of the page, page 1?

21 A Yes.

22 Q Is that your handwriting?

23 A That is a signature of Mr. Schneider.

1 Q Could you read the handwriting in the left-hand
2 corner?

3 A That is a note from Mr. Spedding to Mr.
4 Schneider, "For your interest - please return."

5 Q How about the handwriting right in the middle
6 of the top of the page?

7 A Something to Mr. Spedding. "I have noted"
8 something. I can't read the rest.

9 Q And is it signed?

10 A It is initialed by RAS, Mr. Schneider, on
11 December 14th, a day later.

12 Q Would you look two-thirds of the way down the
13 page, Mr. Horowitz, paragraph No. 1.

14 Did the U. S. Public Health Service ever visit
15 a Keasbey & Mattison plant?

16 A I am hesitating because I don't know whether it
17 was Keasbey & Mattison or CertainTeed. I believe it was
18 CertainTeed they visited.

19 Q Do you know which CertainTeed plant they
20 visited, or plants?

21 A Yes. They visited -- and I was with them all
22 the time they were there -- for a study on exposure to
23 asbestos, concentration in the air, as well as coming up with

1 Q And they spent a week at each plant?

2 A Yes.

3 Q Did they do basically the same tasks at each of
4 the CertainTeed plants that they visited?

5 A Yes, they did.

6 Q Can you tell us in more detail what they did?

7 A One of their team would be taking work histories,
8 which probably included smoking habits, past medical history.
9 These were all, by the way -- what's the word to use? They
10 were personal, nobody saw them but the U. S. Public Health
11 Service.

12 Q Privileged and confidential?

13 A Privileged and confidential between the
14 respondent, the employee and the U. S. Public Health Service.
15 But I saw the blank. I knew what kind of questions they
16 were asking, relative to history of health and personal
17 habits and life style and stuff like that.

18 Then another set of the team, two or three
19 other fellows would be going out into the plant with a tray
20 on wheels, of various methods of simultaneously counting
21 dust or sampling the air; and the samples would be brought
22 back to another member of the team, who would analyze the
23 material by various methods, new methods as well as old

1 a method, a more acceptable method of counting the dust.
2 They visited for one week at a time our St. Louis plant, our
3 Santa Clara plant, and I don't recall any others.

4 Q Who was present and actively working on the
5 program? You said you were there?

6 A I was there.

7 Q Who was there from the Public Health Service?

8 A The head of the team was Jeremiah Lynch, from
9 the U. S. Public Health Service.

10 Q Did he have people with him?

11 A Yes.

12 Q Who else participated at each plant?

13 A At each plant? You mean of this team?

14 Q Yes, from the CertainTeed plant. You said you
15 participated for CertainTeed.

16 A Who else participated at any one particular
17 plant?

18 Q Correct; participated for CertainTeed.

19 A The management gave full cooperation. The
20 U. S. Public Health Service, in order to enter the plant,
21 had to get permission from the state, whatever state
22 organization covered this aspect, and in Santa Clara we had
23 a state man accompany us at least part of the time.

1 methods.

2 Q What percentage of the hourly rated employees
3 did the Public Health Service interview?

4 A I thought it was 100 percent, but I don't know.

5 Q Do you know what was said to the employees by
6 CertainTeed management about the scope and purpose of these
7 discussions?

8 A I believe they posted a notice on the board
9 prior to the visit, told them -- and I think they even
10 discussed it with the union. Again, I am not privileged to
11 this information. My impression was they told the union they
12 were coming, the government was making a study in this field
13 and that we wanted to cooperate with them as much as we could.

14 Q Did somebody tell you that the union was con-
15 sulted?

16 A My impression was that the U. S. Public Health
17 Service even requested that it be done that way.

18 Q Were there any written --

19 A And I know in St. Louis it was, yes.

20 Q Were there any written instructions or requests
21 from the Public Health Service that you put into your
22 personal file?

23 A No.

1 Q Now would you look at the last paragraph before
2 the final heading on page 2. I would like you to look at the
3 very last sentence.

4 A Yes.

5 Q Do you see a reference to Dr. I. J. Selikoff?

6 A Yes.

7 Q Do you see a reference to the fact that he
8 apparently requested permission to visit the Meredith plant
9 of Keasbey & Mattison?

10 A Yes.

11 Q Was permission granted?

12 A When I reread this, it was the first recall that
13 I had that he had made it. So I don't think it was, but I
14 don't know.

15 Q You don't know whether or not he --

16 A I don't know actually whether or not, no.

17 Q You don't know whether or not he ever visited
18 the Meredith plant?

19 A No. I didn't know Selikoff by '61. If I had
20 known him as I know him now, I would probably have better
21 recall. But I don't recall this incident.

22 MR. BEERS: Off the record.

23 (Discussion off the record, followed by
luncheon recess taken at 1:10 p.m.)

AFTERNOON SESSION

2:35 p.m.

1
2
3 BY MR. BEERS:

4 Q Mr. Horowitz, could you please fish out the
5 document that has been marked Horowitz Exhibit 17 and would
6 you read the heading of that document.

7 A Meeting of Loss Control Committee, January 8,
8 1962, Meeting No. 4.

9 Q Have you ever seen this document before?

10 A Yes.

11 Q Do you know who prepared it?

12 A I can't be sure. I don't recognize the initials
13 at the end of the letter.

14 Q Can you make out the initials, Mr. Horowitz?

15 A Not really. It's H-something-J. I can't make
16 it out.

17 Q Would you take another look and tell us whether
18 you think it is HBC, standing for Mr. Childs?

19 MR. BRUCH: Objection.

20 MR. RUBIN: Objection.

21 A I wondered about that, but I can't --

22 Q Was this a document that was placed at some time
23 in your personal file by you?

1 A Yes.

2 Q Do you remember receiving this document from
3 whoever took notes of the meeting?

4 A No.

5 Q Would you look at numbered paragraph 1. What is
6 an SPI?

7 A I don't know. I think it has to do with a
8 purchase something, but I don't know.

9 Q You don't know what was meant --

10 A I don't know what the initials mean.

11 Q So you don't know what an SPI on the objectives
12 of the Loss Control Committee would mean?

13 A No.

14 Q Do you remember any policy statement relating to
15 the objectives of the Loss Control Committee?

16 A There is one reference here, No. 4, I believe,
17 the last paragraph on the page.

18 Q Do you remember the letter of October 19th,
19 1960 to the Directors that is referred to in paragraph 1?

20 A I don't remember it specifically.

21 Q Do you know whether some document went out that
22 advised all levels of management of the establishment and
23 functions of the committee, as mentioned in paragraph 1?

1 MR. BRUCH: I object. Are you referring to
2 Keasbey & Mattison when you are saying management?

3 MR. BEERS: I am referring to Keasbey &
4 Mattison. Yes, I am.

5 A I don't remember.

6 Q Would you look at paragraph 3, Educational
7 Program. Do you remember any discussion of the foremen's
8 training meetings at Ambler?

9 A No.

10 Q Do you remember that foremen's training meetings
11 were part of Dr. Stabler's program?

12 MR. RUBIN: Objection as to form.

13 A I don't remember that.

14 Q Would you turn to page 2 and look at No. 5. Do
15 you see where it says: "Mr. Horowitz did not have an
16 opportunity to review Dr. Stabler's reports and recommenda-
17 tions"?

18 A Yes.

19 Q Did you later review Dr. Stabler's reports and
20 recommendations that are referred to here?

21 A I don't remember.

22 Q Let's turn to Horowitz Exhibit 18. Would you
23 read the heading of that document.

1 A To Mr. A. W. Spedding. February 8, 1962.
2 Re: Request for Special Appropriation, Card Room Dust
3 Collecting System, Plant 10.

4 Q Is this a copy of a document that you wrote to
5 Mr. Spedding?

6 A Yes.

7 Q Who is Mr. J. L. Rainey?

8 A He was plant manager of Plant 10, which was the
9 Meredith textile plant.

10 Q Would you please turn to Horowitz No. 19 and read
11 the heading of that document.

12 A March 19th, 1962. To A. W. Spedding.
13 Subject: Asbestos Textile Institute Meeting, Air Hygiene
14 and Manufacturing Committee, March 8 and 9, 1962.

15 Q Is this a copy of a document you prepared for
16 Mr. Spedding at Keasbey & Mattison?

17 A Yes, it is.

18 Q I would like you to look at the names of those
19 that you reported to be in attendance.

20 Do you have any memory about Mr. Dewey Childers?

21 A No.

22 Q Or John Hawkins?

23 A No.

1 Q How about Mr. C. Seckler?

2 A I believe that should be Sheckler, Clifford
3 Sheckler.

4 Q S-h-e-c-k-l-e-r?

5 A Yes.

6 Q And who is Mr. Sheckler?

7 A I was on many committees with Mr. Sheckler, who
8 represented Johns-Manville. I don't know his exact function.
9 I don't believe he was an industrial hygienist, I believe he
10 worked in the area of compensation, but he was always my
11 counter-part on many of these committee meetings that I was in.

12 Q Was he a knowledgeable fellow?

13 MR. BRUCH: Objection.

14 A In what area?

15 Q Dust control engineering?

16 MR. BRUCH: Objection as to form.

17 A I don't believe he was a dust control engineer.

18 Q You don't know what his field was?

19 A I thought it had something to do with compensa-
20 tion. But he knew of dust conditions.

21 Q Who is Mr. T. Bodnarchul?

22 A I don't know him.

23 Q Does that spelling look correct to you?

1 A I don't know him. The name doesn't ring a bell
2 with me at all.

3 Q How about Mr. H. Walter?

4 A Which company is that?

5 Q American Asbestos Textile.

6 A That is Hans Walter. I think we referred to him
7 before.

8 Q How about Dr. Mayer?

9 A Dr. Mayer was from American Asbestos Textile.
10 He was their, I think, owner. I am not sure.

11 Q Do you know what he was a doctor of?

12 A He was an engineer. I really don't know.

13 Q How about Dr. Wells at U. S. Rubber?

14 A I don't remember him.

15 Q Would you please turn to page 2.

16 A Yes.

17 Q About half-way down the page, where the heading
18 is Safety and Training Programs, do you see that?

19 A Yes.

20 Q Do you see a reference to Johns-Manville
21 engineering and training program for management down to the
22 supervisor's level?

23 A Right.

1 Q Did you ever see any documents reflecting this
2 engineering and training program?

3 A No, I did not.

4 Q Do you see the next paragraph, where it says:
5 "H. K. Porter employees regularly attend Industrial Management
6 Club courses sponsored by the YMCA on a voluntary basis"?

7 A Yes.

8 Q Do you recall any comparable programs for
9 Keasbey & Mattison employees or, later, for CertainTeed
10 employees?

11 A None that I know of.

12 Q Would you please turn to Horowitz Exhibit No. 20.
13 Would you please read the heading of that document.

14 A Use of Dust Respirators. It was written to Mr.
15 J. S. Simons, Safety Director, April 5, 1962.

16 Q Is this a copy of a document prepared by you?

17 A Yes, it is.

18 Q Is that your signature at the end of this
19 document?

20 A Yes, it is.

21 Q Who was Mr. J. S. Simons?

22 A I can't recall.

23 Q Was he an employee of either Keasbey & Mattison

1 or CertainTeed?

2 A I can't recall. I can only make guesses at that.

3 MR. BRUCH: I object to that question. He could
4 be an employee of Nicolet. Why limit it to two companies.

5 THE WITNESS: The date may be a hint. I don't
6 know when CertainTeed exactly took over and when Nicolet came
7 in. I have no idea.

8 Q Could he have been an employee of Nicolet?

9 A I questioned that because the report covers
10 every plant with respect to -- it covers Plant No. 10, it
11 covers Plant No. 4. It implies Keasbey & Mattison to me.

12 MR. BRUCH: I might add it implies Keasbey &
13 Mattison to the witness with respect to April 5, 1962, but
14 your question implied some date beyond June, 1962. You can
15 ignore that, but that is what it did. You asked Keasbey &
16 Mattison and CertainTeed.

17 I am not trying to be argumentative.

18 Q Mr. Horowitz, are you clear that Mr. J. S.
19 Simons was the Safety Director of the company by whom you
20 were then employed?

21 MR. BRUCH: At what time?

22 MR. BEERS: The date of the document, April 5,
23 1962.

1 A From the context of the report, I am clear that
2 it is Keasbey & Mattison and not CertainTeed. But I do not
3 recall who Simons was. Why did I report on all the plants to
4 him, I have no idea. I do not recall that we had a
5 corporate Safety Director. I just do not recall that.

6 Q So you do not know what the circumstances were
7 that led you to write this memorandum?

8 A I do not know the circumstances for this.

9 Q Do you know who received a copy?

10 A I do not know. I know I sent it to Spedding --
11 well, no, I don't know that either. Yes, I do. On top of
12 the letter is a comment from Spedding: "File - Loss Control"
13 signed AWS. So he got a copy of it.

14 Q Mr. Spedding got a copy of it?

15 A That is right.

16 Q AWS are Mr. Spedding's initials?

17 A That is Spedding's initials, which indicates it
18 is Keasbey & Mattison, too.

19 Q Would you now turn to Horowitz Exhibit 21 and
20 read the heading of that.

21 A To Mr. H. C. Johnson. September 25, 1962.
22 Subject: Asbestos Textile Institute Meeting (ATI), Air
23 Hygiene and Manufacturing Committee, September 13 and 14, 1962.

1 Q Is this a copy of a document you prepared?

2 A Yes, it is.

3 Q Do you recall whether you were working for
4 CertainTeed or Keasbey & Mattison at the time this document
5 was prepared?

6 A The fact that it's written to H. C. Johnson
7 indicates it is CertainTeed.

8 Q Who was Mr. H. C. Johnson?

9 A Mr. H. C. Johnson was chief of the engineering
10 group of CertainTeed when CertainTeed took over.

11 Q Do you know who Mr. M. S. Davis, Jr. is?

12 A He was vice-president of CertainTeed. I don't
13 recall which division. I think eventually he was vice-
14 president of the Pipe Division, but I cannot be sure.

15 Q How about Mr. M. Fink, who was he?

16 A Mr. Mat Fink was the Safety Director for Certain-
17 Teed.

18 Q What does the notation Paoli mean?

19 A Paoli is a city near Philadelphia. That meant
20 he worked out of that office at that time.

21 Q Mr. Fink had his office in Paoli?

22 A Yes, I believe they had an engineering office
23 in Paoli.

1 Q Did anyone else from Keasbey & Mattison or
2 CertainTeed go to this ATI meeting?

3 A No.

4 Q Mr. Horowitz, did CertainTeed after it bought
5 the plant at Ambler from Keasbey & Mattison ever itself
6 become a member of ATI?

7 A I have been trying to understand why I made a
8 report on ATI to CertainTeed when CertainTeed did not buy
9 the textile plant and, therefore, there was no need. If you
10 wish, I can give you my reasoning why I think I wrote this
11 report.

12 Q I would like that reasoning.

13 A I believe it was to follow up the U. S. Public
14 Health Service study that was going to be made throughout
15 the asbestos industry and that a report or a discussion of it
16 was going to be made at the ATI, which I advised them and
17 said I thought I ought to continue just to go to that
18 meeting. And I believe that is the reason I reported to them
19 about this meeting.

20 Q Would you turn to page 2, Mr. Horowitz.

21 A Yes.

22 Q Would you look at the last paragraph.

23 A "We were therefore requested"

1 Q Yes.

2 MR. MASON: Off the record.

3 (Discussion off the record.)

4 Q Do you now see that the two pages come from
5 different documents?

6 A Yes, they do.

7 Q Is the first page a copy of a document that you
8 prepared on the subject of the ATI Air Hygiene and Manufactur-
9 ing Committee meeting of September 13 and 14, 1962?

10 A The first page is a copy of that meeting.

11 Q Do you know where the second page of that
12 document is?

13 A I am completely as confused as you are. I don't
14 know where it came from.

15 Q I know where the second page came from. It came
16 from a document we looked at a few minutes ago.

17 Do you know where the second page to the
18 document of September 25, 1962 now is?

19 A I have no idea.

20 MR. BEERS: May we have a unanimous agreement
21 to separate the second page and discard it? Is there any
22 objection to that? Off the record.

23 (Discussion off the record.)

1 MR. BEERS: So it is agreed that Horowitz
2 Exhibit 21 for purposes of this deposition consists of only
3 the one page dated September 25, 1962.

4 Q Would you now look, Mr. Horowitz, at the
5 document that is marked No. 22.

6 MR. BEERS: Off the record.

7 (Discussion off the record.)

8 Q Would you read the heading to Exhibit No. 22.

9 A Asbestos Textile Institute, Air Hygiene and
10 Manufacturing Committee, January 24, sixty-something. To
11 Mr. H. C. Johnson.

12 Q Is this a copy of a document you prepared for
13 Mr. Johnson at CertainTeed?

14 A Yes.

15 Q Would you look at the persons that you have
16 indicated were in attendance at that meeting.

17 A Yes.

18 Q Do you know Mr. W. H. Johnson of Atlas Asbestos
19 Company? Do you remember him?

20 A No.

21 Q Would you turn to page 2, please. If you will
22 look at the second full paragraph, which begins, "A team of
23 twelve people will visit each plant for about a week."

1 A Yes.

2 Q Did a team visit a CertainTeed plant?

3 A A team visited two CertainTeed plants, as I
4 indicated before.

5 Q And were the plant visits by the Public Health
6 Service that you described this morning the visits that were
7 contemplated by this paragraph?

8 A Only partially. Only the environmental study
9 was made, the medical study was never made, and they didn't
10 use twelve people, they used four or five or six.

11 Q Would you now turn to Exhibit No. 23. Would you
12 read the heading of that.

13 A Asbestos Exposure and Neoplasia. June 1st, 1964.
14 To Mr. R. L. Lanz.

15 Q Have you ever seen this document before?

16 A Yes, I have.

17 Q Is this a copy of a document you prepared for
18 Mr. Lanz at CertainTeed?

19 A Yes.

20 Q Do you remember the circumstances that led you
21 to prepare this document for Mr. Lanz?

22 A I believe from my notes that I was trying to
23 indicate to management that we should cooperate with the

1 U. S. Public Health Service visit.

2 Q Can you read the handwriting at the bottom of the
3 page for us?

4 A I made a note of the last paragraph, saying:
5 R. L. Lanz phoned June 2nd, 1964, OK for U. S. Public Health
6 Service visit.

7 Q Would you look at the first paragraph.

8 A Yes.

9 Q I take it you did attend the meeting referred
10 to in Philadelphia on April 29, 1964?

11 A Yes.

12 Q Did you make a report of that meeting to your
13 employer?

14 A I don't remember. I think this may have been
15 the report. I don't know.

16 Q Do you remember from whom you got the paper
17 that you entitled in this document, Asbestos Exposure and
18 Neoplasia?

19 A I do not remember.

20 Q Now would you look down to the next-to-the-last
21 paragraph, where it discusses Dr. Cralley of the U. S.
22 Public Health Service.

23 A Yes.

1 Q Do you see the reference to some fact being
2 reported to Mr. M. S. Davis, Jr.?

3 A That he made a preliminary visit?

4 Q Yes.

5 A Yes.

6 Q Do you know who made that report to Mr. Davis?

7 A I believe it was my report. I would have
8 reported to him that Dr. Cralley visited us.

9 Q Did you make a written report, do you know?

10 A I believe so. I had mostly contact only through
11 correspondence with Mr. Davis.

12 Q Do you still have a copy of that report?

13 A I have not seen it in my files. I don't have a
14 copy.

15 Q Are you aware that Dr. Selikoff read a paper at
16 a meeting of the New York Academy of Medicine in New York
17 City in the fall of 1964?

18 A In the Waldorf Astoria, is that the one you are
19 referring to?

20 Q Well, I think so. Yes.

21 A He read many papers there.

22 Q And --

23 A He and his team gave many papers there.

1 Q And did some of those papers deal with the
2 subject of the risk of cancer from exposure to asbestos?

3 A Yes.

4 Q Did you attend that New York Academy session?

5 A Yes, I did.

6 Q Did anyone else from CertainTeed attend with you?

7 A Not from CertainTeed itself, no.

8 Q Did someone attend with you from any company
9 related to CertainTeed?

10 MR. BRUCH: Objection.

11 A Not from a company related to CertainTeed.

12 Q Who went with you, Mr. Horowitz?

13 A A Dr. Shaw of the ATI went with me.

14 Q Dr. Shaw?

15 A That is right.

16 Q Who arranged for the two of you to go together?

17 A I believe Mr. Hutchcroft, but I am not sure.

18 Q And who again was Mr. Hutchcroft?

19 A He was in the R & D section of both Keasbey &
20 Mattison and CertainTeed, research and development.

21 Q Did you write a report to your employer on the
22 New York Academy meeting?

23 A Yes, I did.

1 asbestos?

2 A They relate to my function with the company,
3 and I don't know whether I have all my correspondence. I
4 just have a few.

5 Q Are any of the other documents reports to your
6 employer about your attendance at conferences similar to the
7 report you have described, relating to the New York Academy
8 meeting?

9 A There probably are a few, yes.

10 Q Do you have any objection to our obtaining
11 copies of those reports?

12 A No.

13 Q At your convenience?

14 A Any time you want them.

15 Q Would you now look at Exhibit No. 24.

16 MR. HILLY: That is with the understanding we
17 will all get copies of them?

18 MR. BEERS: I don't think that question was
19 asked, Mr. Hilly, but I personally have no objection. I
20 just asked in behalf of the group whether he had any
21 objection to making them available.

22 MR. BRUCH: In behalf of your group.

23 THE WITNESS: If I am going to make it available,

1 I would like to make one available and you guys take care of
2 yourselves.

3 Q Well, Mr. Horowitz, would you then make available
4 copies of such of the other documents in your personal file
5 as we would like to have, on the understanding that we will
6 forward copies of everything we get to the rest of the group?

7 A Am I to make a judgment factor as to which to
8 include and which not to include?

9 Q Well, I think we would like to see them all, if
10 we could, unless there is something --

11 A Even if they don't relate to this subject?

12 Q Well, why don't we try to work that out with
13 you on a case-by-case basis.

14 A Okay. Whatever you want.

15 MR. BRUCH: In any situation where you work that
16 out on a case-by-case basis we would like to be represented,
17 since we have not the same interest as yours. Otherwise, I
18 would suggest that we have this gentleman give all the
19 records to a copying agency and let them make a copy for you
20 and whoever else wants a copy.

21 MR. BEERS: I don't want to work out the
22 details now, Mr. Bruch, but I will tell you this, that we
23 will make some arrangement with Mr. Horowitz and we will

1 disclose those arrangements to everyone.

2 MR. PONTZ: I would like to state on the record
3 that CertainTeed objects strenuously to that approach and
4 will do everything we can to prevent it. There may very well
5 be records that Mr. Horowitz has that have nothing whatsoever
6 to do with this litigation and I don't believe that, under
7 the circumstances, any party here has a right to see those
8 documents. For Cassiar or any other counsel here to be
9 given the opportunity to see those documents without some
10 counsel being present that might take a different perspective
11 on things smacks of improper procedure to me.

12 If you want to work out an agreement with other
13 attorneys present so that a mutual review of those records
14 can be made, so that nothing will be seen amongst those
15 documents that is not germane to this litigation, I would
16 presume that that would be a fair way to proceed. Otherwise,
17 I think that Cassiar would be abusing the kind opportunity
18 that is being afforded to you.

19 MR. BEERS: Mr. Pontz, I take it you do not
20 represent Mr. Horowitz in this proceeding.

21 MR. PONTZ: I do not.

22 THE WITNESS: I feel that I am not knowledgeable
23 enough to know what is germane and what is not.

1 MR. BEERS: Thank you, Mr. Horowitz.

2 Would you mind going off the record for a minute.

3 (Discussion off the record.)

4 Q Mr. Horowitz, would you please turn to Exhibit
5 24. Would you read the heading of Exhibit No. 24, please.

6 A To Mr. H. J. Angstadt. October 16, 1964. X-ray
7 Program.

8 Q Do you know who prepared this document?

9 A I believe I did. Yes, I did.

10 Q Would you look at paragraph 1, please.

11 A Yes.

12 Q Do you remember what the publicity was that you
13 have made reference to in paragraph 1?

14 A No, I do not.

15 Q Would you look at Exhibit No. 25, please. Would
16 you read the heading of that.

17 A To All Pipe Plant Managers. August 11, 1965.
18 Chest X-ray Program.

19 Q Do you recognize this document?

20 A Yes. It is my document.

21 Q You prepared this document?

22 A Yes, I did.

23 Q Are those your initials up in the right-hand

1 corner?

2 A Those are my initials up in the right-hand corner.

3 Q Would you look over at the names that are shown
4 to have received a carbon copy.

5 Would you identify Dr. D. J. Donald for me?

6 A I believe he was an outside medical consultant to
7 the company.

8 Q I direct your attention to the first paragraph,
9 which describes a proposed chest x-ray program.

10 A Yes.

11 Q You will note that it indicates that that program
12 had previously been discussed with Mr. Lanz?

13 A Yes.

14 Q Did you discuss the program with Mr. Lanz?

15 A I believe I did.

16 Q And did he approve it?

17 A I don't remember the discussion that I had with
18 him.

19 Q Was the program --

20 A Unless it had to do with this previous letter
21 that we just discussed in Exhibit No. 24.

22 Q Did the program go into effect at all plants?

23 A I believe part of the program had to do with the

1 fact that they were not taking full size x-rays, and I
2 believe that went into effect, they changed to full size
3 x-rays. Whether it went into effect as far as taking x-rays
4 at pre-employment and regular times, I have no knowledge to
5 that effect.

6 Q Do you see in the second paragraph a reference
7 to "requirements of our new insurance carrier, Travelers
8 Insurance Company"?

9 A Yes.

10 Q Do you remember what those requirements were?

11 A I believe part of it was the 14 by 17 x-rays
12 and getting a qualified physician. I don't have total recall
13 on that at all.

14 Q Do you remember when Travelers became Certain-
15 Teed's insurer?

16 A When CertainTeed took over, I believe
17 Employers Mutual was the carrier. Then at some time after
18 that, Travelers became the workman's compensation carrier,
19 but I don't recall when.

20 Q When CertainTeed became your employer did you
21 discuss with the new owners of the plant whether or not you
22 would continue to work at Ambler?

23 A When CertainTeed became the new employer there

1 was a period where those of us in the Engineering Department,
2 none of us knew whether we would be retained. I recall a
3 period as long as six months -- I may or may not be right
4 about that. During that period I was called in to be inter-
5 viewed, with a desk three-quarters the length of this one,
6 with faces three-quarters the number of this one, and I was
7 questioned as to my function, what I can contribute to the
8 company. I believe Mr. Schneider informed them of what my
9 function was and the importance of my function, and they
10 decided to retain me.

11 Q Do you remember who was at that meeting?

12 A Mr. Davis, Mr. Schneider, myself, and I believe
13 that engineer I mentioned, Mr. Johnson, L. D. Johnson, and
14 maybe Mr. Lanz, but I can't recall that for sure.

15 Q Was Mr. Davis the Mr. M. S. Davis we have
16 talked about before?

17 A Yes, I believe he was there, yes.

18 Q Do you remember what Mr. Schneider said about
19 what your role was in the company?

20 A No, I do not.

21 Q Do you remember that it was accurate?

22 A It in essence described my function, yes.

23 Q Do you remember anything else about the

1 discussion?

2 A That was about it.

3 MR. BEERS: We have one more exhibit we would
4 like to show Mr. Horowitz. It is an organization chart that
5 he has produced for us. But it is not duplicated, so I
6 suggest we pass to someone else and we will ask to come back
7 for that limited purpose.

8 MR. DELORENZO: No questions.

9 EXAMINATION BY COUNSEL FOR DEFENDANT UNITED STATES

10 BY MR. HERMAN:

11 Q Mr. Horowitz, could you go back to Horowitz
12 Exhibit No. 13, please.

13 A Yes.

14 Q Could you turn to page 2.

15 A Yes.

16 Q Well, let me ask you this, first. Were any
17 people from the Public Health Service at that meeting which
18 you reported in this memorandum?

19 A I don't report them as being there, no.

20 Q Who provided the information in conversation
21 with Dr. Magnusen which you describe on page 2?

22 A That was Dr. Smith, Kenneth Smith of Johns-
23 Manville.

1 Q Could you turn to Exhibit No. 16.

2 A Yes.

3 Q Were there any people from the Public Health
4 Service at the meeting which you describe in that memorandum?

5 A Not at that meeting.

6 Q And who provided the information concerning the
7 statements made by Drs. Cralley, Gibson and Enterline?

8 A I don't recall who provided that.

9 Q Was it someone from the Public Health Service?

10 A Apparently, the chairman of the committee sent
11 the letter to the U. S. Public Health Service and he may
12 have provided that information, but I don't know specifically.

13 Q Would you turn to Exhibit No. 19.

14 A Yes.

15 Q Was there anyone from the Public Health Service
16 at that meeting, the meeting described in that memorandum?

17 A No.

18 Q And who provided the information which you list
19 under the heading U. S. Public Health Service?

20 A Dr. Ken Smith.

21 Q Finally, Exhibit No. 21.

22 A Yes.

23 Q Was there anyone from the Public Health Service

1 at that meeting?

2 A No.

3 Q Who provided the information which you set out
4 in the second and third paragraphs?

5 A I don't know who provided it at that time. It
6 was general knowledge, it seems, but I don't know who
7 provided that.

8 Q But it wasn't provided to you by someone from
9 the Public Health Service?

10 A Not at that particular date, no.

11 Q Would you turn to Exhibit No. 22.

12 A Yes.

13 Q You stated earlier that all the things that were
14 set out on page 2 of your memorandum --

15 A Exhibit 22?

16 Q Yes, sir.

17 -- weren't done during the studies that you were
18 participating in?

19 A That is right.

20 Q What was done during those studies?

21 A Occupational history. Medical history was
22 done. Environmental studies was done, but that is not listed
23 here as one of the six. Physical examination, sputum

1 examination, pulmonary function and chest x-rays were not
2 done.

3 Q What happened during the environmental studies?

4 A I believe I explained that the team from the
5 U. S. Public Health Service took air samples using various
6 methods, as well as taking occupational history and medical
7 history, did the sampling and counting and analytical work
8 on the spot, and then made some conclusions as to a new
9 method of sampling and testing for asbestos dust. That was
10 the conclusion of the report; not made at that time, of
11 course.

12 Q Page 3 of the memorandum, in the final paragraph,
13 describes some groundwork, of Exhibit 22. It describes some
14 groundwork that was going to be done before the studies
15 took place, is that right?

16 A Well, I indicated that there might be an
17 industrial relations problem, which was discussed.

18 Q Do you know what, if anything, was done to
19 explain to the plant workers what was happening?

20 A I believe I explained that once a decision was
21 made, the U. S. Public Health Service got permission from
22 the state functionaries to make the visit, got permission
23 from the plant to make the visit. I was assigned the task

1 of staying with them while they made the visit, to coordinate
2 it and so on; and with the OK of the plant manager they were
3 able to take people off the job, ask the questions, but they
4 notified the workers by bulletin board that the visit was
5 going to be made.

6 Q Do you know more specifically what was listed
7 in the notification on the bulletin board?

8 A I believe it said, in essence, that a team of
9 U. S. Public Health Service people will be visiting the
10 plant, you will be asked one by one to give them a work
11 history, which will be private and not divulged to anyone
12 except between you two, and they will be going in the plant
13 making dust studies, in effect.

14 Q Did you receive the results from the Public
15 Health Service of those studies?

16 A I remember asking for the results. I don't
17 remember receiving them.

18 Q Who did you ask?

19 A Jerry Lynch.

20 Q Who is Jerry Lynch?

21 A Jerome Lynch was the man in charge of the
22 studies in the field. He was under Dr. Cralley.

23 Q Do you know if anyone else from CertainTeed

1 received those results?

2 A I vaguely remember receiving results. I don't
3 have it in my file.

4 Q Do you know if anything was done in response to
5 those results?

6 A The purpose of the study was not -- in fact,
7 management didn't get the results. I got the results. The
8 only purpose of the study was to determine the extent of
9 exposures in the asbestos industry and it was an environ-
10 mental study. And, of course, the medical study which was
11 to follow, which was to indicate whether there was a hazard,
12 was never done. So the only purpose of the results was to
13 find a new way of sampling more accurately asbestos, and
14 that was done because Jerry Lynch then designed an analytical
15 method and a sampling method.

16 Q And did you put that method into play at your
17 plant?

18 A It wasn't published until after I left the
19 company.

20 Q Turning to Exhibit No. 23.

21 A Yes.

22 Q The second-to-last paragraph. Do you have any
23 recollection of what Dr. Cralley told you following his

1 preliminary visit to Ambler?

2 A Did you say following? Would you repeat that
3 again?

4 Q I'm sorry. You made a report to Mr. Davis about
5 Dr. Cralley's visit, is that right?

6 A Right.

7 Q Did you discuss with Dr. Cralley, did you have
8 any discussions with Dr. Cralley following his visit?

9 A I was very friendly with Dr. Cralley and we
10 would discuss what kind of program, how they were going to
11 go about it, the things that I have been telling you now, yes.

12 Q Did Dr. Cralley make any recommendations
13 concerning Ambler?

14 A That was not his function. He was just coming
15 to see what a pipe plant was and sort of preliminary letting
16 us know how they would work. In essence, it was like a
17 public relations thing.

18 MR. HERMAN: I don't have any other questions.

19 EXAMINATION BY COUNSEL FOR DEFENDANT BELL ASBESTOS

20 BY MR. GALLO:

21 Q Mr. Horowitz, would you turn to Exhibits 5 and
22 6 for a moment, please, sir.

23 A Yes.

1 Q I am directing you specifically to the last
2 paragraph on page 1 of Exhibit 5. Would you read that
3 paragraph, especially the part that continues on to page 2.

4 A "In summary, all members claimed to have good
5 dust control programs with frequent dust monitoring; pre-
6 employment physicals including large-size x-ray as well as
7 yearly x-ray to compare with previous picture to check
8 progression, and a respirator program for dusty atmospheres
9 with the threat of discharge if masks are not used."

10 Q And would you read paragraph 5 of Horowitz 6.

11 A "Operating personnel must be warned that if
12 they persist in performing their job in dusty areas without
13 the use of respirators which have been provided, it will be
14 necessary to request disciplinary action through proper
15 channels."

16 Q These two documents were written within about
17 a month of each other, that is, September and October, 1960?

18 A Right.

19 Q Around that time did Keasbey & Mattison have
20 a program for enforcing the use of respirators?

21 A I don't believe they followed my recommendations
22 on that at all.

23 Q Do you know whether or not you had discussions

1 with any of the plant managers concerning enforcement of a
2 respirator requirement?

3 A There may have been some discussion, but not the
4 particular items that you picked out, about disciplinary
5 action and so on, not that I know of, no.

6 Q In the course of your dust surveying and
7 studying in the plants did you have occasion to speak with
8 the plant managers?

9 A Yes; sure.

10 Q Did you have occasion to speak with management
11 people below the level of plant managers, such as supervisors
12 and particular production line foremen?

13 A No. My function was primarily with the managers,
14 to advise the managers.

15 Q Did you have discussions with the individual
16 plant engineers in particular plants? Not referring now to
17 central engineering, but the individual plant engineers?

18 A Having to do with dust collecting equipment, yes.

19 Q In the course of taking your dust sampling,
20 this I take it would be done while production was going on?

21 A Yes.

22 Q Would it be taken in the vicinity of where the
23 men were actually working?

1 A Yes, that is the way to do it.

2 Q Did you have discussions with any of the
3 workers, casual conversation, even, during the time that was
4 going on?

5 A Yes.

6 Q Did the workers know what the purpose of your
7 dust counting was?

8 A On occasion they would ask, and they had a
9 general idea that I was sampling for the dust in the air, yes.

10 Q Did you ever have occasion to take dust
11 sampling in areas where respirators were required?

12 A Yes; sure.

13 Q Did you ever discuss with any employees the
14 purpose of the requirement?

15 A Which requirement?

16 Q The respirator use requirement?

17 A In general, no.

18 Q Did you have any specific occasion, even though
19 you say in general you did not? Did you have any particular
20 specific occasion to discuss respirator use with an employee?

21 A It wasn't my function to directly inform or
22 educate the worker. My function was advisory to management
23 and it was their function to pass on my information to them.

1 Q If you were taking a dust count in an area where
2 respirators were definitely required and you saw someone in
3 the immediate vicinity who did not have his respirator on,
4 would you say something?

5 A Not to the man, no. I would say it to the
6 manager.

7 Q Did you ever have occasion to see a manager
8 instruct an employee to put his respirator on?

9 A I had no occasion to do that.

10 Q When you say this was not your duty, whose duty
11 would it have been?

12 A The manager's duty, directly or indirectly, but
13 the manager's duty.

14 Q Under him whose duty would it have been?

15 A In all likelihood, a supervisor of that area.

16 Q You have mentioned some people in connection
17 with -- I think the term you used was industrial relations,
18 Mr. Scranton, and I think you also said Mr. Keach was
19 involved in industrial relations?

20 A I think he was, yes.

21 Q Would they have had occasion to discuss working
22 conditions with employees as part of their industrial
23 relations duties?

1 MR. BRUCH: Objection.

2 A I am not aware of what their function was.

3 Q Are there any other people in Keasbey &
4 Mattison management who had responsibility for this area
5 which you term industrial relations?

6 A Repeat that again.

7 Q Are there any other people who were involved
8 with industrial relations, as you termed it?

9 A I am sure the management of the corporation, as
10 well as in plant management, were involved with industrial
11 relations.

12 Q So you are talking about the individual plant
13 managers?

14 A I believe so.

15 Q Is there anyone who specifically had that job
16 description, we might say?

17 A Only the names that I know of corporate side.
18 I don't believe there was in each plant an industrial rela-
19 tions man. I don't believe they had that.

20 Q After CertainTeed took over, who would the
21 industrial relations people have been?

22 A I am not aware of any.

23 Q I think you said the first ATI meeting you

1 attended was that of September 8 and 9, 1960, referred to in
2 Exhibit 5, is that right?

3 A Probably, because I was hired around May, 1960,
4 and don't recall anything before that.

5 Q How frequently did you attend the ATI meetings
6 thereafter?

7 A I believe they had two or three a year.

8 Q Did you go to all of them?

9 A All that I could get to, yes.

10 Q You talked about the meetings of the Air Hygiene
11 and Manufacturing Committee?

12 A I was on that committee, yes.

13 Q Were you on any other committees?

14 A Not for the ATI, no.

15 Q Were you present during general meetings, as
16 opposed to committee meetings?

17 A No; only when we called a general meeting once,
18 where Dr. Kenneth Smith worked. But that was our meeting,
19 Air Hygiene meeting, really.

20 Q Would it be fair to say, then, that you
21 attended most, if not all, of the ATI meetings beginning in
22 September, 1960, of the Air Hygiene & Manufacturing Committee?

23 A Yes, '60 to '62.

1 Q '60 to --

2 A Until CertainTeed took over, 1960 through 1962.

3 Q How about after CertainTeed took over, did your
4 practices change as far as attending ATI meetings?

5 A Well, if you recall, there were two meetings I
6 attended to follow up the U. S. Public Health Service, but
7 I don't believe we were members of the ATI then. I just sat
8 in as a follow-up, I guess.

9 Q About how many meetings of the Air Hygiene and
10 Manufacturing Committee did you attend after CertainTeed took
11 over?

12 A I believe just two.

13 Q Were there meetings of other organizations
14 which you attended?

15 A When?

16 Q Let's start with the Keasbey & Mattison phase.

17 A When you say organizations, could you define
18 that?

19 Q Well, in response to one of my earlier
20 questions, you said, in concluding your answer, as far as
21 the ATI is concerned. Now, were you referring to some other
22 organization of which you also attended meetings?

23 A Well, I would attend annual meetings of the

1 American Industrial Hygiene Association. I would attend
2 either annual or semi-annual meetings of the Industrial
3 Health Foundation in Pittsburgh, at the Mellon Institute.
4 And that is all I recall for the time -- oh, I attended
5 local Industrial Hygiene meetings, American Industrial Hygiene
6 Association meetings. And then I would attend any specific
7 meetings that I thought related to the subject of my area of
8 responsibility.

9 Q When you say local American Industrial Hygiene
10 meetings, as opposed to the first thing you mentioned, which
11 was American Industrial Hygiene --

12 A The annual one is national, for the whole
13 nation. The local one is just for local sections.

14 Q Where was the annual meeting held?

15 A Every year a different location.

16 Q The IHF meetings were always held in Pittsburgh?

17 A Pittsburgh.

18 Q Referring now to all of your years at Ambler,
19 from '60 to '68, about how frequently did you attend the
20 American Industrial Hygiene Association annual meetings?

21 A Generally, every year I attended.

22 Q All the way through the termination of your
23 employment with CertainTeed?

1 A Yes.

2 Q How about the Industrial Hygiene Foundation?

3 A Not every year, but many of them I attended.

4 Q More than once a year on occasion?

5 A I'd say an average of once a year.

6 Q How about the local American Industrial Hygiene
7 Association?

8 A An average of three times a year or something
9 like that.

10 Q Where were they held, by the way?

11 A They were held in Philadelphia, in an engineering
12 club.

13 Q Was the problem of asbestos and health discussed
14 at any of these meetings?

15 A As there became more and more awareness of the
16 hazard, it became more and more discussed.

17 Q At all of these association meetings or only at
18 one or some of them?

19 A Mostly national, and the Industrial Health
20 Foundation. Local sections were not really discussion, they
21 were dinners with a speaker on a particular subject, and I
22 don't believe asbestos was a particular item of great
23 interest at that time.

1 Q Do you have any documents in connection with
2 your attendance at either the national American Industrial
3 Hygiene Association or the IHF?

4 A No, I don't think so.

5 Q Did you have any contact during your years both
6 at Keasbey & Mattison or CertainTeed, with the National
7 Safety Council?

8 A I represented our company at a National Safety
9 Council annual meeting after I became Safety Supervisor of
10 the company, yes.

11 Q Just refresh my recollection, sir. When was that?

12 A Somewhere around '65 or '4. '65, I think it was.

13 Q That was just one meeting?

14 A No; annually after that.

15 Q As part of your contact with the National
16 Safety Council was asbestos and health ever discussed or did
17 you ever receive any information from the Council on that
18 subject?

19 A It wasn't a dominant problem with them.
20 Industrial hygiene is of greater interest to them now.
21 Industrial hygiene was just one section of a whole week program,
22 and the subject varied, but I don't recall any asbestos
23 discussion at that time, between '65 and '68.

1 Q Did Keasbey & Mattison receive anything from
2 the National Safety Council in the nature of posters or
3 leaflets for distribution to employees?

4 A I would order them, as the Safety Director, and
5 so did Mat Fink before that, I am pretty sure.

6 Q When did you first order them, in '65?

7 A Whenever I saw a subject that I thought would be
8 helpful for a particular subject that I had in mind which
9 would publicize or help tell the employees keep your fingers
10 out of machines and stuff like that. Movies I would rent and
11 stuff like that. I would pay for subscriptions to their
12 magazine for each of the plants, things like that.

13 Q What was the name of that magazine?

14 A National Safety Council News, I think.

15 Q For how many years was Keasbey & Mattison or
16 CertainTeed receiving copies of that magazine?

17 A I don't remember Keasbey & Mattison, but
18 CertainTeed received it every year, as far as I know.

19 Q Beginning in '62?

20 A Maybe prior to that. I don't know.

21 Q Did any of the materials that were ordered from
22 the National Safety Council either by you or Mr. Fink touch
23 on the subject of respirator use?

1 A I can only guess that it was the kind of subject
2 that comes through every once in a while.

3 Q Did they put out any posters showing, for
4 example, a picture of a man wearing a respirator?

5 MR. RUBIN: Objection.

6 A They may have. I don't know.

7 Q Do you recall a poster such as I described being
8 used at Keasbey & Mattison?

9 A I am in this field so long that my memory is
10 cross-hatched. I see it every day or I don't see it every
11 day. I can't specifically say yes.

12 Q That poster that you see so often, is that put
13 out by the National Safety Council or some other organization?

14 MR. RUBIN: Objection.

15 A Both.

16 Q Who puts it out?

17 A Private organizations, people do their own
18 drawings, stuff like that, insurance companies.

19 Q Finally, the health research originating in
20 South Africa and England that has been referred to in some of
21 these documents which you indicated you became aware of at
22 some point, did any of that include research being done by
23 any people connected with Cape Asbestos or Cape Industries,

1 Limited?

2 A The only knowledge I have of any research is
3 papers written by individuals, and I have no idea of their
4 association with any industry at all.

5 Q Did you ever read any papers by a Dr. Smithers?

6 A The name is familiar to me, but I don't know.

7 Q Do you know what subject he wrote on?

8 A I am not sure, no.

9 MR. GALLO: Thank you.

10 EXAMINATION BY COUNSEL FOR DEFENDANT LAKE ASBESTOS

11 BY MR. BROMBERG:

12 Q You started attending ATI Air Hygiene Committee
13 meetings for your employer in what year?

14 A 1960, about September, I think.

15 Q Do you know who was doing it before that for
16 the same --

17 A I believe Arthur May was on the same committee
18 before I was.

19 Q You have mentioned Mr. May earlier today. Could
20 you describe to us a little more fully who he was as of the
21 point you were employed?

22 A I believe he was the boiler man; that is, he
23 designed boilers wherever it was necessary. I can only

1 guess that he was given the assignment of the industrial
2 hygiene area prior to me, but I don't believe he had much
3 experience in that area.

4 Q Did you sit down with him or talk to him when
5 you first got the job of going to these meetings, to try to
6 find out what went on at them or what they were all about?

7 A Well, I discovered that he had been to them, so
8 I discussed the ATI with him in general, but nothing specific.

9 Q Did he have minutes of the meetings that he had
10 gone to?

11 A It's possible that I came across one and that is
12 how I realized he had been there; but if so, I have no
13 recollection of them, no.

14 Q Do you recall ever reviewing the old minutes
15 when you first started going? In other words, the minutes
16 that preceded your first meeting?

17 A I don't recall doing that, no.

18 Q Does the name Muelback mean anything?

19 A The name is familiar.

20 Q Who was he?

21 A I can only guess.

22 Q Give me your best guess.

23 A Plant 4?

1 Q Can you be any more specific than that?

2 A I think he had something to do with Plant 4.

3 That is all I know.

4 Q How about the name Elterich, does that have any
5 ring to it?

6 A No.

7 Q How about S. C. Schmidt, who was he?

8 A I understand there was a Schmidt who did dust
9 counts before I came. That is all I know.

10 Q Did you ever see any of his dust counts?

11 A I believe I saw some, yes.

12 Q Were they high as compared to five million
13 particles per cubic foot?

14 A My opinion of them is they were done in a very
15 amateurish way, that he was not an industrial hygienist.
16 That is all I recollect about that.

17 Q In other words, you didn't think they were
18 reliable to use as a --

19 A I just didn't think he was an industrial
20 hygienist. They had the equipment and I understand he used it.

21 Q How about Dr. Heatherington, did you know him?

22 A No.

23 Q Did you ever have any conversations with Mr. May

1 in regard to asbestos and lung cancer?

2 MR. BRUCH: At any time?

3 MR. BROMBERG: Ever.

4 A Not really, no, I don't think so.

5 Q Did he ever show to you or bring to your
6 attention a report entitled, An Epidemiological Study of Lung
7 Cancer in Asbestos Miners?

8 A I don't remember that.

9 Q Do you ever remember seeing such a report?

10 A No.

11 Q Who is Mr. Deckman?

12 A The name rings a bell, but I don't recall who he
13 is.

14 Q Who is Mr. Quealy?

15 A The same thing.

16 Q Who is Mr. Whitfield, A. E. Whitfield?

17 A Again the same thing.

18 Q And how about Mr. Widmayer?

19 A No, I don't recall that name.

20 Q Do you know Mr. Porter?

21 A The president of the company?

22 Q Is that what he was?

23 A Yes.

1 Q Mr. Barr?

2 A Yes.

3 Q Who was he?

4 A He was a minor executive, somewhere above me.

5 Q Do you know what his function was?

6 A I think he was a vice-president of something. I
7 don't know what.

8 Q How about Mr. Cevoli?

9 A It just rings a bell.

10 Q Do you know Mr. R. L. Strickland?

11 A The same thing.

12 Q Did you ever meet Dr. Louis Cralley?

13 A Yes. I know him well.

14 Q When did you first meet him?

15 A I believe in discussions of this program that
16 the U. S. Public Health Service was going to perform at the
17 ATI; and then after that in subsequent meetings,
18 Industrial Hygiene Foundation and AIHA. Then after that we
19 were business friends, you might say.

20 Q And Clark Cooper, did you know him?

21 A Yes. Dr. Cooper of California, you mean?

22 Q Right. How did you know him?

23 A He became involved with asbestos studies either

1 simultaneously or after Dr. Selikoff and he represented the
2 insulating unions in the studies he made out on the west coast.

3 Q Is he somebody you knew personally?

4 A I know him personally.

5 Q When is the first time you can ever recall
6 having any conversation with him that related to the subject
7 of asbestos and health?

8 A Mostly after he gave a talk on the subject at an
9 industrial hygiene meeting, and then in the hallway type of
10 thing.

11 Q The name of Dr. Delmar Donald was mentioned before

12 A Yes. I believe he was a consultant to Certain-
13 Teed, medical, but I don't know any more about him.

14 Q Do you recall ever talking to him face-to-face?

15 A I just don't remember it.

16 Q How about J. L. Goodman, M. D., did you know him?

17 A The name is vaguely familiar.

18 Q Did you know him as the Medical Director of
19 CertainTeed?

20 A I don't know because it is vaguely familiar.

21 Q Mr. Davis, M. S. Davis?

22 A Yes.

23 Q When did you first know him?

1 A I believe he was one of the people who sat in
2 judgment on me to decide whether I should continue with the
3 company or not.

4 Q That was in '62?

5 A I believe that, yes.

6 Q Do you remember any other dealings with him
7 other than having him as your judge at that time?

8 A Yes. I sent copies of reports to him when I
9 became Safety Supervisor.

10 Q Do you ever recall attending any meetings with
11 him?

12 A As a fellow participant? You mean in the
13 audience? No.

14 Q Any meetings at all?

15 A You mean executive meetings?

16 Q Meetings that discussed the subject of asbestos
17 and health?

18 A No, I do not recall any meetings with him.

19 Q Do you recall Myril Shaw being employed by
20 CertainTeed as an "asbestos specialist" at any time?

21 A Yes.

22 MR. HILLY: Objection to the form.

23 Q When was that?

1 A When he went to the conference with me in the
2 Waldorf Astoria.

3 Q And that was approximately when, to the best of
4 your recollection?

5 A 1964. Merrill Shaw; right?

6 Q If you say so. I spell it M-y-r-i-l.

7 Do you recall Dr. Shaw bringing to your attention
8 Dr. Selikoff's paper entitled, Asbestos Exposure and Neoplasia
9 at any time?

10 A I don't know where I got that report.

11 Q What did you understand Dr. Shaw's function to
12 be as an "asbestos specialist"?

13 MR. HILLY: I object to the form.

14 A I don't believe he was an industrial hygienist.

15 Q I don't want to know what he wasn't. What I am
16 trying to find out is what was he?

17 A I believe he was an expert in research and
18 production of asbestos textile products.

19 Q Did you also attend meetings on occasion of an
20 organization known as NIMA?

21 A Yes, I did.

22 Q Were you a member of their Health and Safety
23 Committee?

1 A Yes, I was.

2 Q From what year to what year?

3 A When CertainTeed took over. I don't know
4 exactly when I started going to meetings, but it was probably
5 within a year or so after CertainTeed took over.

6 Q Would that have been up until the time you left
7 the company?

8 A Up until the time I left the company.

9 Q Did you attend any meetings, that you can recall,
10 of that organization, at which either Dr. Cralley or Dr.
11 Cooper had been?

12 A Neither of them ever attended any meeting that I
13 was at, at that organization.

14 Q What were the functions of the Health and
15 Safety Committee of NIMA when you were attending the meetings?

16 A One of the functions was to prepare material
17 for dispensing information as to the health hazards involved
18 with insulation products.

19 Q Do you recall a Mr. Strickland going to NIMA
20 meetings?

21 A The name is familiar, but I don't recall him.

22 Q Do you remember a Dr. L. B. Grant of the Health
23 and Safety Committee?

1 A I know Dr. Grant.

2 Q For whom did he work or by whom was he employed?

3 A One of the fiberglass, Owens Corning, I think, or
4 Owens Illinois. I think it's Owens Corning.

5 Q Did you know Richard Lander?

6 A Yes. That is the first time I heard that name
7 in 12 years, maybe more.

8 Q Do you know where he is?

9 A No.

10 Q When did you last see him?

11 A Was he manager of Plant 8 at one time at Ambler?
12 I can't help you. Maybe someone else can. I don't know.
13 That is all I remember.

14 Q You remember him as a manager?

15 A Yes.

16 Q Do you remember dealing with him on safety
17 subjects?

18 A Only in a general way. I just don't recall.
19 I don't recall whether it was during Keasbey & Mattison time
20 or CertainTeed time.

21 Q Do you know Ben Postman?

22 A Yes.

23 Q When did you first meet him?

1 A I knew Ben Postman before I ever went to
2 CertainTeed.

3 Q How about before you ever went to Keasbey &
4 Mattison?

5 A Before I ever went to Keasbey & Mattison.

6 Q How did you know him?

7 A Ben Postman was --he passed away a few years
8 ago-- one of the forerunners of industrial hygienists in
9 this country. He worked for Employers Mutual, an industrial
10 hygienist for Employers Mutual, and I knew him in New York
11 City when I worked for the Division of Industrial Hygiene.

12 Q Was Employers of Wausau or Employers Mutual
13 ever the workman's compensation insurer either for Keasbey &
14 Mattison or for CertainTeed during the period of time you
15 were employed there?

16 A Yes, but Ben Postman already had retired from
17 that company by that time.

18 Q Do you remember Ben Postman coming to any
19 meetings of ATI?

20 A Yes, he was at ATI, and it is in the minutes
21 here, because he was going to write a paper on asbestos
22 textile dust control and he asked for their help at the ATI.

23 Q Do you know Mr. Pitkin of CertainTeed? That

1 doesn't ring at all?

2 A No.

3 Q How about W. D. O'Neil, does that ring at all to
4 you, of CertainTeed?

5 A No.

6 Q When you first went with Keasbey & Mattison
7 did you have occasion to attend a seminar at the University
8 of Pittsburgh?

9 A Well, as I said, I went to the University of
10 Pittsburgh because that is where the Mellon Institute was.
11 If it was held by the Industrial Health Foundation, it is
12 very possible that I did.

13 Q Did Mr. McGinley go with you at that time?

14 A Mr. McGinley, as I indicated, was assigned to
15 my one-man department to learn about dust control in
16 industrial hygiene and we sent him to the Industrial Health
17 Foundation for a two-week industrial hygiene course. I
18 don't recall going with him to the Industrial Health
19 Foundation. We may have attended a meeting together, but
20 I don't recall that.

21 Q You have indicated that on numerous occasions
22 you drew plans or drew specifications for dust control
23 equipment, is that correct?

1 A Yes.

2 Q Was it always installed, everything that you
3 ever drew plans for?

4 A Yes, because I wouldn't have drawn plans unless
5 they made a decision to go ahead.

6 Q In that decision-making process -- first of all,
7 you just referred to "they". Who was the "they" who made the
8 decision to go ahead?

9 A Some powers greater than myself.

10 Q Do you have any idea who they were?

11 A Well, I would pass it on to Mr. Spedding or
12 whoever was my supervisor and they would go on from there.

13 Q Mr. Alpine later?

14 A Yes.

15 Q And they would return to you with advice as to
16 whether you were or were not to proceed with it; right?

17 A Yes.

18 Q Did they always say the powers that be said
19 yes, go ahead?

20 MR. BRUCH: Objection.

21 A There might have been some time delay, depending
22 on the cost factor and when they were ready for it; but in
23 essence, almost everything I made plans for was done.

1 Q When you talk about time delay, are we talking
2 about days, weeks, months, years?

3 A Well, one year they may not have money so they
4 might decide next year to put it in the budget. Something
5 like that.

6 Q Regardless of what their thought processes were
7 for not doing it, what was the longest that you waited to see
8 some plan implemented that involved dust control?

9 MR. BRUCH: During what period of time?

10 Q During the period of time you worked for
11 CertainTeed?

12 A Well, that is not an easy question to answer.
13 For a new plant, for instance, you would design it one year
14 and it wasn't completed until three years later.

15 Q Let's talk about Ambler.

16 A Once a decision was made, I would say six
17 months to a year. It takes that much time.

18 Q That was once a decision was made to go ahead?

19 A Yes.

20 Q How much time would pass from the time you
21 would make the suggestion before you got a decision as to
22 whether they were or were not going to go ahead?

23 MR. BRUCH: Objection again.

1 A A general average would be half a year to a year.

2 Q Did you ever get memoranda back telling you why
3 they were not going ahead?

4 A No.

5 MR. PONTZ: Objection. I think Mr. Horowitz
6 testified that he was never told that a project would not go
7 ahead.

8 Q Were you ever told that a project would not go
9 ahead?

10 MR. HILLY: I object. He answered that.

11 Q Were you ever told that a project would not go
12 ahead?

13 MR. HILLY: The same objection.

14 A Not in that fashion at all, no.

15 Q In some other fashion?

16 MR. HILLY: Objection.

17 A The general picture of, right now the funds are
18 not available.

19 Q On the day before CertainTeed took over this
20 plant in '62 you had certain files, did you not?

21 A Yes.

22 Q When the transfer was made from Keasbey &
23 Mattison to CertainTeed, did you throw away all those old

1 files?

2 A No, I did not.

3 Q Did you keep them all?

4 A I kept what I had or what I thought I needed, yes.

5 Q Would it be fair to say that the information
6 in terms of documents that your department had relating to
7 industrial hygiene and asbestos and health prior to the take-
8 over by CertainTeed was kept after the takeover by CertainTeed?

9 A Yes, it was.

10 Q Likewise, of course, you had certain knowledge
11 yourself, personally, that you had acquired both from
12 training, background experience and on the job; right?

13 A Yes, definitely.

14 Q Naturally, you retained that as well with the
15 new employer?

16 A Yes.

17 MR. HILLY: Objection.

18 MR. MASON: All of it?

19 THE WITNESS: I retained what I thought was
20 necessary and I weeded out what wasn't necessary, and I
21 didn't specify asbestos as being anything different than any
22 other hazard. All hazards had my attention and its
23 proportionate weight.

1 Q You recognize the abbreviation MAC?

2 A Yes.

3 Q What does that mean?

4 A It means maximum allowable concentration.

5 Q That means the maximum concentration of a
6 substance that one is permitted to operate with what,
7 reasonable safety or what?

8 A At one time that was the terminology used, which
9 is presently thought of in terms of threshold limit value.
10 It makes a connotation that it should not exceed that. While
11 threshold limit value says yes, you can exceed it, but you
12 must balance it with equal time below that and equal weight
13 below that. So it's a different concept, the same and
14 different concept.

15 Q Did you understand five million particles per
16 cubic foot as of 1964 to be the MAC, the TLV, or both?

17 A Yes.

18 Q Both?

19 A Both, either, both, whatever.

20 Q In other words, at that point in time you would
21 use the terms interchangeably?

22 A Yes, I believe so.

23 Q I draw your attention to Exhibit No. 5 marked

1 today. Would you take a look at that for a moment.

2 A Right.

3 Q That is the meeting of September 8 and 9, 1960?

4 A Right.

5 Q In the third full paragraph there you were
6 talking about maximum allowable concentration of five million
7 particles per cubic foot of air; right?

8 A Right.

9 Q Would you take a look, please, at Exhibit No. 6
10 marked today.

11 A Yes.

12 Q That talks about maximum permissible limits, in
13 No. 1, does it not?

14 A Yes.

15 Q You were using that term interchangeably, were
16 you not, with MAC and TLV?

17 A Yes.

18 Q Would you be kind enough to look at No. 16,
19 page 2.

20 A Yes.

21 Q Paragraph 6.

22 A Yes.

23 Q There there is a discussion that involves the

1 words, permissible concentrations (MAC)?

2 A Yes.

3 Q Once again you were using that interchangeably
4 with the other words?

5 A Interchangeably.

6 Q Was it your understanding as of the early '60s
7 that if MAC were maintained, that it would be improbable that
8 asbestosis would occur?

9 A That was the understanding at that time.

10 Q And that was not just your understanding, was
11 it? In other words, that was understood by other people in
12 your field as well?

13 A It was understood by all industrial hygienists.
14 That was the guideline we all aimed for.

15 Q You have called it at one time a guideline. We
16 have used different words. But you are talking about the
17 same thing, TLV or MAC?

18 A Right. They are all interchangeable.

19 Q Was American Mutual, your present employer, was
20 it at one time the workman's compensation insurer for the
21 Ambler plant?

22 A Yes.

23 Q CertainTeed or Keasbey & Mattison?

1 A Keasbey & Mattison.

2 Q Did American Mutual make any dust counts at any
3 time at the plant?

4 A They did prior to my --

5 Q Prior to your arrival?

6 A Right. Then they apparently had confidence in
7 my results, so they accepted my results.

8 Q You say they accepted them. Did you submit them
9 to them?

10 A Yes.

11 Q When did you do that?

12 A At their request.

13 Q Regularly or occasionally?

14 A Occasionally.

15 Q As often as once a year?

16 A As often as they asked for it.

17 Q Did American Mutual come in and make inspections
18 of the plant?

19 A Yes, they did.

20 Q How frequently was that, approximately?

21 A The safety man would come probably on the
22 average of once or twice a year.

23 Q The safety man, would he be sometimes called a

1 field engineer?

2 A Yes, he would be.

3 Q Do you remember what his name was, the fellow
4 from American Mutual?

5 A In Philadelphia it was Ballantyne.

6 Q Do you remember Mr. Ballantyne's first name?

7 A John, I guess. I really don't remember.

8 Q After Mr. Ballantyne would make his inspections
9 would he provide some sort of a report back to you so you
10 would get some feedback, either in writing or orally?

11 A Well, remember, I was not Safety Director at the
12 time and he was a safety man, not the industrial hygienist
13 for American Mutual. He would call in the industrial
14 hygienist from American Mutual.

15 Q Who was that?

16 A That was a fellow by the name of -- I will
17 remember it in a minute. Shumaker, William Shumaker.

18 Q Do you remember Mr. Shumaker coming into the
19 plant?

20 A Well, he visited us. I just don't remember a
21 specific visit.

22 Q I assume the visit was other than purely social?

23 A Yes.

1 Q What he was there for was what, as you understood
2 it?

3 A To discuss the industrial health problems.

4 Q Did he ever make any suggestions in regard to
5 dust?

6 A We discussed the problems in general, yes, and
7 he wanted to know what we were doing and I advised him, and
8 he was impressed with my former experience and we became
9 friendly and it was a good relationship there.

10 Q Was he knowledgeable on the subject of dust and
11 health?

12 A Yes. He was industrial hygienist for American
13 Mutual at the time.

14 Q Did Mr. Shumaker ever furnish you with reports
15 in writing?

16 A No, I don't remember an industrial hygiene report.

17 Q After American Mutual got off the risk, that is,
18 after American Mutual was no longer the insurer, who was the
19 next workman's compensation insurer, as far as you recall?

20 A That was CertainTeed and it was Employers
21 Mutual, I believe.

22 Q And who was the hygienist then, do you recall?

23 A I don't recall any hygienist visiting.

1 Q Do you remember submitting any information in
2 regard to dust counts to --

3 A I didn't.

4 Q Who was the next after that, so far as you recall?

5 A I don't recall, except for the information I see
6 here that Travelers was involved.

7 Q When Travelers was involved, did they ever make
8 dust counts or dust surveys?

9 A I don't recall that they did.

10 Q Do you ever remember submitting information to
11 them?

12 A I did not submit information to them.

13 Q Do you remember Aetna Life & Casualty as an
14 insurer at this plant?

15 A Not as a workman's compensation insurer.

16 Q Do you remember them as some other kind of
17 insurer that related to this plant?

18 A I believe they covered us for group health.

19 Q And did they ever come to the plant?

20 A If they did, I was not aware of it.

21 Q Did you ever know the field engineer out of the
22 Philadelphia office?

23 A Of Aetna?

1 Q Yes.

2 A No.

3 Q Have you ever at any time known the industrial
4 hygienist at Hartford for Aetna Life & Casualty?

5 A I know them now. I did not know them at the time.

6 Q Let me take you back for a moment to the Loss
7 Control Committee while you were at CertainTeed. Is it your
8 understanding that that was a committee one of whose purposes
9 was to control the amount paid out in workman's compensation
10 claims?

11 MR. BRUCH: Objection.

12 A Well, that is not --

13 MR. PONTZ: Excuse me. I would like to object
14 also. I don't believe, and I could be mistaken, I don't
15 believe Mr. Horowitz ever testified that there was a Loss
16 Control Committee at CertainTeed.

17 Q Was there a Loss Control Committee at Certain-
18 Teed?

19 A Yes, there was. I'm sorry, not at CertainTeed.
20 I didn't say at CertainTeed. I said there was a Loss Control
21 Committee at Keasbey & Mattison. I don't remember a Loss
22 Control Committee at CertainTeed.

23 Q As to the documents that you have produced that

1 were marked and that we have gone over today, those are all
2 documents that were generated during the period of time that
3 you were working for these corporations; right?

4 A Right.

5 Q And they would be normal memoranda or whatever
6 type of document that was sent in the plant at the time;
7 correct?

8 A Right.

9 Q When you went from Keasbey & Mattison to
10 CertainTeed, to the best of your knowledge, sir, was there
11 someone who went to Nicolet to take over their industrial
12 hygiene?

13 A Nobody went to Nicolet to take over industrial
14 hygiene.

15 Q Was there anyone in charge of industrial hygiene
16 at Nicolet, so far as you know?

17 A To my knowledge, there was no one in charge of
18 industrial hygiene.

19 Q Did they ever consult with you on the subject,
20 Nicolet?

21 A They never consulted with me. Well, Fred
22 Bickel went with Nicolet and he was an engineer and he may
23 have discussed their dust collecting systems, but not

1 industrial hygiene per se, and he was not an industrial
2 hygienist.

3 Q Would you call him a dust engineer?

4 A No, he was not a dust engineer.

5 Q Is Mr. May living, do you know, Art May?

6 A I was told by one of the lawyers that he was
7 still living, that his testimony had been taken already. But
8 that is not for me to say, is it.

9 Q But you don't know where he is or what he is
10 doing?

11 A I had no contact with him since the day I left
12 the company.

13 Q During the period of time that you were in
14 charge of industrial hygiene and dust control for CertainTeed
15 would you have occasion to review the dust counts or dust
16 surveys taken in the plant?

17 A I did them.

18 Q You did them yourself?

19 A Yes.

20 Q And did they on occasion exceed five million
21 particles per cubic foot?

22 MR. BRUCH: Objection.

23 A They exceeded on occasion five million.

1 Q Five million?

2 A Yes.

3 Q When you determined that they were exceeding
4 five million particles per cubic foot did you always do
5 something about it?

6 A I reported -- I'd like to make you understand.
7 Remember, it was a guide. No one result was the stimulus for
8 immediate action. The thing had to be evaluated more than
9 just by the dust count. I made my evaluation and if I thought
10 it needed correction based on that evaluation -- as an
11 industrial hygienist, I don't use just a sample as a guide.
12 After all, that is a ten-minute sample. I use more than that.
13 When I thought there was need for correction, I reported it
14 to my supervisors, yes.

15 Q And what did you tell them or ask them to do
16 about it?

17 A I would make recommendation as to what they
18 should do about it.

19 Q Such as?

20 A Such as either improve an existing system,
21 change a dust collector because it wasn't the right size,
22 fix a fan or a motor or what have you, or put in a system
23 where one didn't exist.

1 MR. RUBIN: Excuse me. Did this question relate
2 to Keasbey & Mattison?

3 THE WITNESS: It relates to both.

4 MR. RUBIN: Your answer relates to both?

5 THE WITNESS: Yes.

6 MR. RUBIN: Thank you.

7 Q Did you ever suggest the wearing of respirators
8 in a particular job?

9 A The respirator program was mine, yes. On a
10 particular job, you are asking?

11 Q On a particular job?

12 A As an industrial hygienist, I don't prefer
13 respirators as a primary method of control. I would
14 recommend dust respirators only where engineering was
15 impossible and it was a temporary job. So I would recommend
16 it for maintenance people or anybody who had to go into the
17 dust collector to fix it. But I did not recommend
18 respirators as a primary method of control. I recommended
19 a respirator program only until engineering methods could be
20 used.

21 Q When did you recommend that respirator program?

22 A If I found counts to be high and I evaluated
23 that it was a bad condition, I would recommend that they use

1 it until they improved it.

2 Q Was the program that you recommended in 1960
3 put into effect then?

4 A Not totally.

5 Q What part of it was not put into effect?

6 A Well, certain parts like individual personal
7 locations, personal respirators, things like that. They may
8 not have put it in in every location. It was a general
9 directive, rather than a specific directive, so if it was or
10 it wasn't is difficult to say.

11 Q Did you ever face the situation where the
12 respirator program you recommended was not put into effect
13 and you had to recommend it a second time?

14 A No. As I say, I didn't look at a respirator
15 program as a means of dust control.

16 Q Well, it would not be a means of dust control,
17 would it?

18 A It is not, no.

19 Q Did you look at it --

20 A It is a means of reducing exposure to a
21 particular person but is not a means of dust control.

22 Q Was there ever an occasion when, although you
23 had recommended a respirator program, it was not put into

1 effect?

2 MR. BRUCH: Objection. What time period are
3 you talking about?

4 Q While you were with CertainTeed?

5 A I was not a policeman in that area, so I didn't
6 search for that type of thing. So I can't say whether it was
7 or it wasn't.

8 Q Is it your recollection that the 1960, October
9 13, 1960 respirator program was put into effect at that time?

10 A I can't respond to that, that it was or wasn't.

11 Q Would you take a look at Exhibit No. 20, page 3,
12 the last paragraph.

13 A Right.

14 Q Did you not end that memorandum to Mr. Simons:
15 "It is important that a respirator program be initiated
16 similar to the one suggested by the attached sheet dated
17 October 13, 1960"?

18 A Yes. What about that?

19 Q Is it your understanding that the program of
20 October 13, 1960 was in fact initiated in 1960? Or is it
21 not true, sir, that two years later you were still trying to
22 get it adopted by the company?

23 MR. BRUCH: Objection.

1 A Well, as I say, I was not a policeman. The
2 only time I would respond to the program would be if I
3 found dust counts in an area where they should have been
4 wearing respirators. Then I would report that there should
5 have been respirators as per program. Right.

6 Q Horowitz No. 20 is a confidential memorandum on
7 dust respirators, use thereof, dated April 5, '62; right?

8 A Right.

9 Q And in the second paragraph you say: "There
10 will always be many places where potential exposure to
11 harmful concentrations of atmospheric contaminants will
12 exist." Right?

13 A Right.

14 Q Then at the end, after you discuss various items
15 in the plant, you end up saying: "It is important that a
16 respirator program be initiated similar to the one suggested
17 by the attached sheet dated October 13, 1960." Right?

18 A Correct.

19 MR. BRUCH: Objection.

20 Q The reason for that is they didn't initiate the
21 program in October, 1960. Right, sir?

22 MR. BRUCH: Objection.

23 Q Is that not so?

1 A I didn't follow this up as if it were a directive
2 that needed following up. This was a consultative piece of
3 advice to all the managers.

4 Q Well, you knew in '62, when you said that, that
5 obviously it had not been put in, didn't you, when you said
6 it should be initiated?

7 MR. HILLY: I object to the form.

8 MR. BRUCH: Objection.

9 A Apparently, my consultative advice to them was
10 that here is our respirator program, please follow it, at
11 the time.

12 Q That isn't what you said, though, was it?

13 A It didn't say that I knew they didn't do it,
14 but it did say that I feel this is a program that we should
15 all do.

16 Q What you are telling us now is that when you
17 said in the last paragraph there, "It is important that a
18 respirator program be initiated similar to the one suggested
19 by the attached sheet dated October 13, 1960," that it was
20 your understanding then that it already was in effect for two
21 years, is that right?

22 A An interpretation like that could be made.
23 That is right.

1 Q It could?

2 A It could be made. Sure.

3 Q Now let me ask you something else. Take a look,
4 if you would, please, at that attachment to No. 20 and also
5 take a look at Horowitz No. 6.

6 A Yes.

7 Q You mentioned before that in paragraph No. 4
8 certain language was added about clean containers being
9 provided; right?

10 A Right.

11 Q But there are other changes as well, aren't
12 there, between No. 6 and the attachment to 20?

13 A Yes.

14 Q Well, for one thing, K & M is crossed out and
15 CPC is put in in several places; right?

16 A Right.

17 Q And for another thing, there is a note on the
18 bottom: "Note: This memorandum was issued in 1960 and must
19 be strictly enforced." Right?

20 A That is right.

21 Q And your note next to it has dates of 12-6-67
22 and 8-9-67?

23 A Right.

1 Q You also made a change in paragraph 1, didn't
2 you?

3 A Yes. I added something. I made a change from
4 Keasbey & Mattison to CertainTeed Products Corporation.

5 Q And originally the way paragraph 1 read was:
6 "Dust respirators must be used by K & M personnel at all
7 operations involving the use of silica, cement, mica, talc
8 and asbestos dust." That is all it said; right?

9 A Right.

10 Q And the plain meaning of that to you, sir, and
11 to anyone else reading it, would be that you wanted
12 respirators worn at all operations where there were these
13 various things, including asbestos dust; right?

14 MR. BRUCH: Objection.

15 MR. HILLY: Objection to the form.

16 A Right.

17 Q Was that because readings were considerably
18 over five million particles per cubic foot in those days?

19 A No, because I was negligent in being thorough;
20 and when I improved it the next time, I made sure it
21 followed the philosophy I suggested to you, that it should
22 be used where dust control is not sufficient. So I wasn't
23 clear the first time.

1 Q And in '67, at least, when this went out, the
2 words: "where dust control is not sufficient to maintain
3 airborne dust concentrations below maximum permissible limits."

4 A Correct.

5 Q And isn't that the first time that this
6 memorandum actually ever issued after you added those words?

7 A In all likelihood, yes.

8 MR. BROMBERG: No further questions.

9 MR. GUSKY: No questions.

10 MS. BOWMAN: No questions.

11 MR. BEERS: Would you mark that exhibit.

12 (Horowitz Deposition Exhibit No. 26
13 was marked.)

14 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT CASSIAR

15 BY MR. BEERS:

16 Q Mr. Horowitz, would you take a look at an
17 exhibit that has been marked Horowitz 26.

18 A Right.

19 Q Have you ever seen that document before?

20 A Yes, I have.

21 Q Would you tell us what it is?

22 A Apparently, it is a table of organization, I
23 guess you would call it that, of Keasbey & Mattison Company

1 at the time I worked there.

2 Q Was this a document that was kept in your
3 personal file at Keasbey & Mattison?

4 A Yes.

5 Q Do you know whether you received it about the
6 time that it was issued on October 1, 1960?

7 A Probably a little after that, yes.

8 Q Do you see the handwritten circle around your
9 name?

10 A I circled that. Yes.

11 Q You circled that?

12 A Yes.

13 Q Did you circle that back when you were with
14 Keasbey & Mattison?

15 A I don't recall.

16 Did I circle it when I was with you, Ms. Gibson?

17 MS. GIBSON: I don't recall either.

18 A I don't recall. I don't recall why it's
19 circled. I think I circled it to indicate that it shows
20 Industrial Hygiene and Project Engineer but doesn't say Dust
21 Control Engineer. I was hired earlier that year as a Dust
22 Control Engineer and through my own efforts and with the
23 acceptance of the company, performed as an Industrial Hygiene

1 Engineer, but I functioned as a Dust Control Engineer.

2 Q Does this, so far as you can recall, fairly
3 represent the organizational structure of Keasbey & Mattison?

4 A I believe it does, yes.

5 Q As of 1960. I take it the answer to that is yes?

6 A Yes. I thought I said yes.

7 Q One more question, Mr. Horowitz. Do you remember
8 the report of the New York Academy meeting that you referred
9 to earlier today?

10 A Yes. 1964?

11 Q Right. You said you had a copy of your report
12 in your personal file now?

13 A I have a copy of my report.

14 Q Would you be willing to mail a copy to Ms. Gibson,
15 with a short covering note saying what it is that you are
16 mailing to her?

17 A I would be willing to do that.

18 Q Thank you.

19 MR. BEERS: Counsel, I am going to represent on
20 the record that when Ms. Gibson receives that she will make
21 a copy immediately of Mr. Horowitz's covering note and of
22 that single document and will mail it to all counsel of
23 record. I propose we worry about what to do about

1 admissibility after we have all taken a look at it.

2 I have nothing further. Well, let me ask one
3 more question.

4 Q Mr. Horowitz, I want to ask you one catch-all
5 question about the documents that we have seen today that you
6 have produced for us, Exhibits Nos. 1 through 26. To the
7 best of your recollection, are they true and accurate copies
8 of documents that you kept in your personal file in the
9 ordinary course of your work for Keasbey & Mattison or
10 CertainTeed?

11 A They are true copies of records of my function
12 describing some of my work there, yes.

13 Q At Keasbey & Mattison and CertainTeed?

14 A Right.

15 MR. BEERS: Thank you.

16 MR. RUBIN: Mr. Beers, you earlier made some
17 type of representation on the record with regard to other
18 documents in the witness's file. Are you now retracting
19 that and saying you are only going to make available the one
20 document that he is sending to your office?

21 MR. BEERS: I have no plans to go to Massachusetts
22 and look for other documents in Mr. Horowitz's file. I
23 thought we would begin simply by obtaining that one report

1 that he identified and circulating it to counsel for comment.

2 MR. RUBIN: Would you agree if in the future
3 you should have occasion to obtain other documents from his
4 file, you will make them available to other counsel?

5 MR. BEERS: Yes.

6 MR. RUBIN: Thank you.

7 EXAMINATION BY COUNSEL FOR PLAINTIFFS

8 BY MR. RUBIN:

9 Q Mr. Horowitz, when you were employed by the
10 Division of Industrial Hygiene, the New York Department of
11 Labor, I assume since you were visiting some asbestos
12 facilities you had some knowledge of asbestos diseases at
13 that time?

14 A Yes.

15 Q What time period was that, sir?

16 A I worked for them between 1947 and 1956.

17 Q What was your knowledge at that time, sir, of
18 asbestos diseases?

19 A I hope I had the prevailing knowledge, which
20 was it was one of the hazardous materials that could cause
21 a lung disease, pneumoconiosis, called asbestosis.

22 Q And how did you acquire that knowledge?

23 A By the fact that it existed as a threshold limit

1 value or MAC in the list made annually by the American
2 Conference of Governmental and Industrial Hygienists, and the
3 knowledge acquired from other people working in the area in
4 my office.

5 Q Had you read any studies or publications dealing
6 with asbestos health hazards as of that time?

7 A Not as pointedly more of a problem than, let's
8 say, silicosis. Silicosis to us was more of a problem
9 because many more people were exposed.

10 Q But you had read some medical articles or
11 scientific articles on asbestos-related diseases?

12 A Since it wasn't a dominant area or an area of
13 major concern, I don't recall reading too much about it.

14 Q When you say you don't recall reading too much,
15 I infer you read something about it?

16 A I read something about it. It was included in
17 all of the texts as one of the pneumoconiosis diseases.

18 Q Had you attended any seminars or lectures with
19 regard to asbestos-related diseases as of that time, prior
20 to 1956?

21 A No. There were none that I was aware of.

22 Q Was it covered in the general pneumoconiosis
23 seminars or classes you may have attended prior to '56?

1 A It was covered as a general pneumoconiosis
2 disease, yes.

3 Q When I say covered I am talking about at a formal
4 seminar or program that you may have attended.

5 A Any teaching class, any lectures, any texts, it
6 was included as one of the pneumoconiosis diseases, yes.

7 Q Prior to 1956 were you aware of the
8 possibility of a relationship between asbestosis and cancer?

9 A I was not aware of that.

10 Q You had not read any of the scientific or
11 medical articles dealing with that topic?

12 A I had not read anything relating to cancer.

13 Q Aside from reading, did you have any knowledge
14 prior to 1956 of a possible connection between asbestos and
15 cancer?

16 A I had no knowledge at all to that effect.

17 Q When you started with Keasbey & Mattison in
18 1960, how many plants were there in Ambler that were under
19 your jurisdiction? I am just talking about Ambler now.

20 A I think I mentioned it before. There was a
21 shingle plant, which was Plant 1, I think; a Plant 4, which
22 covered insulation as well as asbestos paper and rubber
23 products; and then a Plant 8, which covered asbestos cement.

1 That is all I recall. And a research -- I don't know whether
2 the research building had been built yet. I am not sure.

3 Q As of that time, in 1960, what type of dust
4 control devices were there in each of those three plants?

5 A They had dust collecting devices, hoods built
6 around the devices, the cutting machines that would cut the
7 product or break it or whatever, with duct work leading to
8 dust collectors.

9 Q In each of the plants?

10 A In each of the plants.

11 Q Did you observe whether any of the dust
12 collecting devices were more modern or newer in any one plant
13 than the other two plants?

14 A Yes.

15 Q Which would you say were more modern?

16 A I will take it the other way and say which were
17 least modern. Plant 4 was the least modern.

18 Q Did you observe, visibly observe dust in the air
19 in any of the three plants in 1960, when you would go into
20 the plants?

21 A It's a subjective evaluation, but of course I
22 observed dust, yes.

23 Q Was it more observable in one or more of the

1 plants?

2 A That is a hard question to ask an industrial
3 hygienist because I don't depend on visual observation. It
4 is a difficult thing to answer.

5 Q Let me change it a little bit. Did you consider
6 one of the plants, one of those three plants, more dusty
7 from an industrial hygienist's standpoint?

8 A Yes, I would.

9 Q Which one?

10 A Plant 4.

11 Q And which would be next, from dustiness to least
12 dusty?

13 A Plant 1, probably, the shingle plant.

14 Q And Plant 8 would be the least dusty?

15 A That was probably because it was a newer plant.
16 Yes.

17 Q Was it your understanding that Plant 8 was
18 built in the late '30s or early '40s?

19 A I believe it was a newer plant, yes, and the
20 equipment was a little more modern than the others. I am
21 talking about dust collecting equipment. I am limiting it
22 to that.

23 Q I understand. Now, as of 1962, when

1 CertainTeed and Nicolet came in and purchased assets from
2 Keasbey & Mattison, what was your understanding as to each
3 of those plants as to what happened to them, the three plants
4 that we have been talking about?

5 A I have no real in-depth knowledge. All I know
6 is that I was retained by CertainTeed for the asbestos cement
7 plants, which meant the pipe plant in Ambler --that was the
8 only plant in Ambler-- and the other pipe plants in the other
9 cities.

10 Q Do you know whether Nicolet purchased and kept
11 in operation Plants 1 and 4?

12 A If 1 was the shingle plant, that had been
13 dismantled a few years prior, maybe a year prior to that, I
14 believe. I think 1 did not exist, 1 was dismantled, if it
15 was the shingle plant. I am not sure about that.

16 But 4 was bought by Nicolet. And what was the
17 question about that?

18 Q Let me ask you several questions about that.

19 With regard to what you referred to as Plant 4
20 at the time, did that consist of one building or more than
21 one building?

22 A It was a line of -- you can call it one big
23 building, or since they had several manufacturing areas you

1 could call it adjoining buildings. But you could walk through
2 it like one big warehouse.

3 Q There was no part of Plant 4 that was not
4 connected to another part?

5 A No, I don't recall any part of Plant 4 that was
6 not connected; right.

7 Q Were you familiar with what had been Plant No. 2
8 prior to the time that you came there?

9 A If you recall to me where Plant No. 2 was, maybe
10 I can answer that.

11 Q Plant No. 2 was further down the railroad
12 tracks towards Philadelphia, behind Plant 4.

13 A Well, maybe that is what I am considering as one
14 plant. Was that rubber manufacturing?

15 Q They did rubber manufacturing.

16 A Then, yes, I was familiar with that.

17 Q Do you consider that as part of Plant 4?

18 A My recollection doesn't -- I don't remember the
19 numbers. I considered that all one plant and I thought that
20 went with Nicolet, so I consider that one plant.

21 Q Were you familiar with what had been called
22 Plant No. 5 as of the time you came?

23 A Where was that?

1 Q There had been a Plant No. 5 in Ambler.

2 A What did they do in that plant?

3 Q I believe that was the textile plant.

4 A Then it was prior to my time because the textile
5 plant had been moved from that area, which was in what I
6 call Plant 4, to Meredith, New Hampshire, before my time,
7 and that was called Plant No. 10 in Meredith.

8 Q Now, did you begin upgrading, improving or
9 replacing dust control systems or devices in any one of the
10 three plants more so than the others, when you were initially
11 hired in 1960?

12 A When you say the three plants you are talking
13 about Plant 8, Plant 4 and --

14 Q Plant 1.

15 A Plant 1 was the shingle plant?

16 Q That was the shingle.

17 A I think to the shingle plant not too much
18 attention was paid because there was a big question as to
19 whether they would continue with it, and there was not too
20 much dust control done by me in that plant. I think more
21 was done in Plant 8, although I had a big assignment to
22 evaluate the poor dust conditions in Plant 4.

23 Q Did you in fact find that there were -- did you

1 use the word poor dust conditions in Plant 4?

2 A It was, yes.

3 Q That is what you concluded?

4 A Yes.

5 Q With regard to the exhibits that have been
6 marked here today, did you or Mr. Beers determine which of
7 your personal papers to mark and which were not marked as
8 exhibits?

9 A Ms. Gibson came to my office with minutes of
10 meetings to the ATI and prior to that had asked me if I had
11 any correspondence relating to this particular subject or
12 hearing or what have you, and I brought my responses -- that
13 is, my correspondence relating to those meetings and a few
14 correspondence that I thought was pertinent to the subject,
15 to her at that time.

16 Q Well, how did it evolve that these documents
17 that have been marked and that were part of your personal
18 files were in fact marked and some other documents were not
19 produced today? Who decided which were to be produced and
20 which were not?

21 A The documents I just mentioned that I thought
22 were pertinent, some of which responded to the ATI meetings,
23 by dates. So they showed my response to those, plus a few

1 others were shown to Ms. Gibson, as I had indicated that I
2 would, and Ms. Gibson chose the ones to be marked, to be
3 taken.

4 Q If I understand your testimony correctly, your
5 entire file was not shown to Mr. Beers or Mrs. Gibson or
6 anyone from that office?

7 A No.

8 Q Will you turn to Exhibit No. 1, please.

9 A Yes.

10 Q Is it your understanding that Exhibit No. 1 is
11 a proposed study that was proposed by the Industrial Hygiene
12 Foundation in Pittsburgh for ATI?

13 A No.

14 Q That is not your understanding of what it is?

15 A That is not my understanding, no. Well, I
16 don't know. I don't know much about this. It preceded,
17 apparently preceded my coming to the company.

18 Q And you don't recall how --

19 A But apparently it says they were approached by
20 the Industrial -- I wasn't in the activity of this
21 particular memorandum. In other words, I found it somewhere.
22 I don't know where. It may have been one of the questions
23 was if I found any previous correspondence. It may have

1 been there. I don't know.

2 Q Is it your understanding, sir, that this
3 proposed study by IHF was in fact turned down by the
4 Asbestos Textile Institute?

5 A I have no knowledge to that effect at all.

6 Q Do you have any knowledge as to whether or not
7 a study was ever done for the Asbestos Textile Institute by
8 the Industrial Hygiene Foundation?

9 A If there was one done, I never saw it.

10 Q Did you ever hear about one?

11 A No, I didn't hear about it.

12 Q I take it from your testimony that your first
13 knowledge about the possibility of a link between asbestos
14 or asbestosis and cancer occurred in and around 1960?

15 A Yes.

16 Q You had not read anything prior to 1960, any
17 scientific or medical articles dealing with that?

18 A No. It came as a surprise to me.

19 Q Had you been receiving the Industrial Hygiene
20 Foundation Digest prior to 1960?

21 A I had no relation with the Industrial Hygiene
22 Foundation before I joined the company. No. I knew they
23 existed.

1 Q Did you receive copies of the minutes of the
2 general meeting of the Asbestos Textile Institute to review
3 when you were with Keasbey & Mattison?

4 A No. The only minutes I received were on the
5 Air Hygiene Committee.

6 Q Do you know whether Keasbey & Mattison received
7 the minutes from the general meetings?

8 A No, I do not know that.

9 Q Would you be the first one to get the Air
10 Hygiene Committee minutes or did they come to you from
11 someone else at Keasbey & Mattison?

12 A I believe they were mailed to me directly.

13 Q What would you do with them after you reviewed
14 them?

15 A I don't know. I wrote a report as a result of
16 my visits to the meetings. In fact, I didn't have a copy of
17 the minutes of the meeting in my file, so I may have passed
18 them on with my report. I don't know. All I had in my
19 records was my report on the meeting.

20 Q Who would you have passed on the minutes of the
21 Air Hygiene Committee to?

22 A Mr. Spedding.

23 Q And I assume you don't know what happened to

1 them after he got them?

2 A Except for the few occasions where I saw a note
3 that he passed it on -- at least, my report on to Mr.
4 Schneider.

5 Q If you would, sir, turn to Exhibit No. 6. I am
6 referring to the first paragraph.

7 What were the operations involving the use of
8 silica?

9 A Silica was used to make cement for the asbestos
10 cement products.

11 Q So that would only have been used in Plant No. 8,
12 to your knowledge?

13 A And the shingle plant.

14 Q Silica was also used in Plant No. 1?

15 A That is asbestos cement, too, in Plant No. 1.

16 Q I assume your answer for operations involving
17 the use of cement would be the same?

18 A Yes.

19 Q What about mica, what operations at Keasbey &
20 Mattison involved the use of mica?

21 A I believe the one roofing plant they had used
22 mica.

23 Q Plant No. 1?

1 A No. Perth Amboy.

2 Q Not the shingle plant but the roofing plant?

3 A Yes.

4 Q And what about talc, where was that used?

5 A Talc is used in the rubber plant and could be
6 used in the roofing plant. I don't recall specifically
7 where it was used there, but it could be used in those two
8 plants.

9 Q When you say rubber, what rubber products were
10 being made, to your knowledge?

11 A I believe they made rubber gaskets, with
12 asbestos as a filler, in that plant you described. No. 2,
13 was it?

14 Q The one that you feel is connected to Plant 4?

15 A Yes.

16 Q It would be either 2 or 5.

17 A Yes. It was a relatively small operation.

18 Q You testified that as to paragraph 5 in Exhibit
19 No. 6, dealing with disciplinary action, that you felt the
20 language there, saying it will be necessary to request
21 disciplinary action through proper channels, in your opinion
22 dealt with the union? Is that what you stated?

23 A In my opinion it dealt with areas in which I had

1 no involvement and that I felt I couldn't ask for disciplinary
2 action without warning them that they must do it in the
3 proper way.

4 So, in general, it was a very broad statement,
5 did not say just whether they had a union or not a union.

6 It is a delicate industrial relations problem
7 and here I was putting something in the bible and didn't
8 want to turn around and have somebody say to me that you did
9 not include that as a warning to management.

10 Q But you did not know, when you used the words
11 proper channels, exactly what channels were necessary, did
12 you?

13 A No, not at all.

14 Q If you will turn to Exhibit No. 7, your report
15 -- it is not your report, but a report that you are familiar
16 with, involving the Industrial Hygiene Foundation meeting.
17 What other companies were represented at that meeting, do
18 you know?

19 A I am afraid it is not my report, a copy wasn't
20 sent to me, and I don't recall whether I was at that meeting
21 also. So I have no idea.

22 When you say what other companies were
23 represented, do you mean who went to the Industrial Hygiene

1 Foundation meeting?

2 Q Yes.

3 A That is the kind of a meeting that is very
4 general and open and anybody would go.

5 Q Well, who did you meet at Industrial Hygiene
6 Foundation meetings that you could associate with various
7 companies?

8 A My counterparts for other companies in general.

9 Q Did you meet representatives of Johns-Manville
10 there?

11 A I met them after I knew who they were. I met
12 them there, yes.

13 Q Did you meet representatives of Bell Asbestos
14 Mines there?

15 A I didn't know any representatives of Bell
16 Asbestos Mines.

17 Q What about representatives of Cassiar Asbestos
18 Company?

19 A I didn't know any individuals there.

20 Q What about representatives of the Asbestos
21 Corporation?

22 A I didn't know any individual.

23 Q Did you know any individuals who were employed

1 by or representing the mining companies or the supplying
2 companies?

3 A None.

4 Q So if I were to ask you whether you knew any
5 representatives from any of the Canadian mining companies
6 that supplied asbestos to Ambler, your answer would be no?

7 A Unless it was Johns-Manville, some of whose
8 personnel I knew.

9 Q But other than J-M --

10 A Other than J-M, I knew no other people, no.

11 Q Did you know whether they in fact were in
12 attendance at IHF meetings, even if you didn't know them
13 personally?

14 A I have no idea whether they were.

15 Q Does your personal file contain minutes or
16 agenda from IHF meetings that you attended?

17 A I don't think so, no.

18 Q When you look for that document for Ms. Gibson
19 would you doublecheck and see if there is anything from IHF
20 meetings? And if there is --

21 A I might have made a report on one or two of
22 them, yes.

23 Q If there is, would you make it known in that

1 letter that you are going to be sending to her or Mr. Beers?

2 A All right. You are asking any report referring
3 -only to asbestos, or referring to anything?

4 Q Any report of any IHF meeting that you may have
5 attended.

6 A Whether it had to do with asbestos or not?

7 Q Whether asbestos or not.

8 I believe that you testified that the only
9 general meeting of the Asbestos Textile Institute that you
10 attended was the one on June 9, 1961 in Philadelphia that
11 Dr. Smith spoke at, is that correct?

12 A I believe so, yes.

13 Q I want to show you the minutes from the Asbestos
14 Textile Institute of that general meeting.

15 MS. GIBSON: What is the date of that?

16 MR. RUBIN: June 9, 1961, in Philadelphia.

17 Q On the second page, under point 5, there is
18 reference to Dr. Kenneth Smith speaking. Do you see that?

19 A Yes.

20 Q Have you seen these minutes before?

21 A I don't believe so.

22 Q Didn't Ms. Gibson show you these minutes when
23 she showed you minutes from the Asbestos Textile Institute?

1 A That meeting was not included.

2 Was it, Ms. Gibson?

3 MS. GIBSON: Does it have his name?

4 MR. RUBIN: It has his name as being present
5 for Keasbey & Mattison Company, yes.

6 MR. BRUCH: That is one of them because I have
7 a copy of it.

8 THE WITNESS: Is it one of them? Did I have a
9 response to that meeting? I don't recall it. Did I have a
10 report on that meeting?

11 MR. BRUCH: That is just one of the ATI minutes
12 that were submitted to you by Ms. Gibson.

13 THE WITNESS: So that would be included --

14 Q I am not sure if it is included in that packet
15 or not. But you recall being at this meeting that Dr. Smith
16 talked at?

17 A Oh, yes.

18 Q On the first page it lists the representatives
19 from the various companies that were present. Did you know
20 any of these people who are listed on the first page or did
21 you meet them there?

22 A Ken Smith. And at the time I wasn't familiar
23 with Sheckler, but I got to know him later. Obviously,

1 these people were from my company, but I don't remember them
2 too much except for Hutchcroft. One of the Raybestos-
3 Manhattan was chairman of my committee, but I can't even
4 remember a face. And Dr. Shaw, of course, I remember.

5 Q I think you testified that Dr. Shaw was an
6 asbestos specialist; is that the words that you used?

7 A Not a health asbestos specialist, but a research
8 asbestos specialist.

9 Q Was he at any time ever employed by CertainTeed
10 or Keasbey & Mattison?

11 A I don't think he was employed. I think he was
12 hired as a consultant, at least to go to that meeting at the
13 Waldorf Astoria. Maybe more than that, too. I don't know.

14 Q At this meeting, the 1961 meeting he was hired
15 as a consultant by Keasbey & Mattison, or was it a different
16 meeting?

17 A No, the Waldorf Astoria meeting on asbestos.

18 Q The one that Dr. Selikoff spoke at?

19 A Right.

20 Q And was hired by CertainTeed to attend that
21 meeting?

22 A I believe so, because Keasbey & Mattison was no
23 longer in existence in '64.

1 Q What was the purpose of CertainTeed engaging his
2 services to attend that meeting?

3 A I don't know why. He wasn't an industrial
4 hygienist, but I guess they felt he -- I don't know. But he
5 and I went together.

6 Q Was he doing any type of consulting work for
7 CertainTeed at the time?

8 A If he was, I was not aware of it.

9 Q And as a result of him attending that meeting
10 as a consultant for CertainTeed, what did he do?

11 A He wrote a report.

12 Q A report on his attendance at the meeting?

13 A That is right.

14 MR. PONTZ: I would like to object. Mr. Rubin
15 used the phrase, as a consultant for CertainTeed.

16 I think you are putting words in the mouth of
17 the witness. You are presuming that he was there as a
18 consultant for CertainTeed, when in fact I don't think there
19 has been testimony to that effect.

20 THE WITNESS: I am not aware of what his real
21 function was.

22 MR. PONTZ: I think the witness has stated on
23 several occasions that he is not clear as to the capacity

1 in which Dr. Shaw was present.

2 Q Well, is it your recollection, sir, that he was
3 there in some capacity for CertainTeed, as opposed to being
4 there for the Asbestos Textile Institute?

5 A Yes.

6 Q Do you know whether he got paid for attending
7 that meeting?

8 A I don't know whether he got paid. If he did, I
9 am not aware of it.

10 Q After he made his report with regard to attending
11 that meeting, do you know whether he did anything else for
12 CertainTeed?

13 A No.

14 Q He did not or you don't know?

15 A I don't know. I am not aware of anything that
16 he did.

17 Q Do you have any reason to believe, sir, that
18 the persons and companies listed on page 1 of the Asbestos
19 Textile Institute meeting of June 9, 1961 were not present
20 at that meeting?

21 A Not present at which meeting?

22 Q At the meeting that Dr. Smith spoke at, June 9,
23 1961?

1 A As I indicated, I know only a few of the names
2 here.

3 Q But do you have any reason to believe that the
4 people listed there were not there?

5 A I have no reason to believe they were not there.

6 Q How many people were at the meeting? Was it a
7 small group like this or was it a bigger group?

8 A I don't recall the meeting exactly.

9 Q In Exhibit No. 16 there is reference to the
10 United States Public Health Service or Dr. Cralley meeting
11 with you at CertainTeed, is that correct?

12 A I believe the subject is the Asbestos Textile
13 Institute meeting. Do I make reference -- oh, it is possible
14 that they may visit us too, is that what you mean?

15 Q No.

16 A This was a meeting at the ATI.

17 Q Yes. I am thinking of a later exhibit, in
18 which there was reference to Dr. Cralley making a preliminary
19 visit to Ambler?

20 A Yes, he did.

21 Q Did you meet with him on that occasion?

22 A Yes.

23 Q What was his purpose in coming to Ambler?

1 A If you recall, there was some hesitancy on the
2 part of our management to agree to the study. I don't recall
3 for sure why he visited, whether it was to obtain information
4 himself as background information or to help us convince
5 management. I don't recall that.

6 Q Well, did he actually go through the plant or
7 any of the plants in Ambler and inspect them?

8 A He did not come for purposes of inspection. I
9 don't recall whether I even took him to one of the plants.

10 Q Did anyone meet with him other than yourself?

11 A I don't recall. Can we find that and do I have
12 a reference to it somewhere?

13 Q Let's see if we can find it.

14 Exhibit No. 23, Mr. Horowitz, the second-to-last
15 paragraph.

16 A Well, since I said to our plant, I have vague
17 recall that we went into Plant 8.

18 Q For what purpose?

19 A To show him what a pipe plant looked like, but
20 not to inspect it or anything like that.

21 Q Did anybody else come with him at the time?

22 A No.

23 MR. BRUCH: Did you say that you showed Dr.

1 Cralley what a pipe plant looked like?

2 THE WITNESS: I believe we walked into the plant,
3 yes.

4 Q I am a little confused by Exhibit No. 20. Can
5 you turn to that, Mr. Horowitz.

6 A Yes.

7 Q This is a memorandum from you to Mr. Simons, is
8 that correct?

9 A Right.

10 Q Mr. Simons was associated with CertainTeed,
11 rather than with Keasbey & Mattison, is that correct?

12 MR. BRUCH: I object to that.

13 A I don't think so because I refer to -- apparently,
14 this is a memo from me to a Safety Director whose name, face
15 and function I don't remember, but it refers to several areas
16 in K & M plants and, therefore, refers to Plants 1, 4, 6, 7,
17 8, 9 and 10, that CertainTeed did not take over. So it's
18 Keasbey & Mattison.

19 Q That is why I was confused. I thought you had
20 identified Simons as being associated with --

21 A No; but I don't recall who Simons was, I am
22 afraid, and I don't know whether he is on this list here.

23 Q Now, on Exhibit 21 there is an indication that

1 a Mr. Davis got a copy. Was he the individual that you
2 associated with CertainTeed, rather than with Keasbey &
3 Mattison?

4 A Yes.

5 Q If you will look in the second full paragraph,
6 starting with "Several medical experts," you mention Dr.
7 Cartier. Do you see that in parenthesis?

8 A Yes.

9 Q Who is Dr. Cartier?

10 A I believe he was an expert from the Saranac
11 Laboratories who concentrated on pneumoconiosis types of
12 diseases.

13 Q If I would suggest to you that he was associated
14 with Thetford Mines in Quebec, would that be --

15 A If he was, I was ignorant of that.

16 Q Did you know Dr. Cartier?

17 A I did not know him.

18 Q Did you ever hear him speak?

19 A I don't recall hearing him speak.

20 Q Do you recall being present at an Asbestos
21 Textile Institute meeting when he talked about the health
22 experience that he had observed in the mines and mills in
23 Quebec?

1 A I don't recall it. My feeling is I wasn't there
2 because I have always been curious about the health effects
3 in the mines of Quebec, as well as South Africa, and I just
4 don't recall that meeting.

5 Q Will you turn to the last exhibit, 25. Did you
6 write this memorandum, sir?

7 A Yes.

8 Q In the second paragraph, sir, you say it will
9 make it more difficult for the union attorneys to subpoena
10 the x-rays?

11 A Where is that?

12 Q It's the second paragraph. Why don't you take
13 a minute and read the whole paragraph because I am going to
14 question you about it.

15 A Yes. What question do you want?

16 Q What was your knowledge at the time with regard
17 to the union's attorneys subpoenaing the x-rays?

18 A I had no knowledge at all.

19 Q What was the purpose of your making the state-
20 ment that it will make it more difficult for the union's
21 attorneys to subpoena the x-rays?

22 A Apparently, this is a fear that the company had
23 and I was trying to assure them that we could provide

1 protection for the worker with this program I was recommending
2 and allay their fears of availability of the information.

3 Q Someone from the company told you they were
4 concerned about the union --

5 A I said apparently. I don't know.

6 Q What made you think of any type of concern at
7 all about union attorneys subpoenaing x-rays? Someone must
8 have planted the seed in your mind.

9 A It's a general concern in industry which makes
10 them hesitate to go ahead with a program which is perhaps
11 good industrial hygiene, that it might instigate claims. So
12 it's the kind of a thing that you try to tell them let's not
13 worry about that crap but let's go ahead and do something.

14 Q So that you believe that in 1965 you felt that
15 it was a general concern of industry that unions or their
16 attorneys may try to look at the x-rays or get ahold of the
17 x-rays in order to make claims; is that what your testimony is?

18 MR. BROMBERG: Mr. Rubin, may I have a standing
19 objection to all your questions relating to what he believes?

20 MR. BRUCH: I object to the question also.

21 Q Let me rephrase that. Was it your understanding
22 in 1967 that there was a concern in industry in general and
23 at CertainTeed in particular, that unions or their attorneys

1 may attempt to look at health records or x-rays of employees?

2 MR. BROMBERG: Would you read the question
3 back, please?

4 MR. BRUCH: Objection.

5 (The Reporter read the last question.)

6 MR. RUBIN: Amend that to 1965.

7 MR. BROMBERG: I object to that question. It
8 talks about industry in general, whatever that may be, and
9 it talks about his belief.

10 MR. BRUCH: I also object to that question.

11 MR. DELORENZO: I also object to that.

12 Q Can you answer that, sir?

13 A Apparently, yes. That is why I included it.

14 MR. PONTZ: Apparently, yes, what?

15 THE WITNESS: Could I expand on it?

16 Q Sure. Go ahead.

17 A I am trying to get my thoughts together on it.

18 At the time, it appears -- it not only appears,
19 the general feeling of industry seems to have been, and it
20 was, you can read it through many of the notes, that the
21 hazard and the association of cancer with asbestosis was not
22 real but was being made a big thing of by others. And in
23 general, my feeling was that specific management, as well as

1 management in total, didn't want the records readily available
2 and indiscriminately used.

3 So it was a cautionary statement. My efforts
4 were to get this program going and if this were to help in
5 getting it going, I included it.

6 Q Did you ever have any discussions with Dr.
7 Donald, at which time Dr. Donald was advised not to use the
8 term asbestosis when discussing health problems with employees?

9 A No, I don't recall any meeting with Dr. Donald
10 either. My memory fails me there.

11 Q Do you recall ever issuing a memo to that effect?

12 A I issuing a memo to that effect?

13 Q Yes.

14 A I would not issue a memo to that effect. And if
15 you presented one to me, it would just show you that my brain
16 is going. I don't think I would issue a memo like that.

17 Q Do you recall discussing with anyone at Keasbey
18 & Mattison or CertainTeed that the company did not want Dr.
19 Donald to use the word asbestosis when discussing health
20 problems?

21 A I don't recall that at all.

22 Q Do you know whether that was the company
23 position in the early '60s, in mid '60s, that is --

1 A Which company?

2 Q It would be Keasbey & Mattison and CertainTeed
3 because I am covering both periods.

4 -- that Dr. Donald was not to use the word
5 asbestosis when talking with employees?

6 MR. BRUCH: Objection.

7 A The whole idea is abhorrent to me because a
8 professional would not accept that kind of thinking or talking.

9 Now, whether it was given or not, I am not privy
10 to that information, nor do I ever recall any.

11 Q Turn to the next page, sir, of Exhibit 25, the
12 fourth full paragraph. It says: "This report will contain
13 conservative language in those cases where x-rays reveal a
14 lung or heart condition possibly unrelated to the employee's
15 occupation."

16 What did you mean by conservative language?

17 A The fear was not to upset the employee and I
18 believe conservative language meant not inflammatory type.

19 Q Well, this report was going to the employee's
20 family physician, not to the employee, isn't that correct?

21 A That is right, yes.

22 Q So why was there any type of fear about upsetting
23 the employee in a document going to the employee's physician

1 and not to the employee?

2 A Presumably, the doctor would then pass it on to
3 the employee.

4 At that time there was a fear that many doctors
5 didn't know too much about this subject, either.

6 Q Why was it that the employees, again looking at
7 that same paragraph, were not directly told of their x-ray
8 results but, rather, the results were to be sent to the
9 family physician?

10 A This was customary in industry, to pass on the
11 information, that it was incumbent on the industry when they
12 find any medical effect, you know, negative, positive,
13 whatever, to pass it on through the family physician.

14 Q Did you consider that to be good industrial
15 hygiene practice at the time?

16 MR. BRUCH: Objection.

17 A The passing on of information is not part of the
18 industrial hygiene practice per se. I think perhaps -- well,
19 I don't really know whether it's good practice or not. I
20 can't say. It's really a medical opinion and I am not
21 expert in that area.

22 Q Did you discuss the way the films would be read
23 and sent to the family physician with any medical people

1 before issuing this memorandum?

2 A Did I discuss it?

3 Q Yes.

4 A I have no knowledge about reading x-ray reports.
5 I wouldn't do that.

6 Q No; I am talking about how the information would
7 be passed on.

8 A No, I never discussed it with anybody.

9 Q Was it CertainTeed's wish that the results of
10 the x-rays not be directly related to the employees but be
11 passed through the family physician?

12 MR. BRUCH: Objection.

13 A I don't recall whether it was their wish or not.

14 Q Would it have been either their wish or your
15 recommendation, since it appeared in this report?

16 A It was my recommendation that the employee be
17 notified of any negative results on the x-ray.

18 Q By his family physician?

19 A It was my recommendation that he be notified
20 of any negative results, and the mechanics of it I
21 recommended here was to alleviate the worry that the company
22 seemed to have of direct information from the company
23 physician. It was a practice throughout industrial medicine

1 to always send -- like if they had a TB shot or syphilis
2 shot or what have you, to pass this kind of information on
3 to the doctor of the employee. I believe it was customary
4 to do that.

5 Q That is why you put it in this letter of August
6 11?

7 A I believe so. That is not part of industrial
8 hygiene really, that is medical.

9 Q Looking at the paragraph directly above the one
10 we have been referring to, where the x-ray was normal the
11 results would be reported directly to the employee, isn't
12 that correct?

13 A Yes.

14 Q So don't you think, sir, that if the employee
15 did not get the results, he would by inference know that
16 there was something wrong and be worried anyway?

17 MR. BRUCH: Objection.

18 A Well, he was going to get the results, but
19 through his own doctor, if it were negative, so that the
20 doctor could advise him.

21 Q You mean if it were positive?

22 A If it were positive. I'm sorry. If it were
23 negative there was no need to go to his doctor. If it were

1 positive, then there was a need to go to his doctor. I
2 believe that is the thinking behind that.

3 Q What did you mean by x-rays that showed no
4 radical change over the previous years?

5 A In my limited knowledge about x-rays, the
6 purpose and the benefit of x-rays is to show change, and
7 generally change should be radical enough to cause concern.
8 Minor, little things I believe they don't consider as change.
9 But I am sort of repeating somebody else's medical type of
10 thinking. I believe that is what is meant by that.

11 Q How about if an x-ray started to show some
12 plaquing in the lower lobes that had not appeared in a prior
13 film, is that considered a radical change?

14 A In my layman's opinion, that is a radical change.

15 Q What is not a radical change in a chest x-ray?

16 A I don't know. I was just repeating. As a
17 layman, I was trying to give them a medical program, being
18 the only one available to give them that, and I was probably
19 repeating what I had read or heard or seen somewhere else.

20 MR. BROMBERG: I object to that question.

21 Q As a result of this memorandum of August 11,
22 1965 do you in fact know what was implemented in Ambler?

23 A No.

1 MR. BROMBERG: What date?

2 MR. RUBIN: The date is August 11, '65 that
3 appears on Exhibit 25.

4 Q Do you know how an employee was informed of his
5 x-ray results after this memorandum of August 11, 1965?

6 A I have no idea.

7 Q When did you leave CertainTeed, '66?

8 A 1968.

9 Q Was this program that you outlined in Exhibit
10 25 put into effect in Ambler?

11 A I have no idea.

12 MR. BROMBERG: You mean in its entirety?

13 MR. RUBIN: Yes.

14 Q Do you know whether any part of the program was
15 put into effect in Ambler?

16 A The only part that I can respond to is that
17 they changed to full sized films, where previous to that
18 they weren't using full sized film.

19 Q And it is your testimony you never met with or
20 talked with Dr. Donald at any time?

21 A It is my testimony that I don't recall ever
22 meeting or talking to him.

23 Q With regard to NIMA, when did you join the

1 health or safety committee?

2 A I don't have total recall, but probably the year
3 after CertainTeed, around that time.

4 Q What was the function of that committee?

5 MR. HILLY: Objection. This was asked and
6 answered.

7 A I believe I answered that.

8 Q Your answer was to prepare material on health
9 hazards?

10 A That was one of their functions.

11 Q What other functions did they have?

12 A To respond to the health problems involved with
13 insulation.

14 Q Did they fund any studies?

15 A Not to my knowledge, no.

16 Q In what way did they respond to the health
17 problems?

18 A We published little booklets on asbestos and,
19 I believe, fiberglass. I am not sure.

20 Q Was one of the booklets jointly authored by
21 Cliff Sheckler, John Vyberg, Harry Messler and yourself?

22 A Yes. Vyberg was the salesman for Owens Corning.

23 Q And that book was called, Recommended Safe

1 Practices for Handling and Applying Thermal Insulation
2 Products Containing Asbestos; right?

3 A Yes.

4 Q I notice that was printed May 1st, 1968.

5 A Is that when it was?

6 Q Did you remain on that committee after you left

7 CertainTeed?

8 A No, sir.

9 Q When did you say you left?

10 A In April of 1968.

11 When was that printed?

12 Q May of '68.

13 A I don't know how I got a copy, but I think I
14 have a copy. I am not sure.

15 Q Were health problems of factory workers
16 discussed at the NIMA hygiene committee meetings that you
17 attended?

18 A Yes.

19 Q This deals with insulation workers, this book,
20 does it not?

21 A What was your question again?

22 Q My question dealt with factory workers.

23 A Well, factories making insulation is what the

1 reference was.

2 Q So it was discussed at these meetings?

3 A Yes.

4 Q Do you have minutes from those meetings in your
5 personal file?

6 A I may have. I don't know.

7 Q When you check your file would you see if you
8 have those minutes and let Ms. Gibson know if you do, please?

9 A Yes.

10 Q Did you say that if the MAC were maintained, it
11 was your understanding that asbestosis would not result? Is
12 that a statement that you made here today?

13 A It's the purpose of establishing MACs or TLVs
14 so that most people exposed below that value would not get
15 the particular disease caused by that material. That is
16 general. It is not specific for asbestos or any other
17 material. If there is one for carbon tetrachloride, then
18 the understanding is if you maintain it below the level that
19 is recommended -- and this is data that those of us who do
20 not do research accept and try to meet.

21 Q And that is true regardless of the length of
22 exposure?

23 A That value has a function, is determined and

1 has to be evaluated, and one of the evaluations is length of
2 exposure. So it's not specific alone to length of exposure,
3 it has to do with exposure times concentration, length of
4 exposure times concentration.

5 Q Dose response relationship?

6 A Yes.

7 Q Is it your understanding that any TLV or MAC
8 for asbestos took into consideration a dose response relation-
9 ship?

10 A They attempted to take it into consideration
11 within the knowledge available at the time.

12 Q Was it your understanding that any MAC or TLV
13 for asbestos was in fact medically confirmed as being correct?

14 MR. BROMBERG: I am going to object. He is not
15 a doctor.

16 MR. RUBIN: I am asking what his understanding
17 was.

18 A Those of us who are industrial hygienists have
19 come from various areas of engineering, chemistry, biology,
20 physics and so on. We have to depend on those who determine
21 these levels, and we watch for documentation as to how they
22 come to these conclusions and then we accept them.

23 At the time, the ACGIH, which is the American

1 Conference of Government and Industrial Hygienists, was the
2 only one in the world establishing these values. These were
3 accepted by states, were picked up by OSHA, and those of us
4 who were lay people accepted them because it was the prevailing
5 knowledge at the time.

6 Q Do you still accept them, sir?

7 A It is the only thing we have to accept.

8 Q Do you still accept it with regard to asbestos?

9 A I still accept it.

10 MR. HILLY: A particular standard, are you asking?

11 MR. RUBIN: Yes.

12 THE WITNESS: Which standard, that standard or
13 today's standard?

14 Q Do you accept today's standard with regard to
15 asbestos?

16 A I have to.

17 Q Why do you have to?

18 A I have no other standard, nor do I do any
19 research on my own to contradict it.

20 Q Why don't you prefer respirators as a primary
21 method of asbestos control?

22 A I do not prefer respirators as a primary method
23 of control for any toxic material.

1 Q Why?

2 A Because it is far from perfect and very fallible.
3 It is subject to personal failure, personal misuse, and it is
4 not accepted in the field as a primary method.

5 Q Do you agree with the statement made by Hugh
6 Jackson of Johns-Manville that respirators are our last line
7 of defense?

8 MR. BROMBERG: Objection. He is not being
9 deposed as an expert witness in this case, nor has he been
10 offered as an expert by anybody that I know of. I think it
11 is improper.

12 He is not represented by counsel, but I don't
13 think you have the right to ask him questions about expert
14 opinion.

15 MR. DELORENZO: And I think he should be advised
16 that he can refuse to answer questions like that because it
17 attempts to make him an expert.

18 THE WITNESS: It is an opinion question, anyway,
19 so I think it is kind of ridiculous.

20 Hugh Jackson comes to mind. I have met the
21 fellow.

22 MR. BRUCH: Well, Mr. Horowitz, just for your
23 own benefit, what you view as a concept of opinion and what

1 we know in the law as an opinion is a different definition.

2 THE WITNESS: Yes.

3 I will tell you this. I, as an industrial
4 hygienist, would use it as a last method of defense and only
5 where I can't use something better.

6 Q I am confused by Exhibit No. 6. Can you turn
7 to that, sir.

8 Exhibit No. 6 was later attached to Exhibit
9 No. 20, which is the letter of April 5, 1962, is that right?

10 A I believe so.

11 Q Is that correct?

12 A Yes.

13 Q I thought I heard you say that Exhibit No. 6
14 was not issued until 1967?

15 A Well, you said later. Actually, the one in
16 Exhibit No. 20 was first.

17 Q Right.

18 A Then Exhibit No. 6 was adjusted and changed or
19 amended to include my better thinking, as well as to change
20 the name from K & M to CertainTeed. So that came later.

21 Q That was attached to your memorandum of April
22 5, 1962, which is Horowitz No. 20?

23 A The first issuance of this paper for K & M was

1 attached to No. 20. That was in 1962.

2 Q For K & M or for CertainTeed?

3 A That was originally for K & M.

4 Q So it was not issued in 1960, it was issued in
5 1962, even though it is dated 1960?

6 A Oh, no, it was issued in 1960, but it was added
7 to this '62 memorandum because the subject matter was use of
8 dust respirators. It was actually issued in 1960.

9 MR. BROMBERG: Just for the record, I think it
10 is totally unclear as to what was issued in 1960.

11 MR. BRUCH: I object to that.

12 MR. BROMBERG: We will explore it further.

13 Q Let's clear it up. What was issued in 1960?

14 A The respirator program for all K & M plants
15 which is attached to No. 20 was issued on October 13, 1960.

16 Q Then as of April 5, 1962 it was amended and
17 attached to --

18 A It was not amended. It was just attached to
19 this letter to Mr. Simons as information.

20 Q Oh. And it was in 1967 that it was amended?

21 A Right; it was amended in 1967, as per asterisk
22 on the bottom of No. 6, which says: "Note: This memorandum
23 was issued in 1960 and must be strictly enforced." Then I

1 have something in December '67 and I don't know what it was
2 about.

3 Q What happened in 1967? What was done with it in
4 1967?

5 A It was reissued with the amendments in 1967.
6 You see, there are new plant managers now. It was a new
7 company. That is, it was additional plants.

8 Q You were never an officer or director of Keasbey
9 & Mattison?

10 A I was never an officer.

11 Q Or of CertainTeed?

12 A Or of CertainTeed.

13 Q Did you ever at any time while you were with
14 Keasbey & Mattison or CertainTeed directly discuss with the
15 employees, hourly or piece working employees, health hazards
16 related to asbestos exposure?

17 MR. HILLY: I object to the form.

18 A It was not my responsibility to bring that to
19 their attention, but when I was taking air samples it was
20 natural for them to ask me what I was doing, some of them,
21 and I would explain to them what I was doing.

22 Q That you were taking air samples?

23 A That I was taking air samples to determine the

1 concentration of dust in the air.

2 Q But did you talk with them at that time about
3 asbestosis or cancer?

4 A No, I did not.

5 Q Do you know of anything that any of the companies
6 that supplied asbestos to Ambler did by way of warning the
7 workers of health hazards of working with asbestos?

8 A I am not aware of anything.

9 Q Did you ever discuss with any of the suppliers
10 of asbestos into Ambler anything dealing with putting warnings
11 on the bags of asbestos?

12 A I did not.

13 Q Did you ever see any warnings on the bags of
14 asbestos while you were employed by Keasbey & Mattison or
15 CertainTeed?

16 A I don't recall seeing it.

17 Q You mentioned earlier that you were familiar
18 with the name Hugh Jackson of Johns-Manville?

19 A Yes.

20 Q Do you know him personally?

21 A I know I met with him and I don't remember
22 which occasions, before Cliff Sheckler was the man from
23 Johns-Manville that I met.

1 Q And what did you discuss with Hugh Jackson, do
2 you recall?

3 A The same general topics of asbestos and health
4 and so on.

5 Q Do you recall approximately when that was?

6 MS. KENNEY: Approximately when what was?

7 MR. RUBIN: That he met with Hugh Jackson.

8 A Approximately when I was with Sheckler. It may
9 have been Keasbey & Mattison time, it may not have been. I
10 don't know.

11 Q Prior to this deposition did you meet with --
12 you have already testified you met with Ms. Gibson, I believe.
13 Did you also meet with Mr. Beers?

14 A Yes.

15 Q How many times did you meet with them?

16 A Mr. Beers visited me in my office once, and
17 then Ms. Gibson followed later, and she was there the first
18 time, too.

19 Q How long was your first meeting?

20 A Approximately two hours.

21 Q And was your testimony that you eventually gave
22 today discussed at that time?

23 A My testimony was not discussed.

1 Q Were the general topics covered in your testimony
2 discussed at that time?

3 A They asked me several questions similar to the
4 type that I am being asked now. They asked me if I had any
5 correspondence to support, perhaps, what I was saying. They
6 asked me if I knew many names which they rattled off. And
7 then they felt that my testimony should be deposed, I guess.
8 And that was it. My company lawyer sat with me.

9 Q And the second visit was to go over the
10 documents that you had selected from your file, with Ms.
11 Gibson, is that correct?

12 A To go over the minutes that she brought with
13 her from the ATI, and I had my correspondence relative to
14 those minutes, plus documentation -- not documentation, but
15 correspondence that I had in my personal files that might be
16 relative to this particular case.

17 Q Sir, are you receiving anything in return for
18 your testimony here today?

19 A I am being compensated for the time I have
20 spent on this, yes.

21 Q By Mr. Beers' office?

22 A By Mr. Beers' office.

23 Q And what about your travel expenses?

1 A Travel expenses included.

2 Q That is for you and your wife?

3 A Me and my wife.

4 Q And your hotel expenses?

5 A Just one night; right.

6 Q One last question. In referring to the MAC or
7 TLV, did you indicate that that is associated with a
8 percentage of 80 percent?

9 A The general feeling is that it is impossible or
10 would be very restrictive and costly to set a value to attempt
11 to meet 100 percent because that value -- and this is
12 general, it has nothing to do with asbestos alone. By
13 attempting to meet 80-plus percent, they would be protecting
14 practically all the workers.

15 Q 80 percent of what? I don't understand.

16 A All people are different. There are different
17 susceptibilities. Why does one person get a disease and
18 another doesn't? So the variables are very, very great,
19 what the concentration is and what the time is. Apparently,
20 the committee, the American Conference of Governmental and
21 Industrial Hygienists claim that they attempt to arrive at
22 a figure that is close to 80 percent or more.

23 Q In other words, that would protect 80 percent

1 of the people who were exposed?

2 MR. BRUCH: Objection.

3 MR. BROMBERG: Objection.

4 A I guess it's like smallpox. If you inject 80
5 percent of the world, then you might eliminate smallpox 100
6 percent. That is the kind of a thing. Well, there it's
7 because people pass it on to each other.

8 Q But with regard to the TLV that the ACGIH set
9 for asbestos exposure, are you saying that that level was
10 designed to protect 80 percent of the people exposed?

11 A Well, I am not really saying that, and maybe
12 it's difficult for me to explain it because I am repeating
13 what they say.

14 Q Well, to the best that you can. I am confused
15 about that. Can you try to clarify it?

16 A It's like saying if you measure analytically
17 something and you put it in an instrument and it gives you
18 no value, you can't say there is zero there because you
19 don't know the limits of the instrument.

20 The same thing with this. They don't know that
21 the value they set, they can't absolutely say -- remember,
22 it's a guide. It's not an absolute number, although it's
23 being used as an absolute number. It's a guide. They can't

1 absolutely say 100 percent, so they play it safe and say
2 they aim and they hope that it will protect 80 percent plus.
3 I think that is the idea behind it.

4 MR. RUBIN: Thank you, sir.

5 MR. BROMBERG: At the time of trial I ask that
6 testimony be stricken because it is based on what he thinks
7 it is.

8 EXAMINATION BY COUNSEL FOR DEFENDANT CERTAINTIED

9 BY MR. HILLY:

10 Q Mr. Horowitz, on this threshold value, do you
11 know a value for 100 percent coverage?

12 A Yes. Zero is 100 percent coverage. That is why
13 they can't give 100 percent coverage.

14 Q Going to Exhibit 25, Mr. Rubin was asking you
15 about that. The heading here, to whom is that addressed?

16 A To all pipe plant managers.

17 Q And the carbon copies, is one of those to Dr.
18 Donald?

19 On the front is there a carbon list?

20 A Yes, apparently there is.

21 Q When you were writing this, Mr. Rubin was asking
22 you about radical changes. Was it one of your purposes in
23 writing this to instruct Dr. Donald as to what changes in

1 the x-rays were?

2 A No, it was -- what was that? Say that again,
3 please?

4 Q Was one of your purposes in writing this
5 memorandum to instruct Dr. Donald?

6 A No. The purpose was to instruct the managers
7 that such a program was needed and to respond to the fears
8 that they had in general about not promulgating a program
9 like that, and Dr. Donald just got a copy of that. It was
10 to the pipe plant managers.

11 Q This business about making it more difficult
12 for the union's attorneys to subpoena the x-rays, have you
13 ever studied law?

14 A No, I haven't.

15 Q Have you ever heard the term roster claims?

16 A No, I have not.

17 Q Has any information ever reached you about a
18 practice by certain attorneys in soliciting workman's
19 compensation claims by simply alphabetizing the work roster?

20 A I have heard reference made to the fact that
21 claims sometimes are done that way, but that is the only
22 reference I have heard.

23 Q In Exhibit 8 to this deposition, on page 2, in

1 No. 1, it says: "Although it is difficult to prove that a
2 person has asbestosis, it is also difficult to prove that he
3 does not have asbestosis."

4 Did you have any information contrary to what
5 Mr. Scranton was saying in this 1960 report?

6 A I believe the understanding at that time was
7 that there were not too many medical people who really could
8 identify asbestosis at that time. So I believe this is what
9 he was trying to say. Then, in his function, I guess he
10 felt that the opposite was true also, so he said that.

11 Q And in the December 6, 1960 dust control report
12 of Dr. Stabler, under No. 2, third paragraph down, Dr.
13 Stabler states: "The fact is, though, to make a differential
14 diagnosis by x-ray alone is folly."

15 He continues in the next paragraph: "There are
16 lung conditions that resemble asbestosis in the x-ray
17 picture, physical findings and symptoms which have been
18 proven to not be asbestosis."

19 Did you have any contrary information at that
20 time which would dispute what Dr. Stabler is saying there?

21 A At that time I could only accept the medical
22 opinion on this type of analysis, and that is true today, too.

23 Q Getting back to Exhibit 25, when you are

1 speaking about providing a uniform program for x-rays, what
2 do you mean by uniform?

3 A Where do I say that?

4 Q In paragraph 2 on the first page.

5 A Uniform means for all our plants, as it says,
6 "a centrally controlled, uniform program for all our plants
7 which will meet the requirements of our new insurance
8 carrier, Travelers Insurance Company." In other words, the
9 same thing done all over and controlled in one location.

10 Q In Exhibit 3, your notes on the papers of the
11 13th International Congress on Occupational Health, point
12 No. 5: "The relation between asbestos and lung cancer has
13 not been firmly established. Lung cancer related to industry
14 requires much study."

15 Did you have any information in August of 1960
16 that was different than when you made the note that was
17 reported at this congress?

18 A I only reported what I heard at that conference.

19 Q Did you personally have any information that
20 was contrary to that?

21 A I had no information contrary to that.

22 Q Exhibit 7, the Industrial Hygiene Foundation
23 meeting of October 27, 1960, reported by Mr. Childs to Mr.

1 Barge, reports that: "Only rarely do inorganic particulate
2 materials indicate cause for cancer of the lung and many
3 other items must be considered. Much to be done yet to be
4 able to determine cause of lung cancer."

5 In November of '60 did you personally have any
6 information contrary to that report?

7 A Where is that, so I can just look at it?

8 Q Under A(1)(b).

9 A I think that was the knowledge at the time.

10 Q In Exhibit No. 23, your report to Mr. Lanz on
11 the Selikoff paper, the last paragraph, indicating you
12 had advised "that we cooperate with the United States Public
13 Health Service study to help stop the alarmist reporting on
14 a sampling too small to be statistically valid," are you
15 referring in that report to the Selikoff study or paper you
16 are discussing in there?

17 A In general, yes.

18 Q What do you mean "on a sampling too small to be
19 statistically valid"?

20 A The number of cases at that time.

21 Q In Exhibit No. 5, page 1, of the September
22 8 and 9, 1960 Asbestos Textile Institute meeting, dated
23 September 14, 1960, in the fourth paragraph, last line, it

1 is reported that one company expects no compensation from
2 newer employees.

3 Can you explain what was understood by you after
4 hearing this statement at that meeting?

5 A Which paragraph was that?

6 Q Fourth paragraph, roughly the last line.

7 A "One member related his company's experience,"
8 is that the one?

9 Q Yes. Did you have an understanding at that time
10 as to why they would expect no workman's compensation claims
11 from newer employees?

12 A What he was trying to say, apparently, was that
13 it's a dose relationship and that prior employees who were
14 exposed for a number of years, X number of years, were
15 exposed to higher concentration than new employees would be
16 because control is better now and they are keeping it below
17 five million particles per cubic foot of air; and since it
18 takes a certain period of time, these new employees' total
19 dose would be much less than the old employees had been
20 exposed to.

21 Q In Exhibit No. 15, the October 9, 1961 report
22 to the Loss Control Committee, in the first paragraph you
23 mention that "15 have been reported as possible pulmonary

1 disease or damage cases." Later, in the second sentence,
2 "exposed to different types of dust."

3 Can you tell me, of those 15 cases, what types
4 of dust they are referring to?

5 A Yes. I believe this was a compilation of all
6 the records they had of claims made and the dust exposure.
7 The reason it was stated this way was the dust exposure was
8 not only asbestos but silica and mica and other dusts.

9 Q So as used in that paragraph, dust refers to
10 all kinds of dusts?

11 A It refers to all kinds of dusts, yes.

12 Q Exhibit No. 16, of December 13, 1961, your
13 report to Mr. Spedding regarding the ATI meeting and the
14 United States Public Health Service study to be undertaken,
15 particularly point 2: "They were aware that studies made by
16 the English in South Africa on colored workers may not apply
17 to other ethnic groups with different environmental back-
18 ground. 3. They were interested in types of fiber, as well
19 as mixtures of asbestos and other dusts."

20 Did you have any personal information at that
21 time regarding any of the inconclusive nature of the
22 knowledge of the United States Public Health Service as
23 evidenced by these points? Did you have anything contrary

1 to that to your personal information at that time?

2 A I don't really understand the question.

3 Q Did you have any personal information in 1961
4 regarding the studies made by the English in South Africa
5 and their validity?

6 A If you are meaning with reference to different
7 environment or different people exposed, that is a medical
8 opinion that you can't take data from one area to another.

9 Are you asking me of the validity of their
10 studies, what my opinion is of the validity of their studies?

11 Q Of the English studies, in 1961, what was your
12 understanding of the validity of those studies?

13 A As a lay person, I am in a position always that
14 I have to accept the consensus of the medical community.

15 Q What was your understanding of the consensus
16 at that time?

17 A The understanding was that, apparently, the
18 studies they had made indicate that asbestos was more
19 hazardous than we thought it was.

20 Q You mentioned Dr. Knox coming to the United
21 States. Other than visiting Keasbey & Mattison, what else
22 did he do, if you know?

23 A I believe he gave some papers in other areas,

1 maybe at the Industrial Health Foundation at that time.

2 Q Do you know the purpose of his visit to the
3 United States?

4 A I don't know the purpose of his visit.

5 Q When he was meeting with you at Keasbey &
6 Mattison did he ask to see the plant operations?

7 A No, he did not.

8 Q Was he concerned with the dust collection opera-
9 tions at the plant or plants?

10 A Only insofar as he told us that they must
11 perform as good as possible.

12 Q Did he ask to see them?

13 A No, he did not.

14 Q Regarding the hazards of asbestos, did he make
15 recommendations to you about what to do about it?
16 Specifically, with regard to your present operation at that
17 time?

18 A No, he did not.

19 Q You mentioned Dr. Shaw. What field is his
20 doctorate in, do you know?

21 A I don't know.

22 Q Is he a medical doctor?

23 A No, I don't believe so. Ph.D., I believe.

1 Q The confidential stamp or marking and typing
2 at the top of the exhibits here, when did you use that term
3 on a particular report?

4 A Apparently, it was done -- I really don't know
5 whether I started not using it and then was asked to use it,
6 or whether I was told that this is privileged information
7 and therefore it should go out confidential, or whether it
8 was done because we were requested only the person it was
9 written to should see it. I have no idea. I don't recall.

10 Q So you have no recollection why it would be
11 used in some cases?

12 A I have no recollection why.

13 Q During your work with CertainTeed Corporation as
14 Industrial Hygienist and Safety Director and Dust Control
15 Engineer, did you have the support of the company in the
16 things that you were doing and recommending?

17 A I believe so, yes.

18 MR. HILLY: No other questions.

19 EXAMINATION BY COUNSEL FOR DEFENDANT CERTAINTEED

20 BY MR. BRUCH:

21 Q Mr. Horowitz, I only have a few questions.

22 As an industrial hygienist, was it axiomatic
23 --and you can correct me if that word is too harsh-- that

1 even without the interest in health problems, you needed to
2 take care of dust just to work?

3 A Yes.

4 Q And was dust control a factor to be considered
5 by an industrial hygienist?

6 A Yes.

7 Q Was it a significant factor?

8 A Yes.

9 Q During your period of employment with Certain-
10 Teed from '62 to '68, did the dust conditions in Plant 8
11 improve or stay the same or get worse?

12 A It improved.

13 Q With respect to these exhibits that have been
14 presented today, the Asbestos Textile Institute dealt mostly
15 with the textile industry, is that correct?

16 A That is right.

17 Q When the members consulted the United States
18 Public Health Service, did they begin by studying the
19 asbestos textile segment of the industry or some other
20 segment?

21 A I believe they started with the textile industry.

22 Q What was the reason that they started with the
23 asbestos textile part of the industry?

1 A They felt the percentage of asbestos in the
2 product was much greater than any other industry, of asbestos
3 in the product.

4 Q Greater than asbestos cement pipe?

5 A Greater than asbestos cement pipe.

6 Q Did you ever learn anything from any of the
7 members of the Asbestos Textile Institute, or anywhere else,
8 that companies from Canada supplying the fiber were interested
9 in trying to find out if crocidolite or chrysotile, one or
10 the other, was less dangerous than the other?

11 A I wasn't aware of anything like that.

12 Q You never heard of any studies to that effect?

13 A I know QAMA made studies, but I don't know what
14 studies they made.

15 Q Do you know who composed the QAMA?

16 A I thought that it was all Canadian mills and
17 mines, but I am not aware if that is true.

18 Q You mentioned English studies in today's
19 deposition, you mentioned studies from South Africa. Were
20 there studies made in Canada during the period of time of
21 these exhibits, from '60 to '68 or whatever they date to?
22 Were there studies going on in Canada?

23 A I don't recall any abstracts that I have seen

1 from Canada.

2 Q Or any readings concerning that?

3 A I don't recall any.

4 Q In response to Mr. Rubin's questions did you say
5 that you knew Dr. Cartier?

6 A Yes. Obviously, he was at the meeting that I
7 was at and I may have met him, but I didn't know him person-
8 ally.

9 Q With respect to Plant 10, there is mention of a
10 Mr. Rainey on this organizational chart identified as
11 Exhibit No. 26. Did you know Mr. Rainey?

12 A Yes, Jack Rainey.

13 Q Do you know if Plant No. 10 was acquired by
14 Amatex?

15 A Yes, it was.

16 Q Do you know if Mr. Rainey went with Amatex?

17 A Yes, he did.

18 Q From 1962 until 1968, do you know the name of a
19 CertainTeed employee from the Ambler asbestos cement pipe
20 plant who in fact had asbestosis?

21 A I don't know of any.

22 Q Did you know, in your period with Keasbey &
23 Mattison, from 1960 to 1962, whether or not someone in fact

1 had asbestosis?

2 A There were records of claims made in Mr. Childs'
3 reports to me and there was one newspaper report of a judgment.
4 That is all I remember.

5 Q But do you know whether that claim was conclu-
6 sively held to find that this claimant had asbestosis?

7 A I wasn't involved with the claim at all, so I
8 have no knowledge at all.

9 Q This is a minor point, but with respect to, I
10 believe it was Exhibit No. 5, you were asked to identify the
11 members in attendance there by Mr. Beers and you stated
12 that -- correct me if I am wrong, but you said something
13 about these were all production people.

14 Dr. Kenneth Smith was not a production person,
15 was he?

16 A Dr. Kenneth Smith was not in this group.

17 Q On Exhibit 5? Then I have got the wrong exhibit.

18 A On Exhibit 5.

19 Q Then strike that question.

20 A But Dr. Smith was not a production person, no.
21 My intention was that the people on the
22 committee were not industrial hygienists.

23 Q When they made reference to this J-M plant with

1 the two-card study, I forget the exact exhibit, with respect
2 to cleaning the air, you said that Plant No. 10 did not use
3 that method?

4 A Having to do with the dust collectors, you mean?

5 Q Yes.

6 A Yes, that is right.

7 Q But you don't know whether J-M used the method
8 used in Plant 10 in other plants that they had, do you?

9 A I don't know.

10 Q Did you ever travel to any of the Canadian mines?

11 A I never traveled to Canadian mines.

12 Q Do you view the mining of asbestos fiber as
13 part of the asbestos industry?

14 MR. BROMBERG: Objection.

15 Q In your reports, when you referred to the
16 asbestos industry?

17 MR. BROMBERG: Objection.

18 A I answer that anyway; right?

19 Q I would like for you to answer it.

20 A I view it as part of the asbestos industry.

21 MR. BRUCH: No other questions.
22
23

1 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT CERTAINTIED

2 BY MR. HILLY:

3 Q Mr. Horowitz, you mentioned that the committee
4 listed in Exhibit 5 was primarily production people.5 When you went to Keasbey & Mattison in 1960, did
6 the other companies in the industry generally have industrial
7 hygienists or was Keasbey & Mattison the only one?8 A I was not aware that they had industrial
9 hygienists, but they may have had. At least, they did not
10 appear on the committee with me.11 Q In your relations with the ATI, did you come
12 into contact with other companies' industrial hygienists?

13 A No.

14 Q So is it fair to say that at that time Keasbey &
15 Mattison was, if not alone, very unusual in having an
16 industrial hygienist in the asbestos industry?17 A I must honestly say they didn't hire me as an
18 industrial hygienist, as I have said before, and as far as
19 I know -- I don't know, but I am pretty sure, I don't know
20 that Johns-Manville didn't have one.21 Q How about the other companies in the industry
22 as a whole?

23 A In the asbestos textile industry?

1 Q Yes.

2 A As far as I know, they didn't have any industrial
3 .hygienists.

4 EXAMINATION BY COUNSEL FOR DEFENDANT CERTAINTEED

5 BY MR. PONTZ:

6 Q I have one question. Did CertainTeed hire you
7 as an industrial hygienist?

8 A CertainTeed kept me on to do what I was doing
9 before.

10 Q Did they hire you as an industrial hygienist?
11 Were they aware of your background and were you hired on the
12 basis of that background?

13 A They were aware of my background and they
14 continued to keep me on.

15 MR. PONTZ: Thank you.

16 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT CASSIAR

17 BY MS. GIBSON:

18 Q I have one question. Did you meet with any
19 lawyers connected with this case, other than me and Mr.
20 Beers, prior to this deposition?

21 A Yes, I did.

22 Q Who else did you meet with?

23 A This gentleman from Turner & Newall.

1 Q Is that Mr. Rawson you are identifying?

2 A Mr. Richard Rawson.

3 And this gentleman.

4 Q Is that Mr. Bruch that you are referring to?

5 A Yes.

6 MR. BRUCH: Did you meet with Ms. Nancy Shea?

7 THE WITNESS: There was another woman there, but
8 I do not recall whether it was Ms. Shea.

9 MS. GIBSON: It was not Nancy Shea.

10 Thank you.

11 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT LAKE ASBESTOS

12 BY MR. BROMBERG:

13 Q In terms of education of the men in the plant
14 of the dangers of asbestos, do you think that was part of
15 your job as industrial hygienist, to make sure that the men
16 in the plant were aware of a danger of asbestos?

17 MR. BRUCH: Objection.

18 MR. HILLY: Objection. Asked and answered.

19 A I wished it were, but I don't think it was. I
20 presented that wherever I could, but I had no jurisdiction.
21 My responsibility was directly to my boss, Spedding. And
22 if I thought they should be educated, I told in my reports
23 that they should be educated, but I had no direct

1 responsibility to the employees at all.

2 Q Did you suggest such education?

3 A In certain areas. In fact, in some of the
4 testimony here I have indicated something like that.

5 Q When you suggested such education of the men,
6 what was the reaction that you got back from your superiors?

7 A No reaction at all, either positive or negative.

8 Q And we are talking about both Keasbey &
9 Mattison and CertainTeed?

10 A Yes.

11 MR. BROMBERG: No other questions.

12 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT CERTAINTEED

13 BY MR. BRUCH:

14 Q I have one question with respect to that.

15 Mr. Horowitz, in your meetings with the Asbestos
16 Textile Institute and the knowledge that you brought back,
17 was there doubt as to the dangers expressed by people?

18 A I believe there was doubt, yes.

19 Q In fact, there was a greater doubt prior to Dr.
20 Selikoff's speech in 1964; right?

21 A Yes, there was.

22 Q Isn't it a fact, didn't Dr. Selikoff remain
23 ambivalent, at times, with respect to his position, as far

1 as you were concerned, even after 1964?

2 A I don't know what you mean by ambivalent.

3 Q Did he ever change what he said at different
4 times, after 1964, regarding the dangers of asbestos?

5 A No, not in general.

6 Q How about specifically? Did he ever convey to
7 you the amount of fiber needed for someone to contract
8 asbestosis or any other asbestos-related disease? Did he
9 know the exact amount of fiber?

10 A Only within the area of mesothelioma did he give
11 a different opinion, but in asbestosis he did not.

12 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT BELL ASBESTOS

13 BY MR. GALLO:

14 Q Mr. Horowitz, I just have a few more questions.

15 Did you ever make any request of a supplier of
16 raw asbestos to either the Keasbey & Mattison or CertainTeed
17 plant, that they somehow instruct the workers at the plant?

18 A I did not.

19 Q Did you have any contact with the suppliers of
20 raw asbestos?

21 A I had no contact with them.

22 Q Did you ever recommend to your superiors
23 either -- let's start with Keasbey & Mattison, that they make

1 such a request of the suppliers of raw asbestos?

2 A I did not.

3 Q Did you ever make a request of your superiors at
4 CertainTeed along those lines?

5 A I did not.

6 Q When you were first hired by Keasbey & Mattison
7 and they called you down for that interview at Ambler with
8 Mr. Spedding and Mr. Schneider, did they review with you what
9 their previous practices had been as far as dust counts,
10 dust control, their concern about asbestos or asbestosis?

11 A I don't recall if they did.

12 Q Did they express to you anything along the lines
13 that they needed someone with more expertise than they had
14 previously had and that is why they were bringing you in?

15 A No. Although to your previous question, they
16 told me they had equipment for sampling.

17 Q I think you mentioned Mr. Schmidt, who had been
18 doing it before?

19 A Yes.

20 Q Did you ever meet Mr. Schmidt?

21 A No.

22 Q I think you said you reviewed some of his counts?

23 A I saw some of his results, yes.

1 Q Other than the results compiled by Mr. Schmidt,
2 are you aware or were you at any time made aware of anyone
3 else who had done that type of counting or surveying for
4 Keasbey & Mattison?

5 A They called a consultant in to help them with
6 dust control, Dr. Melvin First, from Harvard University, at
7 one time, to review some of their dust control equipment in
8 Plant 4, and he wrote a report on it. That was the only
9 knowledge I have of anybody previous to me.

10 Q That was before you came with them?

11 A Yes. I found a report of this.

12 Q Do you still have that report by Dr. First?

13 A No, I don't have that. That was in the file
14 somewhere.

15 Q Did you have an opportunity, though, to review
16 it after you came with them?

17 A Yes, I did.

18 Q Do you recall what his conclusions were?

19 A It needed improvement.

20 Q Do you remember about when he made that study?
21 In terms of your coming with them was it in fairly recent
22 years or had it been as much as a decade before?

23 A Within four years, I'd say.

1 Q And what exactly had his study covered?

2 A He was just called in to evaluate that particular
3 dust control system.

4 Q In which plant?

5 A In Plant 4.

6 Q Did it make specific mention of asbestos dust?

7 A It was asbestos dust, mixture of asbestos and
8 other materials.

9 Q Do you recall if Mr. Spedding and Mr. Schneider
10 mentioned his study in connection with their interview with
11 you in describing --

12 A No, they did not.

13 MR. BRUCH: Did you mean to say Plant 4?

14 THE WITNESS: Plant 4, I said, right, which was
15 Nicolet.

16 Q Do you know the present whereabouts of either
17 Mr. Scranton or Mr. Keach?

18 A No.

19 Q Do you know whether either of them went with
20 CertainTeed?

21 A Mr. Spedding did not.

22 Q I'm sorry, Mr. Scranton or Mr. Keach?

23 A Oh. I don't know whether they did or not. I

1 have no idea.

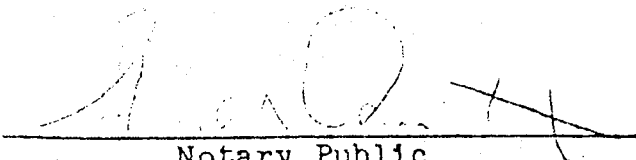
2 MR. GALLO: That is all I have. Thank you.

3 (Concluded at 6:40 p.m.)

4 - - -

5
6 CERTIFICATE OF NOTARY

7 I, Gerald Nevitt, the officer before whom the
8 foregoing deposition was taken, hereby certify that the
9 witness whose testimony appears herein was duly sworn by me;
10 that the testimony of the witness was taken by me in short-
11 hand and thereafter reduced to typewriting under my
12 direction; that the deposition is a true record of the
13 testimony given by the witness; that I am neither counsel
14 for, related to, nor employed by any of the parties or
15 attorneys to the action in which this deposition was taken,
16 nor financially or otherwise interested in its outcome.

17
18
19
20 
21 Notary Public
District of Columbia

22 My Commission expires
23 February 28, 1983