

FILE NAME: ALCOA (ALC)

DATE: 1998 Apr 1

DOC#: ALC029

DOCUMENT DESCRIPTION: Legal-Deposition of Thomas Bonney with BC  
Notes

T. Bonney depo. cont. April 1, 1998 (I.H.)

201. Learned in 1948 A could cause A's is  
213-214 Recognized ash. work creating visible dust a hazard  
reading 4-pp Alcoa document (1984?)  
218 dust collector on Marinette saw in 1972  
220 refers to 1964 Bonney memo recognizing  
262 ash. hazard from Marinette sawing  
237 Alcoa had an MSDS for ash. in 1955  
238 Alcoa received dry A fiber in cartons in 1952  
248 8/14/52 Alcoa doc. has checked off (ash.) hazard from  
thermal ~~but not~~ electrical insulation  
249-250 dry material ash. hazard noted in 1954 document  
(refractory materials)  
252 refers to Richard Doll's study  
257 Alcoa IH program dates from Lester Cralley, 1945  
259-61 Alcoa memo in 1958 refers to IH guide for A by A/HA  
sent out to all plants  
(pp 270-274 not photocopied) (ditto 286-291, 325-329, 342-345, 722-727)  
268 refers to letter from Dr. Maxwell Borow to  
an A-exposed Alcoa worker (1968?)  
279 indicates Selikoff study was persuasive where  
Doll was not (re Ca)  
281  
282 Alcoa memo refers to ILS saying many  
varieties of A cause cancer in humans 2/68  
321-322 5/29/73 memo predicts 7200 fpc for report of dry materials  
353 4/15/76 memo notes ash. millboard gets brittle and crumbly

366-367 12/12/77 memo critical of 3M 8710 respirator  
for asbestos work (OSHA inspector)

368-69 Bonny memo 7/28/78 say asb. still used;  
+ states policy to replace all A started 1974-75.



# REPORTING SERVICES

CAUSE NO. 25093

LARRY C. WHATLEY, ET AL

VS.

ALCOA POWER MARKETING,  
INC., ET AL

§  
§  
§  
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§  
§

IN THE DISTRICT COURT OF

MILAM COUNTY, TEXAS

20<sup>TH</sup> JUDICIAL COURT

*Alcoa*

CAUSE NO. 96-8-13107

GREGORIA RAMIREZ, ET AL

VS.

ALCOA POWER MARKETING,  
INC., ET AL

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

CALHOUN COUNTY, TEXAS

24<sup>TH</sup> JUDICIAL COURT

*Condensed Transcript of the  
Continued  
Oral Deposition of*

**THOMAS BONNEY**

April 1, 1998

Pittsburgh, Pennsylvania

1 IN THE DISTRICT COURT OF MILAM COUNTY, TEXAS  
2 20TH JUDICIAL DISTRICT

3 LARRY C. WHATLEY, Individually and )  
4 as Personal Representative of the )  
5 Heirs and Estate of GLENN WHATLEY, )  
6 Deceased, et al., )

7 Plaintiffs, )

8 vs. ) Cause  
9 No. 25093

10 ALCOA POWER MARKETING, INC., )  
11 et al., )

12 Defendants. )

13 IN THE DISTRICT COURT OF CALHOUN COUNTY, TEXAS  
14 24TH JUDICIAL DISTRICT

15 GREGORIA RAMIREZ, Individually and )  
16 as Personal Representative of the )  
17 Heirs and Estate of JACINTO )  
18 RAMIREZ, Deceased, )

19 Plaintiffs, )

20 vs. ) Cause  
21 No. 96-8-13107

22 ALCOA ALUMINA & CHEMICALS, L.L.C., )  
23 et al. )

24 Continued Deposition of THOMAS B. BONNEY  
25 Wednesday, April 1, 1998  
Volume II

26 The continued deposition of THOMAS B. BONNEY,  
27 called as a witness by the Plaintiffs, pursuant to  
28 notice and the Federal Rules of Civil Procedure  
29 pertaining to the taking of depositions, taken before  
30 me, the undersigned, Colleen O'Brien Adams, a Notary  
31 Public in and for the Commonwealth of Pennsylvania, at  
32 the offices of LeBoeuf, Lamb, Greene & MacRae, 601  
33 Grant Street, Pittsburgh, Pennsylvania 15219,  
34 commencing at 9:00 o'clock a.m., the day and date  
35 above set forth.

1 THE VIDEOGRAPHER: It is 9:10. Let's go on  
2 the record then, please.

3 THOMAS B. BONNEY

4 called as a witness by the plaintiffs, having been  
5 previously duly sworn, as hereinafter certified, was  
6 deposed and said further as follows:

7 EXAMINATION

8 BY MR. WATERS:

9 Q Okay. This is a continuation of the  
10 deposition of Mr. Bonney. Mr. Bonney, sir, do you  
11 understand that you are still under oath?

12 A I certainly do.

13 Q Let's talk for a few moments, sir, about  
14 your continuing involvement with this case on behalf  
15 of Alcoa. Since we took the first or earlier portion  
16 of your deposition on February 25, 1998, have you  
17 continued to do some work or review some documents or  
18 work with the Alcoa attorneys to prepare for your  
19 testimony?

20 A Just a minimal amount, reading the  
21 deposition, reading with them, for a short time  
22 meeting with them.

23 Q That would be the portion of the deposition  
24 you gave back in February?

25 A Yes.

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Law Offices of Andrew Waters:  
4 C. Andrew Waters, Esquire  
5 400 South Zang Boulevard, Suite 500  
6 Dallas, Texas 75208

7 On behalf of the Defendant J.T. Thorpe:

8 Fairchild, Price, Thomas & Haley, L.L.P.:  
9 David J. Fisher, Esquire  
10 413 Shelbyville Street  
11 P.O. Drawer 1719  
12 Center, Texas 75935-1719

13 On behalf of the Defendant Alcoa:

14 LeBoeuf, Lamb, Greene & Carroll, L.L.P.:  
15 Patrick Kingsley, Esquire  
16 601 Grant Street  
17 Pittsburgh, Pennsylvania 15219

18 and

19 Walker, Keeling & Carroll, L.L.P.:  
20 Ronald B. Walker, Esquire  
21 210 East Constitution  
22 P.O. Box 108  
23 Victoria, Texas 77902-0108

24 ALSO PRESENT:

25 Warren Mullin, Videographer

1 Q Do you recall, sir, in your earlier  
2 deposition, giving testimony about the extent of your  
3 involvement in the case, the amount of time that you  
4 had spent, and that sort of thing?

5 A Yes, I recall I stated that.

6 Q All right. In addition to what you had  
7 previously testified about, am I correct that what we  
8 did, we spent about eight hours or so working on the  
9 case together in the deposition the other day in  
10 February?

11 A Yes, I think it was something in that area.

12 Q And in addition to that, can you tell the  
13 jury how much time you have spent reviewing any  
14 documents or your deposition since February 28?

15 A Oh, perhaps three or four.

16 Q Okay. So would it be fair so say then,  
17 sir, that you spent approximately 12 additional hours  
18 working on the case for Alcoa and charged them your  
19 hourly rate for that additional time?

20 MR. WALKER: 12, meaning the deposition  
21 and --

22 MR. WATERS: And four or so hours.

23 MR. WALKER: Okay.

24 A Yes.

25 Q Would that be a fair statement?

1 A Yes.

2 Q Let's see. I am trying to find that  
3 reference. Do you recall -- let me just see if I can  
4 look it up in the index. Bear with me one second.  
5 Okay. Here we are. As of the time of your last  
6 deposition, you indicated that you had worked about  
7 12 hours at that time; do you recall that?

8 A Okay. Yes, I think it was in that area.

9 Q So now we are up to somewhere in the range  
10 of 24 hours, give or take?

11 A Plus or minus, yes.

12 Q So to date, your total bill to Alcoa, as we  
13 commence your deposition today, would be somewhere in  
14 the range of \$3,000?

15 A Yes. I would say.

16 Q Do you anticipate, sir, coming to Texas to  
17 testify on behalf of Alcoa in this case?

18 A I really don't know what to expect in the  
19 future.

20 Q Well, certainly, if Alcoa wished to so do,  
21 you would be available to come to Texas and tell your  
22 story to a jury in Texas?

23 A Yes, I would.

24 Q You don't have any health restrictions or  
25 anything of that nature that would make it difficult

1 for you to travel?

2 A No, I do not.

3 Q Do you recall, sir, that when we stopped  
4 your deposition previously, we had worked our way  
5 chronologically from the late '40's, when you started  
6 at Alcoa, to approximately the late '60's?

7 A Okay. Yes.

8 Q Do you recall that? Okay.

9 And do you recall telling us that, for  
10 example, you learned that asbestos was a hazardous  
11 substance when you started at Alcoa in '48?

12 A Yes. Yes, we learned that it could cause  
13 asbestosis.

14 Q And do you recall testifying that Alcoa,  
15 the industrial hygiene folks learned that asbestos was  
16 associated with the lung cancer risk in the early  
17 1950's; do you recall that testimony?

18 A Well, I was aware that there was a citation  
19 in the literature back in, let's say, early '60's or  
20 the mid '60's, but whether or not that was something  
21 that was tied closely to asbestos, I wasn't certain of  
22 that at the time.

23 MR. WATERS: Let me object as  
24 non-responsive.

25 Q My question is, sir, do you recall

1 testifying previously under oath that you at Alcoa  
2 were aware of a potential connection between asbestos  
3 and cancer by the early 1950's? Do you recall that  
4 testimony?

5 MR. WALKER: Excuse me. I object. If you  
6 are going to ask him specific questions about his  
7 deposition, you should refer to a line and page  
8 so he can review it and answer properly.

9 MR. WATERS: I will do that. I am just  
10 asking if he recalls it. If he doesn't recall  
11 it, I will impeach him with it.

12 A No. I don't recall that in the 1950's.

13 Q Okay.

14 Let me show you, sir, page 63 of your sworn  
15 deposition testimony given on February 28, and read  
16 along with me, if you will. "In any event, sometime  
17 in that time, let's say the mid 1950's, Alcoa would  
18 have been aware of the existence of this report  
19 concerning lung cancer and asbestos workers?"

20 Answer: "Yes, certainly we in the health  
21 department and industrial hygiene would be."

22 Do you recall giving that testimony?

23 A Yes. And what does that refer to? Is this  
24 the Doll study?

25 MR. WATERS: Objection to the

1 non-responsive portion.

2 BY MR. WATERS:

3 Q My question simply is, sir, is this a  
4 correct statement of the testimony that you gave under  
5 oath in February?

6 A Yes. We were aware of the existence of the  
7 reports.

8 Q Okay. And by virtue of your awareness,  
9 that there was this literature out there, you knew and  
10 Alcoa knew in the 1950's, mid 1950's, that there was a  
11 connection between cancer and asbestos; correct, sir?

12 A By this one investigator, yes.

13 Q In fact, I think you told us that the Doll  
14 report was something you were certain was received  
15 early on by Alcoa?

16 A I don't know whether we received the total  
17 report, but we were certainly aware of it in the  
18 abstracts.

19 Q And you recall, sir, that it was published  
20 in 1955?

21 A Yes, I know that now.

22 Q Okay. Incidentally, are you aware, sir,  
23 that you have been designated by Alcoa to testify on  
24 its behalf as the person most knowledgeable concerning  
25 Alcoa's developing knowledge and understanding about

1 the hazards of asbestos in the 1950's, 1960's and  
2 1970's; are you aware of that fact?

3 A No, I wasn't aware specifically of that,  
4 no.

5 Q Let me ask, sir, if there is anyone else  
6 who is presently living today of whom you are aware  
7 who would have more knowledge than you do concerning  
8 that subject matter; that is to say, would know what  
9 Alcoa knew about the hazards of asbestos in the '50's,  
10 '60's and '70's?

11 A No, I would have the broadest purview of  
12 it.

13 Q Let's talk about -- is it Dr. Farrah or  
14 Mr. Farrah?

15 A Mr. Farrah.

16 Q Mr. Farrah. What did Mr. Farrah do with  
17 Alcoa and how did you interface with him?

18 A Mr. Farrah was the head of our industrial  
19 hygiene laboratory.

20 Q That was located outside Pittsburgh?

21 A It was, yes, at the tech center, which at  
22 the time was the Alcoa research lab.

23 Q And did he come to Alcoa after you did?

24 A No, he came to Alcoa before I did.

25 Q So his knowledge -- his personal knowledge

1 A It may have been in the literature, and I  
2 may have seen it at the time, but I certainly didn't  
3 associate mesothelioma with asbestos until the late  
4 '60's.

5 Q Certainly you recall that we looked at some  
6 documents that carried us through 1967, I believe,  
7 where it was discussed in some of the Alcoa internal  
8 memoranda that there was this new, very distinctive,  
9 recognized disease, fatal disease, called mesothelioma  
10 associated with asbestos exposure?

11 A Yes, in the 1960's. I agree to that.

12 Q And you recall that we reviewed some  
13 documentation that discussed, in the mid to late  
14 1960's, the fact that even very small exposures of  
15 asbestos brought home on workers' clothes could cause  
16 this fatal asbestos cancer?

17 A I am not sure that the cause effect was  
18 established for small exposures such as that.

19 MR. WALKER: I think he is just asking you  
20 do you remember at the deposition looking at any  
21 of those documents. If you do, yes, or if you  
22 don't, no.

23 A Yes, I recall looking at the documents,  
24 yes.

25 MR. WATERS: Let me object to the

1 may go back or probably does go back further than  
2 yours?

3 A With Alcoa. I am not sure that would be  
4 true with industrial hygiene.

5 Q Is he an industrial hygienist?

6 A No, he is a chemist.

7 Q What about Mr. Belk?

8 A Dr. Belk.

9 Q Dr. Belk, excuse me.

10 A Physician with Alcoa.

11 Q Where?

12 A Medical director at headquarters.

13 Q And in what time frame was he the medical  
14 director?

15 A Boy, that gets fairly recent compared to  
16 the times we are talking about here.

17 Q Okay. As in the '60's and '70's or even  
18 more recently than that?

19 A More recently than that. He was preceded  
20 by Miles Cowell and Dinman and Dr. Belk.

21 Q In addition to the knowledge about cancer  
22 generally that we talked about in the 1950's, in the  
23 1960's, you became aware and Alcoa became aware of the  
24 connection between asbestos and the disease,  
25 mesothelioma?

1 non-responsive portion.

2 BY MR. WATERS:

3 Q What you can generally recall is that there  
4 were references in the literature and in the Alcoa  
5 materials to this disease, this asbestos cancer being  
6 caused by household exposures; is that a fair  
7 statement?

8 A I do recall that there were such  
9 allegations, yes.

10 Q Let's take a look at what has been marked  
11 as Alcoa 40. Does that appear to be your handwriting,  
12 sir?

13 A No, that doesn't look like mine.

14 (Thereupon, Alcoa Exhibit No. 40 was marked  
15 for identification.)

16 Q Okay. Do you know whose it is, can you  
17 tell from looking at it?

18 A No, I really can't.

19 Q Do you recall that we previously looked at  
20 some documents from the early 1960's that discussed  
21 Alcoa's recognition that cutting and sawing of the  
22 marinite product could be hazardous because of the  
23 asbestos content; do you recall that discussion?

24 A I do recall that. Yes.

25 Q And, in fact, Alcoa was aware by '62, in

1 Vernon, California and '64 in some other location,  
2 that there was an asbestos risk or hazard associated  
3 with cutting or sawing the marinite material?

4 **A There was -- I am aware there was a hazard**  
5 **associated with it, but at the time, we were not**  
6 **certain whether we should be concerned about the**  
7 **asbestos or the binder that was in the material.**

8 MR. WATERS: Let me object to the  
9 non-responsive portion.

10 Q Do you recall, sir, that in your internal  
11 documents, there was an indication that it was  
12 necessary to follow the TLV's for asbestos when  
13 addressing potential risk from cutting the marinite  
14 material? Do you recall that?

15 **A Yes.**

16 Q And sir, as an industrial hygienist  
17 responsible for safety and health throughout the Alcoa  
18 system, would you have anticipated that shortly after  
19 that problem was identified in the early 1960's, steps  
20 would have been taken to protect workers exposed to  
21 marinite dust?

22 MR. WALKER: I object to that as being  
23 vague, as there were discussions of two different  
24 problems in the previous question.

25 Q You can answer, sir.

1 **A Could you read that back, just how he**  
2 **stated it?**

3 **(Record read.)**

4 **A Well, first, I will say I am not**  
5 **responsible for safety but --**

6 MR. WALKER: Go ahead.

7 **A -- but steps would have been taken and**  
8 **steps were taken to protect the employees.**

9 MR. WATERS: Okay. Let me object as  
10 non-responsive.

11 Q My question, sir, is if you would have  
12 anticipated, based on your position as an industrial  
13 hygienist with the company, you would have anticipated  
14 and expected that precautions would have been taken to  
15 workers exposed to marinite dust commencing by at  
16 least 1964 or '65?

17 MR. WALKER: Objection, asked and answered.

18 **A Well, I would expect that appropriate steps**  
19 **would be taken, yes.**

20 Q Absolutely. And, in fact, am I correct,  
21 sir, that it would have been the industrial  
22 hygiene/safety policy of Alcoa to address the possible  
23 hazards from marinite dust and take those precautions?

24 **A Yes, we should take appropriate precautions**  
25 **whatever they might be.**

1 Q If, in fact, sir, precautions were not  
2 taken and marinite continued to be cut and sawed at  
3 various Alcoa facilities without protective  
4 mechanisms, that's a circumstance that you would be  
5 critical of; is that a fair statement?

6 **A Not necessarily. I think one would have to**  
7 **look at the specific operation. Sawing marinite at**  
8 **one location may not be the same as another operation.**

9 Q Okay. So from your perspective, if workers  
10 are being exposed to marinite dust, let's say, in  
11 1966, '67, '68, without any protection, without any  
12 instruction on the hazards, that's just fine?

13 **A Again, it would be dependent upon the**  
14 **degree of the exposure, the magnitude of the exposure.**

15 Q So in your opinion, 1964 to 1969, let's  
16 say, workers can be exposed to asbestos dust without  
17 concern unless the level is perceived as being  
18 sufficiently high to trigger a concern?

19 **A Yes, that's true of asbestos and anything.**  
20 **There has to be a sufficient dose before we are**  
21 **concerned.**

22 Q Okay. In order to establish what that dose  
23 is, you will agree with me that it's necessary to do  
24 industrial hygiene monitoring; correct, sir?

25 **A Monitoring, whatever that might consist of.**

1 Q Okay. In terms of determining how much  
2 dust is actually in the air?

3 **A Measurement, or for certain hazards, you**  
4 **can do it visually.**

5 Q So, for example, if you are cutting and  
6 sawing -- if an individual is unfortunate enough to be  
7 cutting and sawing marinite in, let's say 1965,  
8 without any protection, and visible dust is resulting  
9 from the operation, that's something that you as an  
10 industrial hygienist would know and would have known  
11 creates a potential hazard?

12 **A I don't know that he would be necessarily**  
13 **unfortunate, and I don't necessarily think he would be**  
14 **undertaking an unnecessary hazard based on the**  
15 **magnitude of exposure and primarily the duration of**  
16 **the exposures, which were relatively short.**

17 Q And tell me, sir -- let me object to the  
18 non-responsive portion.

19 Tell me, sir, if there is visible dust  
20 resulting from marinite operations, what does that  
21 tell you, if anything, about the levels of exposure  
22 that are ongoing at that time?

23 **A It would just be a rough indication of**  
24 **concentration.**

25 Q And would it indicate to you a potential

1 hazard or the possibility of a hazard?

2 A When you look at, specifically, at marinite  
3 and the manner in which we used it at that time, I  
4 thought no, it did not constitute a hazard.

5 MR. WATERS: Objection, non-responsive.

6 Q My specific question, let's take this year  
7 by year. 1965, you observe an operation where  
8 gentlemen are cutting and sawing marinite, let's say,  
9 for four hours. And you observe that there is visible  
10 dust resulting from that operation, no respiratory  
11 protection, no or inadequate ventilation and the  
12 workers are breathing the dust. Is that a matter of  
13 concern for Tom Bonney, an industrial hygienist, for  
14 Alcoa in 1965?

15 A If I saw any unventilated saw, regardless  
16 of what they were cutting, it would be a matter of  
17 concern to me.

18 Q If you saw the same operation but there was  
19 ventilation and there was no visible dust apparent,  
20 would Tom Bonney be concerned about that in 1965?

21 A In 1965, no.

22 Q Okay. So in 1965, there is a distinction  
23 in your mind between the level of potential hazard  
24 based on whether you can see dust resulting from the  
25 operation or not; is that a fair statement?

1 A '65 or perhaps a little bit later, yes. As  
2 we became aware of more concern, that more attention  
3 should be paid to asbestos exposures, we would be more  
4 critical at that time.

5 Q In 1966, if you were to see asbestos  
6 operations that were creating visible dust to which  
7 workers were being exposed without protection, is that  
8 a matter of concern for you as an industrial hygienist  
9 for Alcoa?

10 A I think you are cutting the line a little  
11 bit too thin to say that something changed from 1965  
12 to '66. This was a situation that evolved over many  
13 years, and when we were aware exactly of what, I just  
14 can't comment.

15 Q Fair enough, Mr. Bonney. I think you have  
16 told us, at least as of 1965, after this whole  
17 marinite experience in the 1950's, at least by 1965,  
18 if you observed a worker breathing visible dust  
19 without protection, that's something that would be and  
20 could be a cause of concern; fair enough?

21 A Yes.

22 Q So you will agree with me that at any point  
23 in time after 1965, if you were to again observe  
24 workers breathing visible dust from asbestos  
25 operations, that would create an increased level of

1 concern on your part?

2 A Yes, it would.

3 Q Those conditions would be in your mind  
4 either unsafe or potentially hazardous; fair enough?

5 A Fair enough.

6 Q And you would anticipate that after 1965,  
7 workers at various Alcoa facilities would have been  
8 and should have been instructed to take precautions  
9 and avoid exposures to visible asbestos dust in the  
10 work place?

11 A Yes. I think we are on record for that.

12 Q Okay. Okay. Let me show you, sir, what  
13 has been marked as Alcoa 40 which is a four-page  
14 series of handwritten notes indicated to be 8-17-1984,  
15 and if you will look with me, it appears to discuss  
16 marinite. Do you see that there?

17 A Yes.

18 Q "We are still using it, asbestos marinite.  
19 Without it, we shut Warick down." Do you see that?

20 A Yes.

21 Q Do you recall, sir -- let me first  
22 represent to you that this is an Alcoa document that  
23 came from their corporate files, but do you recall,  
24 sir, that as late as 1984, Alcoa was still utilizing  
25 the marinite product that had to be cut and sawed and

1 that it contained asbestos?

2 A Yes, I was aware of that.

3 Q Okay. Let's show you the notes on page 3.  
4 It says, "Meeting with Mr. Rumberger regarding Point  
5 Comfort asbestos case." Do you see that?

6 A Yes.

7 Q It indicates 1969 Dr. Barber at Point  
8 Comfort. Did you know Dr. Barber?

9 A Yes, I did.

10 Q "Concerned about use of marinite in  
11 plants." Do you see that?

12 A Yes.

13 Q Now that would be consistent with your  
14 concern that you expressed at least as of 1965, that  
15 marinite -- care needed to be taken with marinite  
16 because of potential for hazardous exposure?

17 A Yes.

18 Q Read with me here, "Up until 1969, no  
19 safety programs established for use of marinite or  
20 other asbestos materials." Do you see that?

21 MR. WALKER: For the record, I am just  
22 going to object to the question on this document,  
23 because it hasn't been properly identified.

24 A Yes, I see that.

25 Q Okay. And, sir, would you agree with me

1 that if marinite and other asbestos materials were  
2 being used without any safety program, in as late as  
3 1969, that would violate the policy and the concerns  
4 that you had as early as 1965?

5 **A I don't know that I agree with that**  
6 **statement in that letter.**

7 MR. WATERS: Okay. Well, let me object as  
8 non-responsive.

9 Q Whether or not you agree with the statement  
10 in the letter, sir, you will agree with me that if the  
11 statement is correct, as indicated in this Alcoa  
12 document, that that would indicate a violation of  
13 company practices and policies that should have been  
14 in place by 1965, because of your concern with  
15 exposure to visible dust?

16 **A If no precautions were taken, we would say,**  
17 **yes, that was in conflict with our position.**

18 Q Okay. So at least with respect to the Port  
19 Lavaca facility, Point Comfort, where Dr. Barber was  
20 employed; correct?

21 **A Yes.**

22 Q You would agree with me that on the local  
23 level, at the plant, it appears from this document  
24 that Alcoa personnel were not following policy  
25 concerning exposure to this material?

1 MR. WALKER: If there is sufficient  
2 information in that document for you to draw that  
3 conclusion.

4 **A I don't know, I am not aware of this**  
5 **document.**

6 Q This was not one -- I beg your pardon, this  
7 was not one of the documents that you were asked to  
8 review by the Alcoa attorneys?

9 **A If it was, I don't recall it.**

10 Q Okay. All right. In any event, you will  
11 agree with me that Dr. Barber located on site at Point  
12 Comfort is in a vastly better position than you are up  
13 in Pittsburgh to determine whether or not safety  
14 procedures and policies were being followed in this  
15 time frame at Point Comfort?

16 **A Yes, he would be -- he would know what's**  
17 **going on at Point Comfort, maybe not as much as those**  
18 **in industrial hygiene, but he made himself aware of**  
19 **what was going on in the plant.**

20 Q Okay. And as of 1965, you would have  
21 expected that collection systems would have been put  
22 on the saws that execute the -- strike that.

23 As of 1965, once you had identified the  
24 potential hazard, you would have expected and required  
25 that the Alcoa facilities cutting marinite have dust

1 collection systems on or around the saws in order to  
2 reduce the visible dust in the air?

3 **A I certainly would have expected it, but not**  
4 **that I would require. That is not for us to do.**

5 Q Okay. But you would have expected that out  
6 of caution for safety concerns, industrial hygiene  
7 concerns, dust collection systems would have been  
8 placed in appropriate position by 1964, 1965?

9 **A Certainly after '65, ventilation systems,**  
10 **yes, but at the least, personal protection.**

11 Q And it appears at least from this document,  
12 that there were no such procedures and no safety  
13 procedures at all for cutting marinite until 1969 at  
14 that facility; correct, sir?

15 Is that what the document indicates?

16 **A I can only read what the document says.**

17 Q And that is what it says; isn't that  
18 correct, sir?

19 **A That's what it says.**

20 Q It says, sir, that "In 1972, finally, at  
21 the marinite shop, dust collection system added to the  
22 saw." Do you see that?

23 **A Okay. Yes.**

24 Q All right. So at least as far as Point  
25 Comfort is concerned, it took Alcoa seven full years

1 to add this fundamental safety feature that you  
2 believe was required by 1965?

3 **A Again --**

4 MR. WALKER: I am going to object to the  
5 question concerning this man, because he doesn't  
6 know if certain systems were already in place  
7 there or what the circumstances of it were.

8 Assumes facts not in evidence.

9 **A In detail, I did not know what was**  
10 **happening at the --**

11 MR. WATERS: Objection, non-responsive. Can  
12 you read the question back?

13 (Record read.)

14 BY MR. WATERS:

15 Q Isn't that correct, sir, based on this  
16 document?

17 **A Based on that document, yes. How factual**  
18 **that is, I just don't know.**

19 Q You are not aware of any facts that would  
20 contradict the statement in this document that  
21 indicated it wasn't until 1972 when they did that, are  
22 you? Any personal information to the contrary?

23 **A I am not aware of facts one way or the**  
24 **other, but I do know that the industrial hygiene**  
25 **committee had marinite sawing on their agenda. What**

1 they did about it, specifically, I can't answer.

2 Q And when you say they had it on their

3 agenda, what you mean to tell this jury is that they

4 would have been aware, and you would have made them

5 aware by your 1964 memos, that marinite was something

6 that needed to be treated with caution, and safety

7 procedures needed to be established for addressing

8 this cutting or sawing of marinite?

9 A That is correct.

10 Q And if, in fact, the evidence bears out

11 that dust collection systems were not established

12 until 1972 and no safety procedures at all were taken

13 until 1969, that would indicate that on the local

14 level the Alcoa personnel responsible for these safety

15 issues were just not doing their job?

16 A Again, I can't comment not knowing that,

17 but based on the statements in there, yes, it would

18 appear that --

19 Q And in so doing, the folks at the local

20 level, would have been knowledgeable of the potential

21 hazard because you would have told them as early as

22 1964 in your memos concerning marinite?

23 A Yes, that's true.

24 Q Okay. Let's look at the document further.

25 It says, "Safety standards at Point Comfort 1978,

1 earliest standard we could find says where you must

2 wear respirators and paper clothing." Do you see

3 that?

4 A Yes.

5 Q So from 1964 until 1978, at least at Point

6 Comfort, on the local level, no one had established or

7 prepared a safety standard for asbestos at least

8 according to this document?

9 MR. WALKER: I object on the best evidence

10 rule. The document speaks for itself, I mean, if

11 you question him about what that document says,

12 it says what it says.

13 A If it says no standards were established,

14 it could be factual, but early on, there was no need

15 to establish a standard for every particular

16 contaminant in the plant.

17 Q Okay.

18 A Again, you got to look at time frame.

19 Q Certainly there was nothing that stopped

20 Alcoa from establishing a safety standard for cutting

21 and sawing asbestos materials and particularly

22 marinite by 1964 or 1965, you would agree with that,

23 wouldn't you?

24 A There was nothing to stop us, but why would

25 we do it? We had procedures for cutting any mineral

1 material.

2 Q Written procedures?

3 A Not written procedures, but any dust needs

4 to be -- dust exposure needs to be controlled,

5 marinite or otherwise.

6 Q You will agree with me that certainly it

7 would be better -- with a hazardous substance that can

8 cause cancer, it would be better to have written

9 guidelines or procedures so that the folks in the

10 local level know exactly what they are supposed to do

11 with that material; wouldn't you agree with that?

12 A In today's light, yes, I would, but at that

13 time, no, I am not sure that I would.

14 Q Any reason Alcoa workers in the 1960's

15 aren't entitled to the same treatment from their

16 employer as they are in the 1990's?

17 A They deserve the same consideration, but

18 there was just not the perceived need to get into the

19 details.

20 MR. WATERS: Okay. Let me object to the

21 non-responsive portion.

22 Q Let me show you here in the document where

23 it indicates heavy exposures at Point Comfort, and

24 then it lists a number of potential persons who may

25 have been exposed or departments. Do you see where it

1 says, "pot lining" under "heavy exposures"? Do you

2 see that?

3 A Yes.

4 Q As well as carpenters, masons and

5 millwrights?

6 A Yes.

7 Q All four of those job categories are

8 indicated as having heavy exposures, at least at Point

9 Comfort, due to their work with or around asbestos.

10 A That was that person's opinion. Are they

11 talking about asbestos there?

12 Q Well, the whole document talks about

13 asbestos, Mr. Bonney, but in any event, would you

14 agree with me, sir, that in addition to the persons

15 who were cutting and sawing the marinite, that these

16 other occupations, their exposures would have been in

17 some other context since not all these people are

18 cutting marinite; masons, millwrights, carpenters and

19 pot liners?

20 MR. WALKER: I am going to object to the

21 form of the question because it assumes facts not

22 in evidence. We don't know the basis of the

23 conclusion drawn by the author of it nor whether

24 specifically it's addressing asbestos.

25 A I find it difficult to draw conclusions

1 from this abbreviated document.

2 Q Let me --

3 A I don't know the background.

4 Q Let me ask if you disagree with the  
5 document in any regard. Do you disagree that heavy  
6 exposures could result from workers in the pot lining  
7 department, heavy exposures to asbestos, agree or  
8 disagree?

9 A I think, generally, I would disagree, at  
10 least from my recollection now.

11 Q Would you agree or disagree, sir, with this  
12 document which states that carpenters at Point Comfort  
13 had heavy asbestos exposure?

14 MR. WALKER: Excuse me, are we talking  
15 about any specific time frame?

16 MR. WATERS: No.

17 MR. WALKER: Okay.

18 A I wouldn't know. I don't know what  
19 responsibilities the carpenters would have dealing  
20 with something such as asbestos.

21 Q Let's do it this way: How about you can  
22 either agree, disagree or say you don't have an  
23 opinion; is that fair enough?

24 A All right.

25 Q Let's start over.

1 MR. WALKER: I object that he be allowed to  
2 fully answer any question that you propound to  
3 him.

4 MR. WATERS: That's fine.

5 Q With respect to the statement, sir, that  
6 people in the pot lining department had heavy  
7 exposures to asbestos at Point Comfort, do you agree,  
8 disagree or have no opinion concerning that statement?

9 A From what I recollect, I would disagree.

10 Q All right, sir. With respect to the  
11 statement that carpenters in the maintenance  
12 department would have had heavy exposures to asbestos  
13 at Point Comfort, do you agree, disagree or have no  
14 opinion?

15 A For the carpenters, masons and millwrights,  
16 I would have no opinion not knowing what jobs they are  
17 talking about.

18 Q And you would defer, I take it, sir, to  
19 people at the local level who would be more clear on  
20 the nature of these individuals' work with respect to  
21 the type of exposures or the extent of exposures that  
22 they would have had?

23 A Yes, I would.

24 Q All right. Let me show you, on the last  
25 page, there is a reference to the Selikoff report

1 1964, do you see that?

2 A Yes.

3 Q Do you recall, sir, that that was the  
4 Selikoff study that identified asbestos workers,  
5 people working with as -- with and around asbestos  
6 products as being -- as having a very high cancer risk  
7 and particularly a significant risk of developing  
8 mesothelioma?

9 A Yes, I believe that was the report.

10 Q All right. Let's look at Alcoa 41. Now  
11 that is in your handwriting, is it not?

12 A Yes, it is.

13 (Thereupon, Alcoa Exhibit No. 41 was marked  
14 for identification.)

15 Q Oh, very good, and what this is indicated  
16 to be is historical background on asbestos by T.  
17 Bonney?

18 A Right.

19 Q It says down here "Collected per Alcoa's  
20 defense in third party suits and workers' compensation  
21 cases." Do you see that at the bottom?

22 A Yes.

23 Q Let's see if we can find a date on this.

24 Okay. It looks like copy to Dale Huddleston 12-15-87;  
25 do you see that?

1 A Yes.

2 Q And this was a document that you prepared  
3 as a result of Alcoa's involvement in the litigation  
4 involving its workers being exposed to asbestos;  
5 correct, sir?

6 A Yes.

7 Q And, in fact, at the time you prepared this  
8 document, you knew that it was -- you did so in order  
9 to assist in defending Alcoa in that case?

10 MR. WALKER: Excuse me, I am sorry, in what  
11 case are we talking about? I missed the  
12 question.

13 MR. WATERS: In third party suits, whatever  
14 case it may have been called.

15 Q You were aware, were you not, sir, at the  
16 time you prepared this document, that the purpose was  
17 to assist in defending Alcoa from asbestos cases?

18 A Yes, it was to assist me.

19 Q To do that in order to be able to help  
20 them?

21 A To recall the events.

22 Q Okay. So in much the same manner as in  
23 1998, you are here to assist Alcoa in defending  
24 against an asbestos case back in '87, or thereabouts,  
25 while you were still employed with -- were you still

1 employed with Alcoa in '87?

2 **A No. At this time, no. This is December, I**  
3 **retired in February.**

4 Q I beg your pardon. So this document  
5 reflects, shortly after your retirement, the fact that  
6 you assisted Alcoa in preparing and providing a  
7 defense to asbestos cases; is that a fair statement?

8 **A Did you say multiple cases?**

9 Q No.

10 **A No, that's right, I assisted them.**

11 MR. WALKER: Andy, I want to take a break  
12 for a second.

13 MR. WATERS: What kind of break?

14 MR. WALKER: I have been drinking coffee.  
15 I need to talk to my co-counsel about something.

16 THE VIDEOGRAPHER: We are going to go off  
17 the record at 10:00 o'clock.

18 MR. WATERS: All right.

19 (Recess taken.)

20 (Record read.)

21 THE VIDEOGRAPHER: Are you ready to go on  
22 the record? I have 10:39. We were off the  
23 record for 39 minutes.

24 BY MR. WATERS:

25 Q All right, sir. Mr. Bonney, do you recall

1 the document, Alcoa 41, that we were discussing before  
2 we took a break?

3 **A Yes.**

4 Q And counsel for Alcoa suggested we take a  
5 break after I asked you if this was a document that  
6 you helped prepare to help them defend against  
7 asbestos cases; do you recall that?

8 **A Yes.**

9 Q In the course of the break, sir, did you  
10 discuss with the -- did you have any discussions with  
11 the Alcoa lawyers?

12 **A No.**

13 Q None, whatsoever?

14 **A Just the fact that there were no messages.**

15 Q No messages?

16 **A For me.**

17 Q So in the 30 minutes that the Alcoa lawyers  
18 felt it necessary to take a break, you did not discuss  
19 the substance of your testimony, at all?

20 **A That's right.**

21 Q Did you discuss this document, Alcoa 41,  
22 with the Alcoa attorneys during that time frame?

23 **A No.**

24 Q Would you agree with me, sir, that at least  
25 since December 15, 1987, subsequent to the time you

1 left Alcoa, you have been involved with the -- with  
2 assisting them in the defense of asbestos cases,  
3 including whatever case this involved, all the way to  
4 the present time in the cases we are talking about  
5 here today?

6 MR. WALKER: I am going to object to the  
7 form of the question. It asks a legal conclusion  
8 concerning defense of cases. The memo here might  
9 refer to just assisting in gathering knowledge  
10 concerning -- about asbestos involving lawsuits  
11 in general but not particularly lawsuits against  
12 Alcoa, so it calls for a legal conclusion, and  
13 I am going to object on that grounds.

14 Q You can answer the question, sir.

15 Do you need it read back?

16 **A Yes.**

17 Q No problem, it was a lengthy objection.

18 (Record read.)

19 **A I assisted them in a single case back in**  
20 **'87 and this one. That was the extent of it.**

21 Q And the assistance that you provided back  
22 in '87, sir, that would have -- you also would have  
23 been compensated for that help that you gave to them?

24 **A I believe I was, yes.**

25 Q And you understood at that time, as you

1 understand at the present, that your purpose is to  
2 assist Alcoa in defending against these cases to  
3 assist Alcoa's position?

4 **A Assist Alcoa's position. Whatever that**  
5 **might be.**

6 Q We talked some about the TLV. Do you  
7 recall that?

8 **A Yes.**

9 Q Let me show you on page 3 of this document,  
10 you indicate "Asbestosis recognized, early limits set  
11 in 1938." Do you see that?

12 **A Yes.**

13 Q That would refer to the fact that the  
14 threshold limit values as early as 1938 indicated that  
15 asbestos exposures at certain levels could be  
16 hazardous or toxic or cause disease?

17 **A Yes.**

18 Q And you first became aware of that fact --  
19 those facts when you arrived at Alcoa in -- about a  
20 decade later in 1948; fair enough?

21 **A Yes.**

22 Q But certainly you anticipated -- you would  
23 anticipate and expect that, given Alcoa's size and  
24 sophistication, that they would have been aware that  
25 there was a threshold limit value due to the hazard of

1 asbestos sometime in the 1938 -- late 1930's time  
2 frame?

3 **A Not necessarily.**

4 **Q** You believe it's possible that Alcoa was  
5 not aware of that information for some period of time  
6 after the limits were set out in 1938?

7 **A Yes.**

8 **Q** Okay. But certainly, by the time you  
9 arrived in 1948, they were very aware of the existence  
10 of the threshold limit values and the fact that they  
11 pertained to asbestos?

12 **A Yes.**

13 **Q** You would consider, sir, asbestosis to be a  
14 serious lung disease?

15 **A Yes.**

16 **Q** And, again, the existence of that disease,  
17 the knowledge concerning that disease, at least based  
18 on your personal experience would go back to the  
19 1940's?

20 **A Yes, it would.**

21 **Q** You are aware, are you not, sir, that  
22 asbestos was used for a number of different purposes  
23 and in a number of different areas at the Rockdale  
24 facility as well as the Point Comfort facility?

25 **A Yes, I was.**

1 **Q** Let me show you what has been marked as  
2 Alcoa 43, the Rockdale Operations Abatement  
3 Supervisors' Asbestos Handbook. Okay. Have you seen  
4 this document before? Was this shown to you by the  
5 Alcoa attorneys?

6 **A I have seen it before. I am not sure where  
7 I saw it.**

8 **(Thereupon, Alcoa Exhibit No. 43 was marked  
9 for identification.)**

10 **Q** Okay. Fair enough. Let me show you, and  
11 for the record, at page 004241, section 6, a list of  
12 the typical asbestos containing materials that were  
13 used at Rockdale and at other facilities. Do you see  
14 that?

15 I just want you to take a few seconds to --  
16 it appears to be, one, two -- two pages in length, if  
17 you will just take a moment to familiarize yourself  
18 with it. Okay?

19 **A Okay.**

20 **Q** Let's just look at some of this. It  
21 indicates, does it not, sir, that several types of  
22 surfacing material containing up to 95 percent  
23 asbestos were used from the '30's to 1970. Do you see  
24 that?

25 **A Yes.**

1 **Q** That preform -- it says perform, but I  
2 assume that means preform thermal insulation products  
3 including pipe covering and blocks containing up to  
4 15 percent asbestos were used from '26 -- 1926 to  
5 1949, 85 percent magnesia, that also calcium silicate  
6 was used from 1949 to 1971. Do you see that?

7 **A Yes.**

8 **Q** And it indicates that the calcium silicate  
9 product was 6 to 8 percent asbestos. Do you see that?

10 **A Yes.**

11 **Q** You know that's not the case, don't you,  
12 sir?

13 Are you not aware, sir, from the other  
14 documentation and your involvement with this case that  
15 the calcium silicate forms of pipe covering and blocks  
16 contained several -- somewhere in the neighborhood of  
17 10 to 15 percent asbestos?

18 **A No, I don't know what the percentage might  
19 be.**

20 **Q** We will, take a look at that in some other  
21 documents. It indicates a number of different  
22 asbestos textiles used by Alcoa including cloth,  
23 blankets, felt, blue strips -- blue stripe, red stripe  
24 green stripe sheets, cord, rope, yarn, tubing, tape,  
25 strip, curtains. Do you recognize all of these as

1 products, sir, that contained asbestos?

2 **MR. WALKER:** I object to the form of the  
3 question. It assumes facts not in evidence, that  
4 they were used by Alcoa Rockdale or Alcoa Point  
5 Comfort or extended their usage.

6 **Q** Do you recognize, sir, that these are all  
7 products that contained asbestos?

8 **A I recognize some of them. Some of them are  
9 completely foreign to me.**

10 **Q** Certainly you agree with me that preformed  
11 thermal insulation products, including pipes and block  
12 covering, were extensively used by Alcoa as insulation  
13 materials at their various facilities?

14 **A I am aware of some uses of it, but no, not  
15 a comprehensive understanding of it, say, at Rockdale  
16 or Point Comfort.**

17 **Q** The document goes on to list, and I won't  
18 go through all of these, but about ten or so cement  
19 type products. Do you see that?

20 **A Yes.**

21 **Q** Ranging as high as 50 percent asbestos?

22 **A Yes.**

23 **Q** It indicates asbestos paper products,  
24 asbestos roofing felt, asbestos containing compounds,  
25 asbestos ebony products, asbestos floor tiles,

1 asbestos wall covering and asbestos paints and  
 2 coatings. Do you see all of those?  
 3 **A Yes.**  
 4 **Q** Let me show you a document, Alcoa 45, bear  
 5 with me one second, with a long listing of material,  
 6 sheet materials used by Alcoa. Do you see under there  
 7 is asbestos?  
 8 **MR. WALKER:** I am going to object, Alcoa 45  
 9 has not been properly identified.  
 10 **MR. WATERS:** What do you want, a reference  
 11 number or something?  
 12 **MR. WALKER:** You know, I just don't know --  
 13 **MR. WATERS:** This is the way you gave us  
 14 the document. I can't help that.  
 15 **MR. WALKER:** Okay. But, again, we gave it  
 16 to you. Whether it's admissible or not is  
 17 another question and --  
 18 **MR. WATERS:** And that's a good point. That  
 19 reminds me of another motion to compel  
 20 deposition, re: Custodian of records. Thank  
 21 you. Okay. Your objection is noted.  
 22 **Q** Let me represent to you, sir, that this is  
 23 a document that was provided by Alcoa in the course of  
 24 discovery, apparently from the Massena facility. Are  
 25 you familiar with the Massena, New York Alcoa

1 facility?  
 2 **A Yes, I am.**  
 3 **Q** Indicates an index of material sheets that  
 4 asbestos is included. Do you see that?  
 5 **A Yes.**  
 6 **(Thereupon, Alcoa Exhibit No. 45 was marked**  
 7 **for identification.)**  
 8 **Q** All right. And at the end of the list of  
 9 material sheets it indicates that the document is  
 10 dated May 1955. Do you see that?  
 11 **A Yes.**  
 12 **Q** So as of 1955, Alcoa had indicated that  
 13 asbestos was one of the materials that they used for  
 14 which they had a material sheet. Do you see that?  
 15 **A All right. Yes. I guess they did have**  
 16 **material sheets in Massena.**  
 17 **Q** Okay. Were you not aware of that  
 18 previously, one way or the other?  
 19 **A Well, I didn't know whether it was a**  
 20 **material sheet. I know this is a standard procedure,**  
 21 **when they inaugurate an industrial hygiene program, to**  
 22 **list every material that is used in the plant.**  
 23 **Q** Okay.  
 24 **A** And apparently they had a material sheet  
 25 for at least for most of them.

1 **Q** Okay. Fair enough. And here is a part of  
 2 the document dated July 29, 1952, this is the material  
 3 sheet for asbestos, is it not, that is referenced in  
 4 that index?  
 5 **A Yes.**  
 6 **Q** And it indicates "department in which used,  
 7 produced or handled, various departments throughout  
 8 the plant." Do you see that?  
 9 **A Yes.**  
 10 **Q** And would that, sir, be consistent with  
 11 your recollection, not just with regard to Massena but  
 12 to Alcoa plants generally, that various departments  
 13 throughout the plants would have been involved with  
 14 the use or handling of asbestos materials?  
 15 **A Yes. It's ubiquitous material.**  
 16 **Q** It says, "Operational uses and insulation  
 17 material mixed with water and used as a packing  
 18 cement." Do you see that?  
 19 **A Yes.**  
 20 **Q** "Transportation and handling, received as a  
 21 dry fiber in cartons." Do you see that?  
 22 **A Yes.**  
 23 **MR. WALKER:** I am going to object, best  
 24 evidence rule, the document speaks for itself.  
 25 **Q** So at least as early as July 1952, Alcoa

1 had recognized that it received dry asbestos fiber in  
 2 cartons which would then be mixed with water and used  
 3 as a packing cement; would you agree with that, sir?  
 4 **A For certain plants, yes.**  
 5 **Q** And you will agree with me, sir, that  
 6 generally, from your personal observations and  
 7 experience, that taking a dry powder and mixing it  
 8 with water will generally produce some dusty process,  
 9 some visible dust in the air?  
 10 **MR. WALKER:** I object to the form of the  
 11 question. It calls for a conclusion.  
 12 **A It can, depending how they handle it.**  
 13 **Q** Are you aware of any way to mix a cement or  
 14 dry powder and keep dust from being created, from an  
 15 industrial hygiene standpoint?  
 16 **MR. WALKER:** Again, I am going to object to  
 17 the question. He may not have personal -- he may  
 18 or may not have personal knowledge. It's beyond  
 19 the scope of what he is being presented to  
 20 testify.  
 21 **MR. WATERS:** I am just asking if he does  
 22 have any awareness.  
 23 **A Often times, this is done in a ventilated**  
 24 **area where there is equipment to remove the dust.**  
 25 **Q** So if you had a ventilation system in

1 place, at least some of the dust that would be created  
2 from mixing dry powder with water would be sucked up  
3 and removed in that fashion; correct, sir, if that was  
4 available?

5 **A Yes.**

6 **Q** Absent some form of ventilation designed to  
7 suck away the dust, are you aware of any other way to  
8 mix dry fiber -- dry asbestos fiber and water and  
9 avoid creating dust?

10 **MR. WALKER:** Same objection. This is  
11 beyond the scope for what he is being presented  
12 to testify, so I object on that ground. Calls  
13 for speculation.

14 **A I don't know. Again, it depends on**  
15 **quantities, as well as the method of handling.**

16 **Q** Now, in this document, there is an  
17 indication which says, "Hazardous reaction products,"  
18 and then someone typed in the word "none." Do you see  
19 that?

20 **A Yes.**

21 **Q** And then it was crossed out. Do you see  
22 that subsequently?

23 **A Yes.**

24 **Q** And then under that, it says, "Explanation  
25 of hazard," and someone typed in "None as used." Do

1 you see that?

2 **A Yes.**

3 **Q** And then that was crossed out, as well;  
4 correct?

5 **A Yes.**

6 **MR. WALKER:** Same objection, best evidence  
7 rule, document speaks for itself.

8 **MR. WATERS:** I will be happy to give you a  
9 running objection.

10 **MR. WALKER:** Okay.

11 **Q** You would agree with me, sir, that in fact  
12 there is a potential for a hazard if someone is mixing  
13 dry asbestos fiber with water that is created -- that  
14 is creating clouds of dust?

15 **A In 1998, yes, but then no. I would agree**  
16 **with their explanation of hazard there. In '48.**

17 **MR. WATERS:** Let me object to the  
18 non-responsive and ask her to read the specific  
19 question back.

20 (Record read.)

21 **A I think you will have to help me here, and**  
22 **do you wish me to respond as I would in this year or**  
23 **as I would have in the previous year, in '48 or '52,**  
24 **when this was? There is a difference.**

25 **Q** Mr. Bonney, when I ask you your opinion on

1 an issue, it's your opinion as we sit here today. Can  
2 we have that continued understanding?

3 **MR. WALKER:** But it can be based upon --

4 **Q** Your attorneys can ask you what your  
5 opinion was in 1952. That's fine. My question,  
6 unless I otherwise specify, is addressed to Thomas  
7 Bonney as he sits here today; all right? Can we have  
8 that understanding?

9 **A Well, I can understand that.**

10 **Q** We can work with that.

11 **MR. WATERS:** Would you please read the  
12 question back to the witness one more time?

13 (Record read.)

14 **MR. WALKER:** Just so I will understand, the  
15 agreement you are attempting to reach with Mr.  
16 Bonney is, any questions that you ask are going  
17 to be based on his state of knowledge in 1998  
18 unless otherwise specified?

19 **MR. WATERS:** When I ask somebody a question  
20 about what their opinion is, unless I say  
21 something else, it's as we sit here, as he is  
22 under oath. I think that goes without saying,  
23 but I hope we have that clarified now.

24 **MR. WALKER:** His opinion is obviously going  
25 to be what it is today.

1 **MR. WATERS:** Well, then we don't have a  
2 problem, because I told you that's what I am  
3 looking for unless I otherwise state.

4 **MR. WALKER:** Okay. But what I want to make  
5 clear is, on the status of knowledge, general  
6 knowledge, are you asking that be 1998?

7 **MR. WATERS:** You have lost me. I have  
8 asked a very, very specific question.

9 **MR. WALKER:** Okay. I understand you have  
10 asked a question, but I am getting back to the  
11 agreement. You can ask him is asbestos known to  
12 be hazardous by a certain standard and his  
13 opinion today is going to -- or his answer to  
14 that may vary or are you talking about 1951, are  
15 you talking about 1984?

16 **MR. WATERS:** One more time, and I think I  
17 have clarified this as far as I can, unless I  
18 otherwise specify, I am asking him for his  
19 opinions as he sits here today.

20 **MR. WALKER:** As to his state of knowledge  
21 in 1998.

22 **MR. WATERS:** As to his state of knowledge,  
23 not someone else's theoretical state of  
24 knowledge. He is here to tell us what he knows  
25 today, and unless I specify that I want him to

1 tell us what he knows in 1952, he is to answer  
2 what he knows today.  
3 MR. WALKER: So, again, and I am not trying  
4 to be argumentative, I am just trying to  
5 understand the question, what is a safe level for  
6 asbestos, he is to answer that in 1998 terms and  
7 not 1952 terms?  
8 MR. WATERS: Absent some other predicate, I  
9 would believe that would be correct.  
10 MR. WALKER: Okay. Fine.  
11 MR. WATERS: Now, I am sure you have long  
12 since forgotten the question.  
13 A No, no.  
14 Q Go ahead and answer.  
15 A In the mixing of powder with water, it does  
16 have the potential of being a health hazard.  
17 Q Okay. And, in fact, sir, if you will look  
18 with me at this July 29, 1952 document, up here in the  
19 upper right-hand corner Alcoa indicates, "Yes," as to  
20 whether or not there is a possibility of a hazard. Do  
21 you see where that is crossed off in handwriting?  
22 MR. WALKER: I object. There are two  
23 questions there. One is, do you see where it's  
24 crossed off, and the other one addresses Alcoa's  
25 knowledge or understanding, or action taken by

1 Alcoa. So I object to the form of the question,  
2 because there are two questions.  
3 Q You can answer.  
4 A I can see where it has been X'd over, yes.  
5 Q So what we have here is a 1952 document  
6 where at least the possibility of an asbestos hazard  
7 is documented by Alcoa; fair statement, sir?  
8 A Well, I am confused now with the X's in the  
9 two boxes.  
10 Q Well, sir, do you see that someone has  
11 written an X in the box "Yes" concerning the  
12 possibility of hazard? You do see that?  
13 A I do see that, and the other box, it says,  
14 "No," it's not a hazard.  
15 MR. WATERS: I object to the non-responsive  
16 portion.  
17 Q You see that the document is dated  
18 July 1952?  
19 A Yes.  
20 Q All right, sir. Now, this process, you  
21 will agree with me, mixing dry asbestos fiber and  
22 water, was a possible hazard in 1952, just as you have  
23 told us it's a possible hazard at the present time, if  
24 that were to occur?  
25 A If it is a possible hazard today, it was a

1 possible hazard then even though it may not have been  
2 recognized.

3 MR. WATERS: Let's object to the  
4 non-responsiveness of the answer and try that  
5 again.

6 Q You will agree with me, sir, that as of  
7 July 1952, as stated in this document, mixing of dry  
8 asbestos fiber in water would constitute at least a  
9 potential or possible hazard?

10 MR. WALKER: Objection, asked and answered.

11 A Are you asking my opinion or what that  
12 document says?

13 Q I am asking your opinion.

14 A My opinion is yes, it does present a  
15 potential hazard.

16 Q And it presented just as much of a hazard  
17 in 1952 as it did in 1972 or 1998?

18 MR. WALKER: I object to the form of the  
19 question. It assumes facts not in evidence. You  
20 asked him about potential hazard and now to the  
21 fact that it is a hazard. Those are two  
22 different questions.

23 Q You can answer.

24 A Again, it was a potential hazard, the same  
25 degree of hazard throughout the years, recognized or

1 not.

2 Q Fair enough.

3 MR. WATERS: I object to the latter portion  
4 as being non-responsive.

5 Q Let me show you another material sheet  
6 concerning insulating materials, and it indicates  
7 "Trade or other name," and it has a number of  
8 different pipe coverings. Do you see that?

9 A My bifocals aren't too flexible.

10 Q Okay.

11 A Okay.

12 Q And it goes onto "The department in which  
13 used, produced or handled, R&M, miscellaneous  
14 department, used throughout the plant, pot lining  
15 department." Do you see that?

16 A Yes.

17 Q "Operational uses, insulation of furnaces,  
18 pipes, et cetera, heat insulation and reduction  
19 pots." Do you see that?

20 A Yes.

21 Q Is that consistent, sir, with your  
22 recollection of the uses -- some of the uses of  
23 asbestos?

24 A Yes.

25 Q For properties, it says, "The most

1 common" -- "various compositions, the most common  
2 being asbestos." Do you see that?

3 A Yes.

4 Q And that would be also consistent with your  
5 recollection, sir, of what type of insulation  
6 materials that asbestos was used predominantly in this  
7 time frame?

8 A I am not sure I understood that, the  
9 question.

10 MR. WATERS: Can you read that one back,  
11 please?

12 (Record read.)

13 A Yes. I'm familiar with those materials  
14 being used. There may have been other insulating  
15 materials.

16 Q Okay. Very good. And again -- and this  
17 particular page is dated August 13, 1952; do you see  
18 that?

19 A Yes.

20 Q And, again, someone has checked off "Yes"  
21 that possibilities of hazard are recognized for use of  
22 these particular materials, the insulating materials;  
23 do you see that?

24 A Right.

25 Q If you look at the next page, which is also

1 1952, it discusses electrical insulation materials; do  
2 you see that?

3 A Yes.

4 Q Now, here it indicates the yes box is not  
5 checked, just the no box is checked regarding  
6 possibilities of hazard; do you see that?

7 A Yes. Right.

8 Q So at least, insofar as these electrical  
9 materials are concerned, no hazard was recognized or  
10 no possibility of hazard was recognized at that time?

11 MR. WALKER: I am going to object. It  
12 calls for speculation.

13 A Yes, that would be true. That's the way I  
14 would interpret that.

15 Q Now let's look at the next page, which is  
16 for refractory cement, bonding mortar and clay, and it  
17 has a whole bunch of different listed products. I  
18 won't go through all those with you. It indicates  
19 that these materials were used in boiler houses, pot  
20 lining department, carbon plant, a number of different  
21 areas. Do you see that?

22 A Yes.

23 Q It indicates that, at the bottom,  
24 "Recommended method of control: Careful handling of  
25 the dry material to prevent excessive dusting." Do

1 you see that?

2 A Yes.

3 Q "Wearing of respirators if dusting does  
4 occur"?

5 A Yes.

6 Q Again, the date here is 1954?

7 A Right.

8 Q And up above where it says, "Possibilities  
9 of hazard," the X has -- appears to be typed in the  
10 "Yes" column?

11 A Yes.

12 Q Okay. So again, by 1954, it was recognized  
13 that these refractory materials could be -- could  
14 create or have a potential hazard?

15 MR. WALKER: Again, I object. If you are  
16 asking from those documents, can he reach that  
17 conclusion --

18 MR. WATERS: Yes, sir. That would be fine.

19 A Yes, I can reach that conclusion, and  
20 again, you have -- in order for it to be a potential  
21 hazard, it has to be hazardous material, per se, but  
22 it also has to have the potential of generating  
23 airborne concentrations.

24 Q Okay. And this -- certainly this document,  
25 sir, and the indication that Alcoa recognized

1 hazardous potential from asbestos products in 1952,  
2 that's entirely consistent with your recollection that  
3 as of 1948 asbestos -- as of 1948 Alcoa knew that  
4 asbestos could be hazardous or toxic in certain  
5 concentrations?

6 A Yes, that's true, and you could put silica  
7 on there and it would be just the same.

8 Q And, in fact, this document concerning the  
9 potential hazard is consistent with the knowledge that  
10 you had at corporate headquarters by the mid 1950's  
11 that asbestos exposure might be linked to lung cancer?

12 A Not in the mid '50's.

13 Q I beg your pardon?

14 A Not in the mid '50's.

15 Q You don't recall, sir, your earlier  
16 testimony that by 1955 -- you want to go back and do  
17 that again?

18 A No. You are speaking of, sir, Richard  
19 Doll's study?

20 Q Yes.

21 MR. WATERS: Let me object to the  
22 non-responsiveness.

23 Q My question simply put is, sir, the  
24 indication on these documents that Alcoa was aware of  
25 a potential hazard as of 1952 or 1954 is certainly

1 consistent with the knowledge at corporate  
2 headquarters with Doll's work in 1955 that asbestos  
3 could cause lung cancer?  
4 **A I would say no. We were aware it could**  
5 **cause asbestosis, and Doll's study stood out alone**  
6 **until it was confirmed at a later date.**  
7 MR. WATERS: Let me object as  
8 non-responsive.  
9 Q My question is, sir, is this document --  
10 you will agree with me that this document indicates as  
11 of 1952 and 1954 that Alcoa was aware of the potential  
12 for a hazard for breathing asbestos dust; correct,  
13 sir?  
14 **A I would agree to that, yes.**  
15 Q And you have already told us that that's  
16 consistent with your knowledge as an industrial  
17 hygienist as of 1948 that asbestos could be hazardous,  
18 could be toxic, could be dangerous under certain  
19 circumstances?  
20 **A That's correct.**  
21 Q And, sir, this is also consistent, is it  
22 not, with Dr. Doll's study indicating that there was a  
23 potential cancer risk as of 1955?  
24 MR. WALKER: I object to the form of  
25 question. That document is a 1954 document which

1 by your own question Doll was '55, and by his  
2 previous testimony, it was standing alone, so the  
3 question is -- improper predicate has been laid.  
4 Q Can you answer the question, sir?  
5 **A Can you read it back, please?**  
6 **(Record read.)**  
7 **A Regardless of the Doll study, it was**  
8 **recognized as a potential hazard, and we took**  
9 **precautions accordingly.**  
10 Q So it didn't matter to you if it was  
11 hazardous because it could produce a disabling or  
12 potentially deadly disease, like asbestosis, or if it  
13 could cause a deadly disease like lung cancer, to you  
14 it was hazardous or potentially hazardous regardless  
15 of disease processes?  
16 **A We didn't buy the relationship with cancer**  
17 **at this particular point in time.**  
18 Q You didn't buy it, but you were certainly  
19 aware of it at least by 1955?  
20 **A It probably came across our desk, yes.**  
21 **That's all I can say.**  
22 Q Certainly, if the folks in Massena  
23 considered lung cancer to be one of the hazards they  
24 were concerned about in indicating that these  
25 materials are hazardous, you would not fault them for

1 that, would you?  
2 MR. WALKER: I object to the question, it  
3 calls for -- excuse me, assumes facts not in  
4 evidence, that this document and Massena have any  
5 relationship, at all, to do with lung cancer.  
6 It's improper predicate has been laid  
7 particularly since it's labeled 1952 and 1954,  
8 and by your own questioning, there hasn't been  
9 one article written linking the two when this  
10 memo was written.  
11 MR. WATERS: There had been many articles  
12 linking the two before that, but that's  
13 irrelevant at this time.  
14 MR. WALKER: Lung cancer.  
15 MR. WATERS: You can answer the question.  
16 MR. WALKER: If you can.  
17 **A Well, I don't know. I doubt that Massena**  
18 **had any knowledge of cancer at the time this thing was**  
19 **written.**  
20 Q Okay. Do you recall, sir, your testimony  
21 earlier in your prior deposition, where we reviewed  
22 some books and other materials that you brought to the  
23 deposition, that indicated that the connection with  
24 lung cancer and asbestos was first indicated in the  
25 late 1930's. Do you recall that?

1 **A In retrospect, yes, I do recall a few**  
2 **isolated studies. They were not epidemiological**  
3 **studies, but reports, I guess, would be a more correct**  
4 **term.**  
5 Q Certainly you recall that there were case  
6 reports in the 1930's and in the 1940's that discussed  
7 cancer and lung cancer specifically resulting from  
8 asbestos exposure in individuals?  
9 **A They were there in literature. If we read**  
10 **them, it would be unlikely that we would spend much**  
11 **time, if any at all.**  
12 Q But certainly, sir, if there was  
13 information in the literature concerning the  
14 connection, the cancer connection, the connection  
15 between asbestos and cancer commencing in 1935, or  
16 shortly thereafter, that information was readily  
17 available to a company like Alcoa who received and  
18 reviewed a considerable number of medical and  
19 scientific journals in this time frame?  
20 **A That data is available in the literature,**  
21 **but we have to use it in the context of the manner in**  
22 **which our materials are handled.**  
23 MR. WATERS: Let me object to the latter  
24 portion of your answer as being non-responsive.  
25 Q Have you ever heard of something called the

1 Walsh-Healy Act?

2 A Yes.

3 Q Do you recall, sir, that the Walsh-Healy  
4 Act applied to operations where Alcoa or other  
5 corporations may have been involved with manufacturing  
6 processes on behalf of the United States government?

7 A Yes.

8 Q And do you recall also that the Walsh-Healy  
9 Act specifically adopted the threshold limit values  
10 that you first became familiar with in 1948?

11 A Yes.

12 Q And do you agree with me, sir, that to the  
13 extent Alcoa at any time was working on behalf of the  
14 United States government or making materials that were  
15 going to be used in the defense industry, or anything  
16 of that nature, that Alcoa would have been duty bound  
17 by law to follow the Walsh-Healy Act and specifically  
18 the threshold limit values?

19 MR. WALKER: I object, calls for a legal  
20 conclusion.

21 A That was academic, because we followed the  
22 TLV's anyhow from Day 1, and we would be bound by  
23 Walsh-Healy TLV's.

24 Q When you say you followed the TLV's from  
25 Day 1, would that take us all the way back to 1938

1 when they first came into being?

2 A '38, I qualify that, from the time that we  
3 established our industrial hygiene program.

4 Q And when was that?

5 A Well, it was probably '45 when Lester  
6 Cralley came in. '48 when I came aboard, took us time  
7 to develop these programs.

8 Q So certainly as of '45, Alcoa was aware  
9 that there was a supposed or theoretical safe level  
10 for asbestos, and they knew enough to know that if you  
11 had any potential exposures beyond that, something  
12 would need to be done?

13 A Safe levels, there were threshold limit  
14 values, and it's not a sharp line of demarcation,  
15 safe, hazardous, but we knew there were limits that  
16 defined an area of concern.

17 Q Right. But what you never did at any time  
18 in the '40's, '50's and '60's, is complete dust  
19 monitoring around asbestos operations to determine  
20 whether or not the TLV's were ever being exceeded?

21 A We only did dust monitoring where there was  
22 a concern of a hazard, a limit being exceeded. We  
23 sampled for silica in our foundries. We did not  
24 sample for asbestos in general areas.

25 MR. WATERS: Let me object as

1 non-responsive, and ask you to read the question  
2 back.

3 (Record read.)

4 MR. WALKER: I am going to object. The  
5 question has been asked and answered. He said  
6 there was monitoring done, and he explained when  
7 and how it was done.

8 MR. WATERS: Not about asbestos.

9 Q Go ahead you can answer.

10 A There was very little dust monitoring for  
11 asbestos primarily because it's a completely  
12 inaccurate type of evaluation and you can evaluate it  
13 better by other means.

14 MR. WATERS: Let me object to everything  
15 after "There was very little dust monitoring for  
16 asbestos."

17 Q Sir, do you have any personal knowledge  
18 that any dust monitoring for asbestos was done by  
19 Alcoa personnel at any time in the 1940's, 1950's or  
20 1960's, because I think you told us to the contrary  
21 previously?

22 A I just have a vague recollection now that  
23 there might have been one or two instances, but  
24 that's -- but essentially no, there was not.

25 Q Let me show you what has been marked as

1 Alcoa 48 -- or 47. It is a memo dated August 21st,  
2 1958 from Lester Cralley to a whole host of folks.  
3 Let's see if we can find you in here somewhere. I  
4 don't see you on this list.

5 A I shouldn't be.

6 Q Why wouldn't you be, sir, since it involves  
7 industrial hygiene? Oh, there you are, I beg your  
8 pardon.

9 A These are plant people.  
10 (Thereupon, Alcoa Deposition Exhibit No. 47  
11 was marked for identification.)

12 Q These are plant people because this memo  
13 was, in fact, and I apologize for missing this, was  
14 sent to you and Mr. Plunkett at New Kensington?

15 A Right.

16 Q Do you have a recollection presently of  
17 receiving this document?

18 A Not this particular one, but we sent those  
19 out on a regular basis.

20 Q Okay. And it states, if you will read with  
21 me, sir, "Attached are hygienic guides for the  
22 following substances," and then it lists eight  
23 substances including -- the very first one mentioned  
24 is asbestos?

25 A Yes.

1 Q Do you recall, sir, that as of 1958, Alcoa  
2 had prepared an industrial hygiene guide or guidelines  
3 for working with or around asbestos?

4 A No, Alcoa did not. These hygienic guides  
5 were prepared by the Industrial Hygiene Association.

6 Q So what Alcoa is doing in 1958 was sending  
7 to its plant managers materials that were provided to  
8 Alcoa concerning the hazards of asbestos; is that what  
9 you are saying, just so I understand?

10 A Yes. It would have a limit, and it also  
11 would explain the hazards and preventative measures,  
12 as well, whereas the TLV will only give you the  
13 limits.

14 Q Okay. So at least we can tell from this  
15 document that, in 1958, Mr. Cralley felt it was  
16 important enough to advise all of the plants that we  
17 have some guidelines from a qualified industrial  
18 hygiene association concerning how to work with or  
19 around this substance -- all these substances safely;  
20 would you agree with that?

21 A Yes. And we sent out whatever hygienic  
22 guides were available.

23 Q Okay.

24 A Any and all.

25 Q So certainly as of August 21, 1958, all of

1 your plants would have received this information and  
2 would have been aware, if nothing else, that there  
3 were guidelines for dealing with asbestos because of  
4 the potential hazard?

5 A Yes, they would.

6 Q Now, we talked in your prior deposition,  
7 about the fact that Texas -- the Texas Department of  
8 Health adopted a state law, certain regulations  
9 concerning the hazards of asbestos and specifically  
10 adopted the ACGIH threshold limit values. Do you  
11 recall that?

12 A Yes.

13 Q And do you recall that employers in Texas,  
14 as of 1958, were obligated to ensure that none of  
15 their employees had exposure to asbestos that exceeded  
16 the TLV's. Do you recall that, sir?

17 A I recall that -- learning that there were  
18 these regulations that existed which we were obliged  
19 to follow.

20 Q You would agree with me, sir, that the  
21 local personnel working in Rockdale, if they were  
22 adequately doing their job, they would have been aware  
23 of the state required safety regulations and would  
24 have adhered to those to the extent possible?

25 A Yes, because they were Texas law, and also

1 we followed the ACGIH guidelines.

2 Q And you would agree with taking those  
3 precautions because that's what a reasonable company  
4 would do if it cared about its employees' safety?

5 A Yes.

6 Q We talked a few moments ago about the  
7 marinite product. You do you recall, sir, recognizing  
8 at least by 1964 that the sawing of marinite generated  
9 a considerable amount of dust?

10 A '64 was that?

11 Q Yes.

12 A Yes, I do.

13 Q Do you recall also, sir, at that time  
14 recognizing that respiratory protection is no  
15 substitute for exhaust ventilation? Do you recall  
16 coming to that conclusion in 1964, in the context of  
17 marinite?

18 A No, I don't recall that specific  
19 recommendation.

20 (Thereupon, Alcoa Exhibit No. 49 was marked  
21 for identification.)

22 Q Let me show that to you, sir, and for the  
23 record, this is Alcoa 49. If you will read starting  
24 here, this sentence, "Respiratory protection," if you  
25 could just read that sentence.

1 A Okay. That's right, and of course, this  
2 pertained to the epoxy hazard and not the asbestos  
3 hazard.

4 MR. WATERS: Let me object as  
5 non-responsive.

6 Q My question was if you could read that  
7 sentence to the jury, please?

8 A It says, "Respiratory protection is no  
9 substitute for exhaust ventilation except at locations  
10 where cutting marinite is an unusual, infrequent and  
11 brief exposure occurrence."

12 Q Certainly, in 1964, you considered that  
13 exhaust ventilation was absolutely necessary for the  
14 cutting of this material?

15 A When we thought there was epoxy in it, yes.

16 Q Did you change your mind, sir, after you  
17 determined there wasn't epoxy in the material and come  
18 to the conclusion that exhaust ventilation was not  
19 necessary?

20 A Control of sorts, as I recall, in the later  
21 newsletter, that situation was clarified. We told  
22 them that the short-term problem was eliminated or  
23 didn't exist, if you will, the epoxy, but they still  
24 had to control exposures to the marinite because of  
25 the presence of asbestos.

1 Q All right. So understanding it wasn't at  
2 the date of this memo, but shortly after, in 1964,  
3 once you clarified that there was not an issue with  
4 epoxy, you still recognized that respiratory  
5 protection was necessary -- excuse me, that exhaust  
6 ventilation was necessary when cutting marinite  
7 because of the potential for asbestos hazards?

8 MR. WALKER: Objection. That's been asked  
9 and answered. I believes his memo --

10 A It was not in every case. I think you saw  
11 in that Vernon report that Mr. Cralley said that was  
12 not an exposure of concern because of the short  
13 duration.

14 MR. WATERS: Object to the  
15 non-responsiveness.

16 Q Was Mr. Semken responsible for industrial  
17 hygiene and safety from environmental exposures at  
18 Rockdale in the late 1960's, early 1970's?

19 A Yes. Mr. Semken was the chairman of the  
20 industrial hygiene committee who had responsibility  
21 for evaluating exposures.

22 Q Is he still alive?

23 A I don't know whether he is or not.

24 Q Was he an older man than you or younger  
25 man, if you can recall?

1 A He was an older man than me.

2 Q Did you consider Mr. Semken to be a  
3 knowledgeable and qualified industrial hygienist?

4 A No. He wasn't an industrial hygienist --  
5 qualified industrial hygienist, if you recall. He  
6 knew something about industrial hygiene. He was a  
7 good manager.

8 Q Do you recall from earlier review of the  
9 documentation that Mr. Semken recognized in 1965, in  
10 his position at Rockdale, that there was a link  
11 between lung cancer and asbestos?

12 A I don't recall that at the time.

13 Q Let me show you Alcoa 30, a memo from  
14 Mr. Semken at the Rockdale Works, dated April 9,  
15 1965. It appears you reviewed the document sometime  
16 in that time frame?

17 A Yes.

18 (Thereupon, Alcoa Exhibit No. 30 was marked  
19 for identification.)

20 Q And he states there have been reports of an  
21 increased incidence of lung cancer in persons with  
22 asbestosis. Do you see that?

23 A Yes.

24 Q So certainly, at least Mr. Semken, in his  
25 position at Rockdale, was aware of the lung cancer

1 connection that you at corporate had first begun to  
2 learn about earlier in the '50's?

3 MR. WALKER: I am going object to the form  
4 of the question. It assumes facts not in issue  
5 -- pardon me, facts not established, you asked  
6 concerning the established link and, I think he  
7 was referring to evidence, developing knowledge.

8 Q You can answer, sir.

9 A What is the date of this?

10 Q April 9, 1965.

11 MR. WALKER: I hate to say this, do you  
12 remember the question? That may be the reason  
13 you don't remember it.

14 Q Would you like it read back, sir?

15 A No. I think I recall -- I think Semken was  
16 aware of the reports.

17 Q Okay. So sometime in the time frame from  
18 1955, when Doll's study came out and you began to  
19 learn of the connection between asbestos and cancer,  
20 in 1965, when Semken wrote this memo, he also would  
21 have learned that there was a connection or could be a  
22 connection between asbestos and lung cancer?

23 A Well, I can't get into Semken's mind, but  
24 obviously, he read reports, but the link at least in  
25 our estimate were not firmly established at that

1 particular time.

2 MR. WATERS: Objection to the latter part  
3 as being non-responsive.

4 Q You don't have any recollection, I take it,  
5 before April 9th of 1965 of advising Mr. Semken that  
6 there was a connection between asbestos and lung  
7 cancer and he needed to be aware of it and keep it in  
8 mind in terms of his employees at Rockdale, Texas?

9 A No, I don't remember anything like that.

10 Q So if Mr. Semken gained this knowledge by  
11 1965, about the connection between asbestos and lung  
12 cancer, that's something that he would have done on  
13 his own or he would have gotten from someone else in  
14 the company other than you?

15 A He would, but it's our job to evaluate such  
16 reports as that, not a Semken who is asking for help  
17 or guidance, if you will.

18 Q Do you recall, sir, we discussed an  
19 employee in the 1967-1968 time frame at Rockdale who  
20 was very concerned that the workers were being exposed  
21 to asbestos without an awareness of hazards? Do you  
22 recall that line of questioning?

23 A I think I remember the documents.

24 Q Okay. Great. Let me show you, sir,  
25 Alcoa 52 which is a letter from a physician named

1 Maxwell Boro, located in Bound Brook, New Jersey  
2 Mr. Jack Clark. Do you recall, sir, that Mr. Clark  
3 was the concerned employee?

4 **A I didn't recall, but I am reminded.**

5 Q Okay. Fair enough. And Dr. Boro is  
6 writing apparently in response to Mr. Clark, the Alcoa  
7 employee, his concerns about this asbestos that he and  
8 the other workers are being exposed to, and let me  
9 represent to you that this document was found in the  
10 corporate files of Alcoa. Okay. The doctor talks to  
11 Mr. Clark about the dangers of working with asbestos  
12 in an unventilated shop. Do you see that?

13 **A Yes.**

14 Q And he goes onto state, "In this situation,  
15 I think there would be a very definite hazard  
16 particularly since you are working with asbestos  
17 fiber." Do you see that?

18 **A Yes.**

19 Q Now, sir, understanding that Mr. Clark  
20 wrote away for this information, don't you believe  
21 that this is information that would have properly been  
22 provided by Alcoa to its employees?

23 **A If we felt it was a hazard, yes, it would  
24 be proper.**

25 Q Certainly this doctor indicates that it

1 would be a hazard, doesn't it, sir?

2 **A I don't know who he is or what he knows  
3 about asbestos.**

4 MR. WALKER: I object to the form of the  
5 question, also it assumes that -- your question  
6 assumes that that doctor knew of what was going  
7 on in the workplace whether it was ventilated or  
8 not and the amount of asbestos exposed to.

9 Q Okay. It goes onto recommend to Mr. Clark  
10 that he get yearly chest x-rays, and have such x-rays  
11 read by somebody experienced with the x-ray picture of  
12 pulmonary asbestosis. Do you see that?

13 **A Yes.**

14 Q And that's a recommendation you would have  
15 agreed with, would you not?

16 **A No.**

17 Q Okay. As of 1968, you did not feel it was  
18 necessary for employees who had been exposed to  
19 asbestos to have yearly chest x-rays or other exams?

20 **A No, I didn't say that. I would object to  
21 x-rays for picture of pulmonary asbestosis. I don't  
22 believe that asbestosis was possible by the exposures  
23 they received in our plants.**

24 MR. WATERS: Let me object as  
25 non-responisve.

1 March 7, 19

2 **A Yes.**

3 (Thereupt  
4 marked for

5 Q And it's  
6 dust; is that cor

7 **A Yes.**

8 Q Attached is  
9 received by Mr. Ja  
10 and Dr. Maxwell B

11 letter from Dr. Boro

12 **A Yes.**

13 Q And this is the  
14 very concerned that pe  
15 asbestos at Alcoa Rocke

16 **A Yes.**

17 Q It indicates that D  
18 that's the plant doctor wh

19 **A That's right.**

20 Q -- discussed with Mr  
21 working with asbestos and i  
22 be taken, but apparently he,  
23 wanted outside advice. Do y

24 **A Yes.**

25 Q So Alcoa actually had th

right?  
blems of  
measures to  
Clark,  
year?

"led to ventilate the  
"one outdoors.  
no

268

to

1 Q My question to you  
2 agreed that someone who  
3 asbestos that was being g  
4 air should have had exam  
5 A I just can't respo  
6 that, where these peopl  
7 know.

8 Q Okay. Fair eno  
9 end, "However, the pu  
10 asbestos in the lung, it  
11 later years and cause  
12 and might lead to the  
13 ripple." Did I read  
14 A Yes.

15 Q Now, of cou  
16 's the one that,  
17 e of at least b  
18 That's rig  
19 So as of 19  
20 orking wi  
21 people res  
22 even so  
23 ir eno  
24 men  
25 be

1 talk to Mr.oly  
2 perspective  
3 A That  
4 Q Okay  
5 was in 1968 a piece of  
6 that asbestos comment on that.  
7 MR. WAT  
8 Speculati  
9 A I ha  
10 MR. WAT  
11 THE VIDE  
12 the record  
13 (Reces  
14 THE VIDE  
15 are going  
16 tape 2.  
17 BY MR. WATE  
18 Q Mr. Sem  
19 MR. WALK  
20 Q Mr. Bol  
21 discussing Al  
22 memorandum  
23 situation. Do  
24 A Yes.  
25 Q And if you

10 MR. WAT  
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12 the record  
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15 are going  
16 tape 2.  
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21 discussing Al  
22 memorandum  
23 situation. Do  
24 A Yes.  
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10 MR. WAT  
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15 are going  
16 tape 2.  
17 BY MR. WATE  
18 Q Mr. Sem  
19 MR. WALK  
20 Q Mr. Bol  
21 discussing Al  
22 memorandum  
23 situation. Do  
24 A Yes.  
25 Q And if you

1 looked at where Mr. Semken advised that he  
2 re of the connection?

Do you want me to show you that again?

Yes, if you would.

Q That would be Alcoa 30 where Mr. Semken  
states, "There have been reports of an increased  
incidence of lung cancer." Do you recall that?

A Yes.

Q So, again, sir, my question to you is,  
three years after Mr. Semken at Rockdale recognized  
that there was a connection -- cancer connection, and  
13 years after you first became aware of that  
connection in 1955, Alcoa is still not requiring its  
asbestos exposed workers to wear respiratory  
protection?

A I come back to the same thing I said,  
Semken was aware of reports of it, but whether or not  
it was a fact, I don't know or can't tell whether he  
knew a fact or not. Probably he couldn't, really.

Q Well, sir, do you need to be 100 percent  
certain that a substance causes cancer before you  
think it's necessary to tell your workers to take  
precautions?

A Depends on the material.

Q General question, sir?

1 third paragraph.  
2 working with asbe  
3 respirators are ava  
4 use them." Do yo  
5 A Yes.  
6 Q So at least a  
7 workers who were  
8 according to this m  
9 you agree with that  
10 A Well, advise  
11 exactly semantics  
12 message here not  
13 Q And that's pr  
14 1968, Alcoa was not  
15 around this material,  
16 no requirement that  
17 correct?  
18 A At that point  
19 Q And, again, if  
20 no exhaust system or  
21 jobsite which would  
22 workers?  
23 A I don't know  
24 there wasn't  
25 Q Well, read on.

1 A Carcinogen is not a carcinogen is not a  
2 carcinogen. There are all different kinds. There are  
3 certain potent ones and there are certain that are --  
4 take a hefty exposure before it's a problem. One must  
5 know the dose before one can evaluate the hazard.

6 MR. WATERS: Objection, non-responsive.

7 Q You have already told us that the TLV  
8 doesn't apply to cancer. Do you recall that  
9 testimony? Did not apply to cancer?

10 A I can't say it did not apply to cancer.  
11 The threshold limit value was established with the  
12 recognition that it caused asbestosis.

13 Q Well, in fact, did you not testify earlier,  
14 sir, that TLV's generally were not to prevent the  
15 causation of cancer but rather to stop the development  
16 of non-malignant diseases?

17 A Oh, no, no. Certainly, when you were  
18 talking about asbestos, that would be true, it was  
19 designed to prevent asbestosis, but there are other  
20 materials that were known carcinogens at the time that  
21 did have a limit based on the carcinogenic potential.

22 Q It says, "Mr. Clark uses his respirator at  
23 all times when there is an exposure to asbestos but  
24 the others generally do not." Do you see that?

25 A Yes.

1 Q And one of the reasons the other workers  
2 would not use respiratory protection is because they  
3 were not required to do so by Alcoa; isn't that a  
4 fact?

5 A Yes. They did not feel it was necessary to  
6 require a mandatory respiratory protection.

7 Q And if Alcoa had been telling all of its  
8 workers by 1968 what it had known for at least  
9 13 years that there was a connection between asbestos  
10 and cancer, don't you believe that the workers would  
11 have been more likely to take precautions and wear  
12 respiratory protection?

13 MR. WALKER: I object to the form of the  
14 question. It assumes facts not in evidence that  
15 Alcoa was aware of for 13 years of such a  
16 connection.

17 A That's where I am from. I don't know that  
18 we did recognize that serious cancer potential until  
19 much later on.

20 MR. WATERS: Objection, non-responsive.

21 Q You have told us, sir, that Alcoa was aware  
22 of at least the possibility of a connection between  
23 asbestos and cancer at least by 1935; correct?

24 A No. I can't deny that there may have been  
25 reports in the literature.

1 Q Of which Alcoa was aware?

2 A We may have read.

3 Q So now you are telling this jury that you  
4 are not certain if Alcoa knew about the Doll report  
5 when it came out; is that your testimony?

6 MR. WALKER: Objection, it has been asked  
7 and answered.

8 A I specifically don't remember reading that  
9 Doll report, but I do know that at least in abstract  
10 form it was available to us.

11 Q All right. And that was 1955; correct?

12 A Right.

13 Q 1955 is 13 years before 1968; correct?

14 A Yes.

15 Q And can you think of any reason in 1968 why  
16 Alcoa was not telling workers like Mr. Clark there are  
17 reports -- there are studies out there that say this  
18 stuff can cause cancer?

19 A Well, this stuff that we have been involved  
20 with is chrysotile, and the cancer relationship, at  
21 least at the beginning, was crocidolite. It was  
22 considered different animals, if you will.

23 Q So it's your opinion, sir, that Alcoa did  
24 not tell its workers about the cancer connection  
25 because somehow it felt that it was using safe

1 asbestos. Is that your testimony?

2 A It was not as hazardous as crocidolite,  
3 yes, as crocidolite.

4 Q Okay. It may not have --

5 MR. WALKER: Excuse me. I don't know that  
6 he is finished with the sentence.

7 Q I am sorry.

8 A And the relationship, at least in our  
9 minds, was not firmly cemented, and it took the  
10 following studies such as Selikoff and others to  
11 really say that Doll's study is really good, is really  
12 right, so pay attention.

13 MR. WATERS: Okay. Objection to the  
14 non-responsive portion. Can you read back the  
15 very first part of his answer, about ten words  
16 long, something like that?

17 (Record read.)

18 Q You recognized in this time frame, sir,  
19 that all types of asbestos were considered hazardous,  
20 but you considered one particular type, crocidolite,  
21 to be a greater hazard; is that a fair statement?

22 A Yes. There were different limits  
23 established for them.

24 MR. WATERS: Objection to everything after  
25 "Yes," as non-responsive.

1 Q And you recognized also, did you not, sir,  
2 at Alcoa, that the different varieties of asbestos had  
3 been associated with the occurrence of cancer?

4 A At that particular time, I am not certain,  
5 but certainly today I recognize that.

6 Q Well, you recall, certainly, that by 1964,  
7 with the publication of the Selikoff cancer studies,  
8 Dr. Selikoff came to the foreground as being a  
9 significant, if not the most significant asbestos  
10 researcher?

11 A Yes. He gained a good bit of publicity for  
12 that.

13 Q Well-known and respected not only by  
14 industrial hygienists and physicians at Alcoa but  
15 worldwide as being one of the predominant, if not the  
16 predominant physician doing asbestos research?

17 A You are looking for a response?

18 Q Yes, sir.

19 A He was renowned?

20 Q Yes.

21 A Yes.

22 Q Certainly he had the type of expertise that  
23 you at Alcoa would rely on in formulating your own  
24 policies and procedures in trying to do things in as  
25 safe a fashion as possible?

1 A Yes. He seemed to be a good investigator,  
2 but he was dealing with the asbestos industry not the  
3 aluminum industry.

4 Q Let me show you what is attached to  
5 Mr. Semken's memo, Alcoa 53, which is the letter that  
6 Dr. Selikoff at the Mount Sinai Hospital sent to  
7 Mr. Clark. Apparently Mr. Clark must have given it to  
8 Mr. Semken or someone at Alcoa. Do you see that, sir,  
9 on the Mt. Sinai Hospital letterhead?

10 A Yes.

11 Q And he writes -- Dr. Selikoff writes,  
12 "Present information would suggest that many of the  
13 varieties of asbestos may be associated with the  
14 occurrence of cancer in humans." Do you see that?

15 A Yes.

16 Q Dr. Selikoff doesn't make any distinction  
17 in his letter with respect to one type causing cancer  
18 or the other type not causing cancer, does he?

19 A No. He is on the cutting edge.

20 Q And in fact, he states -- let me object to  
21 the non-responsive portion. In fact, Dr. Selikoff  
22 states, "There is insufficient information concerning  
23 whether one type would be more dangerous than  
24 another." Do you see that?

25 A Yes.

1 Q Okay.

2 A That doesn't agree with the literature.

3 MR. WATERS: Object to the non-responsive  
4 portion.

5 Q So as of February 29, 1968, or March 1968  
6 when Mr. Semken creates this memo, Alcoa has been told  
7 by the renowned, to use your word, Dr. Selikoff, that  
8 there is insufficient information whether one type  
9 would be more dangerous than another, you would agree  
10 with that, wouldn't you, sir?

11 A Today, I would. I wouldn't then.

12 MR. WATERS: Objection, non-responsive.  
13 Can you read the question back to him?

14 (Record read.)

15 A I say again, no, I wouldn't necessarily  
16 agree with that, because the threshold limit committee  
17 didn't agree with it.

18 MR. WATERS: Objection, non-responsive.

19 Q Please listen to my question and try it  
20 again. As of March 1968, this document confirms that  
21 the renowned, respected asbestos researcher,  
22 Dr. Selikoff, has in effect told Alcoa that there is  
23 insufficient information concerning whether one type  
24 would be more dangerous than another. You would agree  
25 with me, sir, that Alcoa is aware of that information

1 as of March 7, 1968?

2 A Of that information, what Selikoff says?

3 Q Yes, sir, since it's attached to an Alcoa  
4 memorandum?

5 A Somebody was aware of it. I have no reason  
6 to know whether I did or did not see that particular  
7 one.

8 Q And certainly your superior, the head of  
9 industrial hygiene, Dr. Cralley, was aware of that  
10 since he was copied on this memo --

11 A Yes.

12 Q -- this confidential memo, do you see that?

13 A Yes.

14 Q Now, in your discussion, sir, with Alcoa  
15 attorneys in preparing for your depositions, did you  
16 discuss the idea that Alcoa could try to take the  
17 position that there was a difference between different  
18 types of fibers and perhaps that would explain why  
19 Alcoa continued to expose its workers to asbestos  
20 until the '70's?

21 A I don't think we had any discussions of  
22 that nature at all. Our concern -- our main thoughts  
23 were that exposures were not sufficient for us to be  
24 of any concern, great concern, if you will.

25 Q Well, you have already told us, I think, in

Page 284

1 your previous deposition that there was sufficient  
2 information to have some level of concern in the  
3 1950's, but it didn't approach a level of concern that  
4 led Alcoa to take any proactive steps until the  
5 '70's. Do you recall that?

6 **A Any heroic steps, but we did take, over the**  
7 **years, some steps to minimize exposures as this letter**  
8 **about marinite will reveal.**

9 Q You have not seen anything, in all the  
10 documents that Alcoa has provided to you, where anyone  
11 at Alcoa wrote to Dr. Selikoff or to anybody else and  
12 requested confirmation that somehow one type of fiber  
13 was less hazardous than another?

14 **A Any research done by Alcoa on that issue?**  
15 **No. We relied on the ACGIH.**

16 MR. WATERS: Objection to the  
17 responsiveness. Everything after "No."

18 Q Okay. Let's get these back in sequence.

19 Let me show you 54, Alcoa 54, which is in  
20 response to Mr. Semken's memo, again, a confidential  
21 memo from Dr. Cowell, regarding exposure to asbestos  
22 dust. "In view of the increased interest of unions  
23 and government in occupational safety, hygiene and  
24 health, I think you can expect more inquiries such as  
25 that from Mr. Clark. There is no way we can prevent

1 working around could  
2 result in an increased  
3 **A An increased?**  
4 **themselves, would they,**

5 Q Sure, because  
6 bothered to tell its e  
7 the plant could caus  
8 those employees pref  
9 enough to take some

10 MR. WALKER: (C  
11 question. It as  
12 that the use of  
13 cause -- was su

14 Q You can ar

15 **A Try that**  
16 **(Record r**

17 **A Very like**  
18 **what the doctor**  
19 **about the haz**

20 MR. WATERS:

21 non-respons

22 Q General  
23 you will agree  
24 advised of all  
25 which they an

Page 285

1 employees from contacting outside people other than by  
2 improving our own programs and conditions to the point  
3 were they have confidence in us." Did I read that  
4 correctly?

5 **A Yes.**

6 **(Thereupon, Alcoa Exhibit No. 54 was marked**  
7 **for identification.)**

8 Q Why would Alcoa want to prevent its  
9 employees from contacting outside doctors?

10 **A I don't know that they would want to**  
11 **prevent contact with the outside doctors as much as**  
12 **they would much prefer to get counsel from in-house.**

13 Q They would rather the concerned employees  
14 get their advice from Alcoa itself or from the Alcoa  
15 doctors?

16 **A Yes.**

17 Q And that advice, as of 1968, would that  
18 advice have included or should it have included the  
19 fact that asbestos could be related to cancer?

20 **A I don't know that.**

21 Q You don't know?

22 **A At that time whether that would be an**  
23 **appropriate message.**

24 Q Well, you will agree with me that if the  
25 message had been in 1968, this asbestos you are

1 **A Today**

2 Q Well,  
3 Alcoa was at  
4 employees v  
5 told them at

6 **A If th**  
7 **a real pote**  
8 **everything**  
9 **to either n**  
10 **believe th**  
11 **developin**  
12 **question**

13 MR. W

14 non-r

15 Q T

16 employe

17 not advi

18 working

19 **A**

20 they u

21 produ

22 Q

23 use of

24 those

25 the w

1 Oh, yes, I think  
2 may have.

3 MR. WATERS: Obj  
4 as non-responsive.

5 Q Okay. Let's s  
6 I show you Al

7 Mr. Semken at Rock  
8 Pittsburgh. Is that a

9 that off? Okay. Pa  
10 Under "Pot Room A

11 grievance contendin  
12 pot rooms are hazar

13 and that the compa  
14 these conditions be

15 in the pot rooms." A Yes.  
16 (Thereupon,

17 for identificat  
18 Q Do you re

19 level of concern  
20 concerning dust

21 A Yes, I an  
22 Q And we

23 not, sir, from s  
24 least in the pot

25 used for lining  
1 A Yes, th

2 that is confir  
3 MR. WATE

4 portion.  
5 Q Are ye

6 response to  
7 employees? rectly?

8 response to th  
9 A Gener

10 incident, but  
11 considerable  
12 production pr

13 up through th  
14 Q Look at

15 February 20, 1  
16 Point Comfort  
17 collecting syste

18 pot repair and f  
19 are inadequate.  
20 you see that?

21 A Yes.  
22 (Thereupon?

23 for identific  
24 Q That wou

25 ve, sir, that that reputation  
the health effects of asbestos that  
over the years up until that

1 sir, with the handwritten memo that we looked at  
2 earlier that said no precautions either for marinite  
3 or other asbestos materials were taken until '69, or  
4 so; this would be consistent with that, would it not?

5 A Yes. But as I recall, they were required  
6 to wear respiratory protection. I think in one of the  
7 previous memos that was covered.

8 Q At Point Comfort?

9 A At Point Comfort, I thought.

10 Q Let's look at Alcoa 57, a Rockdale document  
11 Mr. McGregor at Rockdale is referring to purchasing a  
12 small dust collector to use with dry cutting in the  
13 brick shed. Do you see that?

14 A Yes.

15 (Thereupon, Alcoa Exhibit No. 57 was marked  
for identification.)

16 Q And there is a memo attached from yourself  
17 Mr. Semken, dated January 9, 1970, where you  
18 indicate a concern that asbestos dust exhausted out of  
19 doors was blown back into the working area through the  
20 doors. Do you see that?

21 A Yes.

22 Your concern there, I presume, was that the  
23 dust when blown back into the building  
24 is a health hazard for the workers continuing to

1 Yes.

2 in fact,

3 aware of p

4 were exposed

5 about that, as we

6 there was a job

7 ential, yes. T

8 we know

9 nuisance m

10 at there is

11 g occupati

12 of just hor

13 WATERS: O

14 responsive p

15 ell me why

16 es that -- u

17 se employe

18 with or a

19 If we didn

20 e it would

21 tion of ca

22 What if it

23 the materi

24 circumstan

25 orkers sho

1 used for lining

2 A Yes, th

3 that is confir

4 MR. WATE

5 portion.

6 Q Are ye

7 response to

8 employees? rectly?

9 response to th

10 A Gener

11 incident, but

12 considerable

13 production pr

14 up through th

15 Q Look at

16 February 20, 1

17 Point Comfort

18 collecting syste

19 pot repair and f

20 are inadequate.

21 you see that?

22 A Yes.

23 (Thereupon?

24 for identific

25 Q That wou

1 ide the building?

2 could provide that potential, yes.

3 you know, asbestos now enjoys a

4 well publicized reputation. Even without

5 response to, it would merit some respect." Did I

6 employees? rectly?

7 response to th

8 A Gener

9 incident, but

10 considerable

11 production pr

12 up through th

13 Q Look at

14 February 20, 1

15 Point Comfort

16 collecting syste

17 pot repair and f

18 are inadequate.

19 you see that?

20 A Yes.

21 (Thereupon?

22 for identific

23 Q That wou

24 ve, sir, that that reputation

25 the health effects of asbestos that

1 time?

2 **A Well, it required regular attention, there**  
3 **is no question of that, but just in the context here,**  
4 **there is an indication that that terrible and well**  
5 **publicized reputation did not necessarily apply at**  
6 **least in full to our operations.**

7 MR. WATERS: Objection, non-responsive.

8 Can you read that one back to him?

9 (Record read.)

10 MR. WALKER: I lost it.

11 (Record read.)

12 MR. WALKER: Again, I object. It has been  
13 asked and answered, and instruct the witness if  
14 he wants to adopt his previous answer, if he  
15 thinks he sufficiently answered it, he can.

16 Q My question simply put, sir, is if whether  
17 you feel that that terrible and well published  
18 reputation was warranted by what you knew at that time  
19 when you wrote this phrase?

20 **A When I wrote that, I would say that I**  
21 **wasn't certain that it should have as extreme, a**  
22 **terrible and well publicized reputation, but certainly**  
23 **it was of more concern than it had been in the past,**  
24 **yes.**

25 Q So you at Alcoa, at least as of 1970, felt

1 like the reputation of asbestos was actually worse  
2 than the effects of asbestos really were?

3 **A A little bit of that, and also we still**  
4 **felt it applied primarily to the asbestos industry.**

5 MR. WATERS: Okay. Objection to everything  
6 after "A little bit of that."

7 Q Are you familiar with the Chlorine  
8 Institute, sir?

9 **A Yes.**

10 Q What is that organization and how does  
11 Alcoa relate to it?

12 **A Well, professional organization of**  
13 **manufacturers who produce chlorine, and at one time,**  
14 **Alcoa did produce chlorine at our Point Comfort Works.**

15 Q Let me show you Alcoa 58, which is a  
16 document dated March 3, 1971, indicated to be  
17 privileged and confidential. It's an environmental  
18 health committee report on asbestos. Do you see that?

19 **A Yes.**

20 **(Thereupon, Alcoa Exhibit No. 58 was marked**  
21 **for identification.)**

22 Q Let me represent to you that this was found  
23 among the archives of Alcoa. Just follow with me, if  
24 you will. "Asbestos dust has long been recognized as  
25 a health hazard." Do you see that?

1 **A Yes.**

2 Q You, of course, would agree with that,  
3 wouldn't you?

4 **A Uh-huh.**

5 MR. WALKER: Again, I am going to object to  
6 the question of this document. I don't think it  
7 has been properly identified or authenticated.

8 Q "An additional hazard encountered by  
9 workers exposed to high asbestos concentrations is a  
10 rare type of cancer, mesothelioma. In the general  
11 population, one person in 10,000 dies of mesothelioma.  
12 The mesothelioma death rate for asbestos workers is  
13 one in ten." Did I read that correctly?

14 **A Yes.**

15 Q Do you recall learning, sir, at some point  
16 in time that ten percent of asbestos workers, people  
17 working with asbestos products, ten percent of them  
18 were dying of this fatal type of asbestos cancer?

19 MR. WALKER: I object to the form of the  
20 question, because it's ambiguous. You are  
21 talking about asbestos workers and people who  
22 work with asbestos. I don't know if you are  
23 referring to the same type of person or two  
24 individual groups.

25 MR. WATERS: Same type.

1 **A Even so, I don't know about the**  
2 **percentages.**

3 Q My question -- I am sorry, sir, maybe my  
4 question wasn't clear. What I am asking, sir, is if  
5 you recall in this time frame learning that the  
6 mesothelioma death rate for persons working with and  
7 around asbestos was as high as ten percent?

8 **A No. I say again, I don't know about the --**  
9 **I wasn't aware of those numbers. I am not sure**  
10 **whether that's correct or not.**

11 MR. WATERS: Let me object to the latter  
12 sentence as being non-responsive.

13 Q Certainly you would agree with me, sir,  
14 that if ten percent of asbestos workers, people  
15 working with and around asbestos insulation materials,  
16 if ten percent are dying of this asbestos cancer,  
17 that is a very, very significant number?

18 **A You are mixing apples and oranges here.**  
19 **Asbestos workers doesn't necessarily mean people who**  
20 **work with asbestos on an infrequent basis.**

21 MR. WATERS: Objection, non-responsive.  
22 Will you read the question back?

23 (Record read.)

24 MR. WALKER: Again, I object to -- it  
25 contains facts not in evidence and as such is

ng.

I could agree with what you said, then I say, yes, I would agree.

R. WATERS: Objection, non-responsive.

Q You have already told us and you told this jury that you are not familiar with the statistics that are quoted here that the mesothelioma death rate for asbestos workers is one in ten; correct, sir?

A That's right.

Q However, you will agree with me that if, in fact, the mesothelioma death rate for asbestos workers is one in ten, that is a matter of significant concern?

A Yes, it is for those asbestos workers.

Q And, in fact, that should have been a matter of significant concern in 1971 when this information was available to Alcoa?

A That information was available to us, yes.

Q And you will recall, I believe, sir, that Dr. Selikoff in his studies of insulators, insulators -- the union was known as the Asbestos Workers Union, people who worked preparing, installing and removing asbestos insulation?

A That's right, day in, day out.

Q It goes on to state, "It's also been shown

1 that asbestos workers who smoke have a death rate from  
2 all forms of lung cancer which is 92 times that of  
3 non-smokers in the general population." Do you see  
4 that?

A Yes.

Q Now, you are generally familiar with that statistic, aren't you, sir, the 92 times increased risk that someone who works with asbestos materials and smokes, that that person will ultimately develop lung cancer?

A Whether it was 92 percent or not, I can't say, but I was aware of that increased risk, and the minimal risk to those who did not smoke.

MR. WATERS: I will object to the latter portion as being non-responsive.

Q I show you what has been marked as Alcoa 59. "On October" -- this is from Mr. Menke at safety and security, confidential memo regarding asbestos. "On October 13, 1971, the attached clipping was found on the bulletin board in the carbon plant." Okay. And then there is the attached clipping right here. Do you see that?

All right. "A few minutes later, a brick mason stopped me in Building 58 and complained at length about the indiscriminate use of asbestos shorts

1 in patching baking furnaces." Do you see that?

A Yes.

(Thereupon, Alcoa Exhibit No. 59 was marked for identification.)

Q Do you recall, sir, that in the 1971 time frame, Alcoa was still indiscriminately using asbestos fiber to patch the baking furnaces?

A No, I don't know what he means, "indiscriminate use."

Q It says, "Mr. Clark" -- and this is the same Mr. Clark that was so concerned previously and asked Alcoa to please do something about the asbestos problem; isn't that the same gentleman?

MR. WALKER: I object to the form of the question, assumes facts not in evidence.

A The same gentleman, same name.

Q All right. "Mr. Clark complained later strongly that the air in the furnace room was contaminated with asbestos since the blanket material was being recycled through the system repeatedly." Do you see that sentence?

A Yes.

Q Now, Mr. Clark has a right to be concerned about the working conditions that he has to face at Alcoa, doesn't he?

A He certainly does.

Q And you wouldn't be critical of Mr. Clark for seeking some explanation, asking "Please, can't we do something about this problem"? You wouldn't be critical of that, would you, sir?

A If it were a real problem, no, I would not be critical.

Q Okay. Now, the clipping to which this security officer, Mr. Menke, refers in this confidential memo is attached, and it's entitled "Asbestos Controls Called For." Do you see that?

A Yes.

Q Now, can you tell us why Mr. Menke would have removed this clipping from the bulletin board, this clipping that concerned the hazards of asbestos?

MR. WALKER: I object, assumes facts not in evidence. There is no evidence that he removed it from the bulletin board

MR. WATERS: He couldn't have attached it unless he removed it.

MR. WALKER: Other than to make a copy.

A Well, that's what struck me.

Q You want the question read back, sir?

A No. I don't know why he removed it, other than to make a copy.

1 Q Well, in fact, all the other documents that  
2 we have been looking at, they are not copies, they are  
3 mimeographs, aren't they? That's what you guys were  
4 doing back in the late '60's and early '70's? Xerox  
5 machines did not predominate as they do presently.

6 Can't you see how this memorandum is a  
7 mimeograph copy?

8 A Might be.

9 Q Well, do you see, sir, the stamp for the  
10 carbon where it says "Copy"?

11 A Yes.

12 Q You do remember that? I barely remember  
13 it, but I am sure you have a pretty good recollection  
14 of carbon copies and mimeograph machines. Do you  
15 recall that?

16 A Oh, yes. I don't know how you can tell one  
17 from the other.

18 Q Well, it says, "Copy," so you can tell that  
19 at least Mr. Bonney received a copy of this memorandum  
20 along with the attached clipping that was removed from  
21 the bulletin board. Do you see where you received  
22 that?

23 A All right.

24 Q And let's take a look at what this article,  
25 that the security officer, Mr. Menke, removed from the

1 bulletin board, let's take a look at what it says, in  
2 particular, "The National Research Council has  
3 declared that asbestos dust poses a health hazard for  
4 the general public and called for new stringent  
5 controls to keep it out of the atmosphere." Do you  
6 see that?

7 A Yes.

8 Q So the National Research Council has gone  
9 way beyond being concerned about asbestos workers or  
10 people exposed in the workplace, they now recognize,  
11 as indicated in this article, that the general public  
12 may be at risk because of asbestos hazards. Do you  
13 see that?

14 MR. WALKER: Do you want to read the entire  
15 article before you answer any questions?

16 A I would like to see what -- where they are  
17 going with the article.

18 Q Let -- I am just asking you about this  
19 first phrase. Would you agree with what I stated?

20 MR. WALKER: Could you -- do you remember  
21 the question? It's my recollection the question  
22 was -- you were asking what they were intending  
23 to do by that article. He can't do that without  
24 reading the entire article.

25 Q Read the entire article and then she can

1 read the question back to you.

2 (Record read.)

3 A Yes, I do.

4 Q And, again, in the second paragraph of this  
5 article, that was removed from the bulletin board, it  
6 states, "Prolonged inhalation of dust by asbestos  
7 workers has been linked to the disabling and sometimes  
8 fatal lung disease, asbestosis, and to chest and  
9 abdominal cancer." Do you see that?

10 A Yes.

11 Q It goes on to state that "In the absence of  
12 controls, the report warned that concentrations of  
13 airborne asbestos in some localities might approach  
14 those encountered by workers in the asbestos  
15 industry." Do you see that?

16 A Yes.

17 Q Do you agree with that, sir, that without  
18 adequate ventilation controls, concentrations could be  
19 as high as those encountered by workers in the  
20 asbestos industry?

21 A I don't know. I don't know what they are  
22 talking about there.

23 Q It indicates that "A major source of  
24 exposure is the dust from the demolition of industrial  
25 and commercial buildings where asbestos was used for

1 insulation and in wallboard." Do you see that?

2 A Yes.

3 Q Would you agree with me, sir, that that  
4 would be a serious source of potential exposures,  
5 demolition or rip out or tear out of insulation  
6 materials?

7 A Demolition, yes. Tear out, maybe yes,  
8 maybe no.

9 Q Now, if this article had remained on the  
10 bulletin board in the carbon plant, where it was  
11 anonymously placed, apparently, then a significant  
12 number of Alcoa workers might have had an opportunity  
13 to read it. Would you agree with that?

14 MR. WALKER: I object to the form of the  
15 question, assumes facts not in evidence, such as  
16 it was removed and not replaced or that it was  
17 even put there anonymously.

18 Q Can you answer, sir?

19 A Well, any article on the bulletin board  
20 stands a chance of being read by the employees.

21 Q And the more quickly it's removed from the  
22 bulletin board the less employees are going to have a  
23 chance to read it; isn't that right?

24 MR. WALKER: Again, I object to the form of  
25 question. It tends to assume facts not in

1 evidence.

2 Q You can answer, sir.

3 A Yes. Some implications there that I don't

4 know whether I could agree or disagree.

5 Q Well, you certainly can agree with me, sir,

6 that the longer -- the less amount of time that

7 article was posted on the bulletin board, the lesser

8 number of workers had a chance to read it; you would

9 agree with that, wouldn't you? It's common sense.

10 A It's possible, yes, but I don't know how

11 early it was pulled off.

12 Q Let's take a look at Alcoa 60, which is a

13 memorandum from George Farrah to the industrial

14 hygienists, I take it that would include yourself,

15 in this April 1972 time frame?

16 A No, it wouldn't be to me.

17 Q Would it -- it would have been to the

18 industrial hygienists at the plant?

19 A That's right.

20 (Thereupon, Alcoa Exhibit No. 60 was marked

21 for identification.)

22 Q Now, the OSHA standards came out and became

23 effective in July of 1972; is that correct?

24 Is that your approximate recollection?

25 A It's in that time frame, yes.

1 Q It indicates, "All operations involving

2 asbestos should be critically inspected." Do you see

3 that?

4 A Yes.

5 Q And you could certainly agree with that

6 admonition and requirement by April 1972?

7 A Absolutely.

8 Q "In many cases, it will not be necessary to

9 collect samples and count fibers to recognize that

10 concentrations are too high." Do you agree with Mr.

11 Farrah's statement there?

12 A Yes.

13 Q "If inspection of operation shows a visible

14 dust cloud or if there is a layer of asbestos dust on

15 surrounding surfaces, control measures must be

16 instituted at once." And you will agree with that,

17 won't you, sir?

18 A Yes.

19 Q "If there is visible dust resulting from

20 the operation, then the OSHA requirements" -- "all of

21 the OSHA requirements need to be met and adhered to,"

22 and under those circumstances, it's not even necessary

23 to have monitoring results, you know that you have got

24 a hazard?

25 A Yes. Yes, because the limits had been

1 reduced.

2 MR. WATERS: Objection to everything after

3 "Yes." Non-responsive.

4 Q And then it goes on to tell the industrial

5 hygienists at the plants that "Many of these measures

6 are specified in the Federal Register of Tuesday

7 December 7, 1971," and that's where they should look

8 so they know precisely what they are supposed to do to

9 follow the federal laws concerning this hazardous

10 substance; correct?

11 A Right.

12 Q Here's a memo, Alcoa 61, from yourself to

13 Mr. Woodward in Vancouver dated July 6, 1972. Do you

14 see that?

15 A Right.

16 (Thereupon, Alcoa Exhibit No. 61 was marked

17 for identification.)

18 Q And that's just about the effective date,

19 maybe off by one day, when the OSHA regulations took

20 the force of law, came into being; is that correct?

21 A Yes.

22 Q And you -- the reference that you make is

23 to marinite dust control. In your May report of air

24 and water pollution control, "I noted the results of

25 efficiency tests of rotoclone and scrubbers in

1 controlling marinite dust. If your rotoclone

2 discharges into the working area, it is important that

3 the asbestos fiber content of the discharge be below

4 the present standard of five fibers per cc." Did I

5 read that correctly?

6 A Yes.

7 Q And you knew and all of Alcoa, in terms of

8 the industrial and hygiene folks and the safety folks,

9 should have recognized by July of 1972 that if there

10 is any potential exposure to asbestos dust, monitoring

11 needs to be completed to determine the precise level;

12 correct?

13 A Right.

14 Q And you also knew and we saw in the

15 previous memo that the only time you didn't need to do

16 monitoring was if you saw a visible amount of dust

17 because then you knew for certain that you would be

18 over the limit and need to follow all the other

19 regulatory requirements?

20 A Right.

21 Q And after 1972, after July 6 -- July 7,

22 1972, in the event that there were exposures to

23 visible dust, in the context of new construction, or

24 tear out, or whatever, then according to the

25 regulations and according to Mr. Farrah's

1 interpretation of the regulations, all of the  
2 requirements would apply of the act, of the OSHA --

3 **A Absolutely.**

4 MR. WALKER: Excuse me. I object to the  
5 form of the question, because it assumes facts  
6 not evidence. I think we are talking about  
7 potential of dust containing asbestos and not  
8 dust in general.

9 Q Sir, am I correct that your answer to my  
10 last question was absolutely?

11 **A Yes. We had to comply there, if there was**  
12 **a regulation, and we had to comply with it.**

13 Q And in the event that, after 1972, at any  
14 Alcoa facility, workers were exposed to visible dust  
15 containing asbestos without respiratory protection,  
16 that would be a violation of OSHA; correct?

17 **A Not necessarily, no. You are talking time**  
18 **weighted averages here.**

19 Q Sir, you have already told this jury that  
20 if there was visible dust in the air, it would be  
21 known and could be assumed that the permissible  
22 exposure levels were being exceeded. Do you recall  
23 that testimony?

24 **A The concentrations of the permissible limit**  
25 **could be exceeded. One would have to look at the**

1 **eight hour time weighted average as -- which is what**  
2 **the standard is based upon.**

3 Q Well, Alcoa can't look at the eight hour  
4 time weighted average if it doesn't ever bother to do  
5 any monitoring, at all, does it, of a particular  
6 operation?

7 **A Well, certainly they can observe it for a**  
8 **sufficient length of time, but in early days, we had**  
9 **no method to measure it, as we had here, that could**  
10 **make meaningful measurements.**

11 Q If there is any exposure going on after  
12 October of 1972, Alcoa is, under federal law, supposed  
13 to perform monitoring; correct, sir?

14 **A Yes.**

15 Q If visible dust is created and a worker is  
16 exposed after July of 1972, Alcoa has at least  
17 violated the regulations that requires monitoring;  
18 correct, sir?

19 **A No. Again, we have -- if that exposure**  
20 **lasted for a full day, if it lasted less than a day,**  
21 **then we would have to determine.**

22 Q Are you telling this jury, sir, that the  
23 regulations as of 1972 indicated that monitoring only  
24 had to be done if exposures lasted for an entire day;  
25 is that what you are telling this jury?

1 **A No. I am telling you that the standard**  
2 **would be exceeded if the time weighted average was**  
3 **above the permissible exposure limit.**

4 Q You have agreed with me and you have told  
5 this jury that Alcoa was required by federal law to  
6 take samples if there was any potential exposure to  
7 asbestos; correct?

8 **A In this time frame, yes.**

9 Q And Alcoa was required by federal law to  
10 complete dust testing to determine the levels of  
11 exposure, if any exposure was going on; correct?

12 **A That's right.**

13 Q And if, in fact, Alcoa just simply didn't  
14 bother to complete dust monitoring and determine the  
15 levels, then Alcoa would have been in violation of  
16 federal law due to its failure to do the initial,  
17 basic monitoring that you have told us and told this  
18 jury was required?

19 **A Okay. I misinterpreted you there. Yes,**  
20 **there are requirements to sample, per se.**

21 Q And you will agree with me, sir, that the  
22 law is something, especially in the context of health  
23 and safety, that should be followed?

24 **A Yes.**

25 Q And there is no valid excuse for Alcoa or

1 any other corporation to ignore federal requirements  
2 concerning health and safety hazards?

3 **A That's true.**

4 Q Now, you are also aware, are you not, sir,  
5 that many of the significant OSHA requirements that  
6 came into play starting in 1972 concerning use of  
7 respiratory protection, concerning use of local  
8 exhaust ventilation, concerning other types of  
9 personal protective equipment, respirator programs,  
10 change rooms, laundering, caution signs and labels,  
11 putting those up, keeping exposure records of  
12 employees, having employees examined by physicians,  
13 all of those various requirements are triggered by the  
14 level of asbestos found to be in the vicinity of the  
15 workers?

16 **A That's right.**

17 Q And if Alcoa were to perform monitoring of  
18 a particular operation and determine that the  
19 levels -- the PEL's were exceeded, then all of these  
20 other requirements that you have just listed would  
21 come into play and Alcoa would have to follow all of  
22 those, as well; correct?

23 **A That's correct.**

24 Q But if Alcoa chose not to perform  
25 monitoring of a certain operation where visible dust

1 resulted, then Alcoa could take the position that none  
2 of these other requirements clicked in because they  
3 didn't have any record that the PEL was exceeded; you  
4 would agree with that, wouldn't you?

5 **A No. I don't think that would be an excuse**  
6 **for not doing or not complying with the standard. It**  
7 **took time for us to get geared up and learn how to**  
8 **sample and to get equipment to do the sampling.**

9 MR. WATERS: Objection to the  
10 non-responsive portion.

11 Q All right. Sir, you would agree with me  
12 that it would be an improper excuse for Alcoa to say,  
13 "Hey, yes, some of these guys may have been exposed,  
14 but gee, we weren't in a position to actually have  
15 monitoring test results, so we don't need to be  
16 concerned about the remainder of the regulations;"  
17 that would be improper, wouldn't it?

18 **A Yes, it would.**

19 Q And, in fact, as a result of that, would  
20 you agree with me that even if Alcoa isn't in a  
21 position to do monitoring and doesn't do sampling or  
22 monitoring and, therefore, doesn't determine the  
23 levels, if there is visible dust, then they should  
24 follow through and complete all of the requirements  
25 that are found in the OSHA regs that I previously ran

1 through?

2 **A Well, at the -- the least they should do is**  
3 **require personal protection equipment until they found**  
4 **out what exposures were.**

5 Q And if they never bothered to find out what  
6 the exposures are, then you would believe, would you  
7 not, sir, that they should fulfill these other  
8 requirements, as well?

9 **A If they never did that, never did the**  
10 **evaluation, then I would say shame on them.**

11 Q And when you say shame on them, Mr. Bonney,  
12 what you are saying is that if the Alcoa people  
13 responsible at the local level were following these  
14 regulations, failed to conduct dust monitoring as  
15 required under the act, then you would criticize them  
16 in a significant fashion for that failure?

17 **A Yes.**

18 MR. WALKER: Again, I am going to object to  
19 the dust monitoring. I assume the question is  
20 assuming that dust which contained asbestos  
21 material?

22 MR. WATERS: Yes.

23 Q And, sir, you would believe that as of July  
24 1972, at Rockdale, Point Comfort and other Alcoa  
25 facilities, personnel were adequately trained and had

1 been adequately informed -- the safety personnel had  
2 been adequately informed by corporate headquarters  
3 that these requirements existed and that they had to  
4 be followed?

5 **A Yes, they were advised. Whether they had**  
6 **the equipment to do the job -- evaluation at that**  
7 **time, I am not certain.**

8 MR. WATERS: We object to the latter  
9 portion as non-responsive.

10 Q If, in fact, safety and health personnel at  
11 the local level failed to implement the initial  
12 monitoring requirements and other requirements of the  
13 act after July 7, 1972, would you agree with me that  
14 they would have done so knowing that, in fact, these  
15 legal requirements were there, because you and  
16 Mr. Farrah told them?

17 MR. WALKER: I am going to object. It  
18 calls for a legal conclusion.

19 **A If they didn't act, it would have been**  
20 **because they didn't have the equipment and the**  
21 **expertise to sample.**

22 MR. WATERS: Objection, non-responsive.  
23 Can you read that one back to him?

24 (Record read.)

25 **A It's a yes to that.**

1 Q Sir, I want you to assume that between  
2 July 7, 1972 and some time in the 1975 to 1977 time  
3 frame there were a significant number of exposures to  
4 asbestos dust at Rockdale, at which time no monitoring  
5 was completed. Will you agree with me, sir, that each  
6 and every one of those instances would have  
7 constituted a violation of the regulations inasmuch as  
8 at a minimum no monitoring was done?

9 MR. WALKER: Again, I object. It calls for  
10 a legal conclusion and is part of the assumption  
11 that no monitoring was done. Are you saying it  
12 wasn't done?

13 MR. WATERS: I stated that as part of my  
14 question.

15 **A If there was no monitoring done, yes, they**  
16 **would be in violation. It would have been in**  
17 **violation.**

18 Q And if Mr. Whatley at Rockdale or  
19 Mr. Ramirez at Alcoa was exposed to asbestos dust in  
20 that time frame, without protection, and no monitoring  
21 was done, then you would agree with me that in those  
22 instances Alcoa would have been in violation of the  
23 OSHA regulations?

24 MR. WALKER: I object. It calls for a  
25 conclusion, and it doesn't provide sufficient

1 information to properly answer the question.

2 **A Well, it would have been a violation.**

3 MR. WATERS: Let's take a break.

4 THE VIDEOGRAPHER: It's 1:02, we will go  
5 off the record.

6 ---  
7 (Thereupon, at 1:02 o'clock p.m., a  
8 luncheon recess was taken until 2:05 o'clock  
9 p.m.)  
10 ---  
11

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 THE VIDEOGRAPHER: We will go back on the  
3 record after lunch at 2:05.

4 (Thereupon, Alcoa Exhibit No. 61A was  
5 marked for identification.)

6 BY MR. WATERS:

7 Q All right. Mr. Bonney, let me show you  
8 what I have marked as Alcoa 61A, a memorandum from  
9 Mr. Robert Carter to various industrial hygienists.

10 Now, who was Mr. Carter in this time frame, August 1,  
11 1972?

12 **A Robert Carter was a member of our  
13 industrial hygiene staff, the corporate staff.**

14 Q Mr. Carter indicates that he is listing  
15 "All the asbestos containing materials used in our  
16 furnace, smelting pot and casting equipment  
17 construction. We have not made any attempt to include  
18 here the asbestos containing materials that are" --  
19 "which are used for pipe lagging," that would be  
20 insulation; correct?

21 **A Yes.**

22 Q "And other forms of insulation in general  
23 construction." Did I read that correctly?

24 **A Yes.**

25 Q And he indicates, for example, that one of

1 the things they use is asbestos mill board or paper  
2 which is supplied -- indicates the company called  
3 Ruberoid. Do you see that?

4 **A Yes.**

5 Q And that's indicated to be 50 percent or  
6 more asbestos content, that product?

7 **A Yes.**

8 Q Also talks about Kaylo, calcium silicate  
9 asbestos combination. Do you see where the asbestos  
10 content is indicated to be 10 to 15 percent?

11 **A Yes.**

12 Q Do you recall earlier in the deposition  
13 today where we reviewed Alcoa documentation that  
14 suggested that the asbestos content of calcium  
15 silicate was 6 to 8 percent as opposed to this  
16 10 to 15 percent?

17 **A Yes.**

18 Q He goes on to state, "We are going to be  
19 looking at refractory insulating materials for free  
20 silica content. That has not yet occurred." Do you  
21 see that?

22 **A Yes.**

23 Q Here's a memo, February 13, 1973 from the  
24 same Mr. Carter regarding NIOSH training courses,  
25 sampling and evaluating airborne asbestos dust?

1 **A Right**

2 Q For the record this is Alcoa 63.

3 Paragraph No. 2, "As you may know, some of  
4 our operating locations have encountered difficulties  
5 in making asbestos fiber count determinations as  
6 required under the provisions of the worker exposure  
7 standard for asbestos issued by OSHA in June of 1972."  
8 Do you see that?

9 **A Yes.**

10 **(Thereupon, Alcoa Exhibit No. 63 was marked  
11 for identification.)**

12 Q Do you recall, sir, that in this time  
13 frame, after June 1972, there were some difficulties  
14 in making or completing asbestos fiber count  
15 determinations required under the law?

16 **A Yes. It's really -- it takes a lot of  
17 training and a lot of expertise to do an accurate job  
18 of asbestos counting.**

19 Q It goes on to state, "Since we have  
20 significant asbestos fiber exposures at a number of  
21 our operating locations, it's important that affected  
22 locations be able to make accurate asbestos counts."  
23 You would agree with that statement, wouldn't you?

24 **A Yes.**

25 Q Okay. Would you agree with me, sir, that

1 one of the locations where Alcoa continued to have  
 2 significant asbestos fiber exposures would have been  
 3 Rockdale, Texas?  
 4 **A Yes. As with almost any of the smelters.**  
 5 Q And the same would be true with Point  
 6 Comfort, Texas, in this time frame?  
 7 **A Yes.**  
 8 Q Let me show you what has been marked  
 9 Alcoa 64, U.S. Department of Labor Citation to Alcoa.  
 10 Do you see that, dated March 6, 1973?  
 11 **A Yes.**  
 12 **(Thereupon, Alcoa Exhibit No. 64 was marked**  
 13 **for identification.)**  
 14 Q And it's concerning an aluminum -- or  
 15 smelter in Newburgh, Indiana?  
 16 **A Yes.**  
 17 Q And it indicates, does it not, sir, that  
 18 Alcoa was found to be in violation of the regulations  
 19 concerning wearing protective clothing while being  
 20 exposed to excessive levels of asbestos fiber?  
 21 **A Might I?**  
 22 Q Sure.  
 23 MR. WALKER: While he is looking at that,  
 24 I am going to object. It calls for a legal  
 25 conclusion and states things not in evidence. I

1 think it is a citation and not a fine.  
 2 Q I am sorry. Am I correct, sir, that the  
 3 violation indicated in this column appears to involve  
 4 excessive exposures to asbestos and a failure to  
 5 provide effective engineering controls. Do you see  
 6 that? Failure to provide effective engineering  
 7 controls?  
 8 **A Oh, yes. But that has nothing to do with**  
 9 **asbestos.**  
 10 Q Let me rephrase the question. Let's look  
 11 at item No. 4, that involves a failure to provide  
 12 protective clothing to someone who is being exposed  
 13 above the OSHA levels. Do you see that?  
 14 **A Yes.**  
 15 Q Item No. 6. Okay. Strike that. Okay.  
 16 Let's look at Alcoa 66. Who is  
 17 Mr. R. C. Hinkle at the Baden Works?  
 18 **A Again, he was another one responsible for**  
 19 **industrial hygiene activities at Baden.**  
 20 Q Okay.  
 21 **(Thereupon, Alcoa Exhibit No. 66 was marked**  
 22 **for identification.)**  
 23 **A He was an engineer.**  
 24 Q Okay. And this memo of May 29, 1973,  
 25 Alcoa 66, is being sent to Mr. Caprio who is at the

1 Pittsburgh office?  
 2 **A Right.**  
 3 Q Did Mr. Caprio work for you?  
 4 **A No. No.**  
 5 Q And it appears that, looking at page 2,  
 6 that this information was sent to Mr. Parker at  
 7 Rockdale. Do you see that?  
 8 **A Yes.**  
 9 Q And also to Mr. Carter or Mr. Bonney in  
 10 Pittsburgh. That would be you?  
 11 **A Right.**  
 12 Q And then at the end, there is a table  
 13 entitled, "Predicted Asbestos Dust Concentrations  
 14 Taken from Actual Measurements of Industrial  
 15 Operations." Now, do you have a recollection of  
 16 receiving this document?  
 17 **A I don't remember that one now, no.**  
 18 Q Let's take a look at the second page of  
 19 that chart, which indicates -- let's look at item  
 20 No. 15, "Rip out of materials, dry." In other words,  
 21 in a dry state. That indicates, does it not, sir,  
 22 that the fibers per cc produced by that operation were  
 23 in excess of 200 fibers per cc?  
 24 **A Yes, that's what the letter says.**  
 25 Q And that would be approximately 40 times

1 what the levels were at that time, the PEL's?  
 2 **A Yes.**  
 3 Q Okay. Now, that's a significant hazard, is  
 4 it not, sir, that would result from tearing off old  
 5 pipe covering or old insulation material as described  
 6 in item No. 15?  
 7 **A Yes, it could be. Again, the magnitude of**  
 8 **it would depend on the length of the time the person**  
 9 **was exposed to it.**  
 10 Q But, certainly, if anyone was exposed for  
 11 any length of time to levels this high, that would be  
 12 a significant health concern, and it would certainly  
 13 be in violation of the regulations?  
 14 **A Yes, it would.**  
 15 Q Okay. In fact, if you look at ripping out  
 16 materials that have been wetted down, you still see  
 17 that you are going to get 50 to 70 fibers per cc which  
 18 is more than ten times the acceptable limit. Do you  
 19 see that?  
 20 **A Yes.**  
 21 Q Would you agree with me, sir, that the rip  
 22 out or removal of asbestos insulation in this context,  
 23 in this time frame, would be considered an  
 24 unreasonably dangerous operation?  
 25 MR. WALKER: Excuse me. I am going to

1 object, proper predicate hasn't been laid. You  
2 talk about wet and dry, non-respiratory.

3 MR. WATERS: Let's just talk about it in  
4 the dry context for starters.

5 MR. WALKER: Are you assuming there is no  
6 respiratory protection or ventilation?

7 MR. WATERS: Sure.

8 A Yes. I would say that certainly represents  
9 a potentially harmful exposure if these numbers here  
10 are truly representative, or at least for those  
11 operations that are described there.

12 Q Well, these are the numbers that Alcoa at  
13 least thought were the kinds of exposures that would  
14 result in these operations; isn't that correct?

15 A That's right. I am saying I don't know how  
16 many places they sampled. It might have one from one  
17 plant, it might have been from five. I don't know.

18 Q And certainly, if workers were exposed to  
19 these types of levels, when ripping out dry asbestos  
20 materials, you would be, I would assume, extremely  
21 critical of that practice in this time frame?

22 A Yes, if it were done without protection.

23 Q Well, in fact, at these levels, am I  
24 correct, sir, that the regulations require a number of  
25 different types of protection?

1 A Yes. That's true.

2 Q Such as caution signs, such as actually air  
3 line respirators so air is being pumped, fresh air,  
4 into the men; isn't that correct?

5 A That's right.

6 Q And, in fact, even a dust mask would be  
7 insufficient protection for someone doing this type of  
8 work, because of the high levels that we are talking  
9 about?

10 A It would be inappropriate for exposures of  
11 that magnitude, but what I am saying, they should wear  
12 appropriate protection.

13 Q Right. And in this instance, what we are  
14 talking about, appropriate protection would be air  
15 purifying respirators as described in the OSHA  
16 materials; is that correct?

17 A Yes.

18 Q And if you look at No. 17 with me, where it  
19 just talks about a gentleman's coveralls being covered  
20 with asbestos dust, do you see that?

21 A Yes.

22 Q Even that, on an intermittent basis, would  
23 reach the level of five fibers per cc which is right  
24 on the borderline of being a hazardous situation;  
25 isn't it?

1 A For an eight

2 Q How do you  
3 million particles per

4 A I forget the  
5 good bit of multip

6 Q You are not  
7 this time; is that a f  
8 don't have the recol  
9 expertise, as you sit  
10 analysis?

11 A I wouldn't wa

12 Q Fair enough.

13 Let's look at th  
14 process. Now, it app  
15 that was going to resu  
16 neighborhood of 100 t  
17 that?

18 A Yes.

19 Q And that would l  
20 40 times the allowable  
21 correct?

22 A Yes.

23 MR. WALKER: What

24 MR. WATERS: 66.

25 Q Based on these fig

1 particularly the figures relate  
2 asbestos materials, the 200 pl  
3 you agree with me, that there  
4 in this time frame a significan

5 Alcoa who were being and ha  
6 asbestos above the OSHA stand

7 A If those numbers are n  
8 we have in our operation, yes

9 Q Now, at what point in ti  
10 you feel like it was necessary or  
11 advising Alcoa employees that ti  
12 connection, that asbestos exposu

13 cancer and other types of cancer  
14 A Certainly in this point in  
15 are talking about, the early '70

16 Q So by the time in July of -  
17 of '72, OSHA requirements are out  
18 then, the Alcoa employees should  
19 that problem?

20 A Yes.

21 Q And if, in fact, the evidence  
22 would demonstrate that Alcoa empl  
23 were kept ignorant of those facts thr  
24 frame, that's something that you wo  
25 as a professional industrial hygienist

by  
about  
case  
Rockdale  
at this time  
critical of  
Page 324 - Page 327

1 sentence. "It's important that the employees have  
2 enough knowledge about asbestos so that they will  
3 treat it with respect but without the unwarranted fear  
4 that makes them afraid to even be near it." Do you  
5 see that?

6 A Yes.

7 (Thereupon, Alcoa Exhibit No. 68 was marked  
8 for identification.)

9 Q When you say, sir, "It's important that  
10 employees have enough knowledge about asbestos so that  
11 they will treat it with respect," in your mind, after  
12 1972, that would include telling the worker that this  
13 material causes cancer?

14 A That would be one of the elements, yes.

15 Q Absolutely.

16 Now, sir, am I correct that the OSHA  
17 regulations required Alcoa to advise the employees in  
18 the event that they were exposed over the PEL and over  
19 the action level?

20 A Yes. That was a common provision of those  
21 regulations.

22 Q So that if Alcoa did air monitoring of a  
23 given operation and if the exposure levels were over  
24 five cc -- five fibers per cc for the eight hour day  
25 or above ten fibers per cc per any period of time,

Page 329

Page 331

1 Alcoa was legally obligated to advise those employees  
2 that they had been exposed; is that correct?

3 A That's correct.

4 Q Okay. Let's take a look at Alcoa 69, which  
5 is from Mr. Owen, and it appears a copy came to you  
6 and Mr. Carter. It's indicated -- stamped  
7 "Confidential" in large letters. Do you see that?

8 A Yes.

9 (Thereupon, Alcoa Exhibit No. 69 was marked  
10 for identification.)

11 Q March 28, 1974. And it talks about this  
12 subject, "Reporting of Asbestos Concentrations to  
13 Exposed Employees." Do you see that?

14 A Yes.

15 Q It says, "Mr. Carter of Pittsburgh  
16 Industrial Hygiene advised me today that we are not  
17 obligated to report asbestos concentrations of less  
18 than 50 fibers per milliliter or cc to exposed  
19 employees provided employees exposed in the range of  
20 five to 50 fibers are fitted with appropriate  
21 respiratory protection." Do you see that?

22 A Yes.

23 Q That's simply not true, is it?

24 A I just don't recall the details of the  
25 standard that requires that.

1 signs?  
2 A By the way, up  
3 posters what time  
4 Q If you taken at  
5 same, that the sure that  
6 Alcoa, would be?  
7 the regulation  
8 A Yes.  
9 Q And could there be  
10 any reason that would  
11 satisfy you the federal laws  
12 should not be  
13 A I can't. Well, we don't  
14 Q What if the employees because  
15 want to talk about that, you know, they  
16 that might make it they would cause a  
17 wouldn't make it of that nature, would  
18 labor problem, from your perspective?  
19 that be an appropriate response in  
20 A It may be appropriate at this time, no,  
21 the '40's, but no  
22 there were no appropriate.  
23 Q Let's look at 68, your memo to  
24 Mr. King in Arkansas concerning employee exposure to  
25 asbestos, February 1974, in particular the last  
Page 328 - Page 33

Page 332

1 Q Let me represent to you, sir, that there is  
2 nothing in the standard that suggests that providing  
3 respiratory protection precludes any employer or Alcoa  
4 from telling employees when they are being exposed to  
5 these significant levels of exposure. First let me  
6 ask if you can accept that representation based on  
7 your recollection of the regulations.

8 A No. I don't know. I can't recall exactly  
9 how the standard was phrased.

10 Q Assume with me for the moment, if you will,  
11 that the standard makes no reference -- nowhere in the  
12 standard does it state -- and we can look at this if  
13 need be, but nowhere does it state that the employer  
14 doesn't have to tell the employees they are being  
15 exposed to this cancer causing substance if they  
16 provide them with dust masks. Can you assume that for  
17 the moment?

18 A Okay.

19 Q Assuming that's the case, sir, will you  
20 agree with me that this memo from Mr. Owen, that  
21 discusses what Mr. Carter says, it would be incorrect?

22 MR. WALKER: Again, I am just going to  
23 object to that as strictly hypothetical in  
24 nature. Basically says that something is  
25 incorrect isn't incorrect, so I object to it on

Page 333

1 that nature.

2 A If a person is wearing a respirator, he is  
3 not literally being exposed to 55 fibers per cc.

4 Q All right. Show me in the regulations,  
5 Mr. Bonney, where you see some interpretation that  
6 says Alcoa is perfectly -- it's perfectly appropriate  
7 for Alcoa to expose people to up to ten times the  
8 levels and not tell them. Can you find that for me?  
9 I will give you the regulations and let you take some  
10 time looking at it. Take your time, we will roll the  
11 camera.

12 MR. WALKER: Well, that's fine. Now, are  
13 you representing to the court that you are asking  
14 him to look at -- strictly at these regulations  
15 and not other regulations that might be  
16 applicable?

17 MR. WATERS: Those are the only ones that  
18 are applicable.

19 MR. WALKER: So that's your  
20 representation. Okay. And really they are  
21 not -- I am going to object, you can't read them.  
22 I would be happy to make this an exhibit, but  
23 they are blacked out.

24 MR. WATERS: I think you can read them just  
25 fine. The fact -- problem is you can't find

Page 334

1 something that's not there.

2 MR. WALKER: Object as being argumentative.  
3 I cannot read them, and if you can read 2(i) into  
4 the record, I would appreciate it.

5 MR. WATERS: Wet method, is that what you  
6 are talking? Well, wet method doesn't have  
7 anything to do with what I am talking about.

8 A Right here is --

9 Q "The eight hour time weighted average of  
10 asbestos fibers to which any employee may be exposed  
11 shall not exceed certain levels," and the significance  
12 of that?

13 A As it states, "shall not be exposed." If  
14 they have a respirator, they are not being exposed to  
15 that.

16 Q Oh, I see. So your testimony is that  
17 putting on a respirator means you don't have to worry  
18 about any of these other restrictions, you don't have  
19 to worry about levels or anything? That can't be your  
20 testimony.

21 A That was the interpretation at that time,  
22 that if a man was wearing appropriate personal  
23 protection, then he was not being exposed to the  
24 fibers. Whether that's right or wrong, whether they  
25 interpret that now, I don't know. That was the

Page 335

1 interpretation that Mr. Carter made at that particular  
2 time.

3 Q But you will agree with me, sir, that there  
4 is nothing in the regulations that states that?

5 A That's Alcoa's interpretation of the  
6 regulations.

7 Q And you are not familiar with any of the  
8 language in the regulations that support that, as you  
9 sit here today?

10 MR. WALKER: Objection as argumentative.  
11 He stated that that's his interpretation of what  
12 the regulations say.

13 Q You can answer that question.

14 MR. WATERS: He said that was Mr. Carter's  
15 interpretation.

16 Q You can answer my question.

17 A I don't know whether that was our  
18 interpretation at the time.

19 MR. WATERS: Could you read the last  
20 question back to the witness?

21 (Record read.)

22 A At this point in time, I don't know that  
23 there is anything that denies it or supports it. It  
24 was an interpretation at that time.

25 Q Can you think of any good reason,

1 Mr. Bonney, why employees should not be told that they  
2 are working in and around asbestos dust even if they  
3 are wearing some type of mask?

4 **A They certainly should be told that they are**  
5 **working around asbestos dust. Otherwise, why would**  
6 **they wear the mask?**

7 Q Okay. Workers should be told they are  
8 working around asbestos dust when its producing any  
9 level of exposure; isn't that correct?

10 **A Almost any.**

11 MR. WALKER: Getting back to the  
12 assumption, we are talking about 1998?

13 MR. WATERS: It doesn't matter.

14 Q 1974 any good reason you can --

15 **A Same --**

16 Q Go ahead.

17 **A I was going to say, it would be the same,**  
18 **1974, 1998.**

19 Q In 1974, regardless of what Mr. Carter may  
20 have said, you cannot think of any good reason -- any  
21 appropriate reason to have a policy to avoid telling  
22 workers that they are working in and around asbestos  
23 dust?

24 **A No. No, I can't.**

25 Q To the extent Mr. Carter advises and

1 **Mr. Carter is saying, that if you are wearing a**  
2 **respirator, you are not being exposed in excess of the**  
3 **standard.**

4 Q And in actual fact -- let me object as  
5 non-responsive. It doesn't even say anything about  
6 them wearing respirators, does it? It says that have  
7 been fitted with respirators. Do you see that?

8 **A That's the way I would interpret it.**  
9 **Wearing it.**

10 Q What Mr. Carter apparently said was that  
11 "If employees have been fitted with appropriate  
12 respiratory protection, we don't have to tell them  
13 when they have these significant exposures." That's  
14 what Mr. Carter says, those are his words, are they  
15 not?

16 **A Those are his words, but there is an**  
17 **interpretation required on that.**

18 Q Don't you suppose Mr. Carter would have  
19 used the word "wore," as opposed to "fitted," if  
20 that's what he wanted to convey?

21 **A You chose to use the word "fitted" -- he**  
22 **chose to use the word "fitted," but "fitted," in the**  
23 **limited sense, would make no sense, actually. You**  
24 **have to be wearing a respirator, and that's what he**  
25 **means by being fitted with it.**

1 Mr. Owen's memoranda were received upon -- by Alcoa  
2 personnel to avoid advising employees that they were  
3 working with cancerous substances, you would agree  
4 with me that that would be entirely inappropriate?

5 MR. WALKER: I object. It assumes facts  
6 not in evidence.

7 **A You might want to take another look at that**  
8 **letter to find out exactly how he is stating there.**

9 Q Sure.

10 **A I guess there is a question on the books.**  
11 **(Record read.)**

12 MR. WALKER: Again, objection,  
13 mischaracterization of the document, because it  
14 speaks to reporting maybe to an agency as opposed  
15 to informing an employee.

16 MR. WATERS: No, it doesn't.

17 MR. WALKER: That's my objection.

18 MR. WATERS: It says we don't have to  
19 report it to exposed employees.

20 Q Go ahead.

21 MR. WALKER: That's my objection.

22 **A There is a clarification that's needed to**  
23 **that letter. The notification that you have to**  
24 **provide an employee is that he has been exposed to a**  
25 **limit in excess of the standard. I think this is what**

1 MR. WATERS: Object to the latter portion  
2 as being non-responsive and speculative.

3 Q When you go get fitted for a suit, you go  
4 to the store, you try the suit on, they take the  
5 measurements, and you leave it there for the  
6 adjustments, that's what fitted means, doesn't it,  
7 Mr. Bonney?

8 **A That's one meaning of it.**

9 Q And when you wear a suit, as you are today,  
10 you wouldn't talk about being fitted with that suit as  
11 you sit there, would you?

12 **A I think this is a semantic problem, the**  
13 **problem of semantics we have here.**

14 Q We will let the jury make that  
15 determination, if you would just answer my question.

16 **A The question, please?**

17 Q As you sit here, sir, you are not, are you,  
18 fitted with a suit? You are wearing a suit, would you  
19 agree with that?

20 **A I am wearing a suit, yes.**

21 Q All right. Let's take a look at part of  
22 the act which says, "Employees' Observation of  
23 Monitoring," do you see that, little bit hard to read,  
24 "Affected employees or their representatives shall be  
25 given a reasonable opportunity to observe any

Page 340

1 monitoring required by this program and shall have  
2 access to the results thereof." Do you see that?

3 **A I don't see it but I hear it, and I**  
4 **understand it.**

5 **Q** And you recall that that was one of the  
6 requirements under the act, don't you?

7 **A Yes.**

8 **Q** Now, how in the world are these employees  
9 going to understand that they have a right to observe  
10 the monitoring and have access to the results if  
11 people like Mr. Carter at Alcoa have decided, no, we  
12 gave them respirators, we don't even have to tell them  
13 they are being exposed?

14 **A I cannot agree with your interpretation of**  
15 **that. If Mr. Carter said fitted and he meant fitted**  
16 **per se, I would have climbed all over him. Fitted**  
17 **here means wearing.**

18 MR. WATERS: Objection as non-responsive.

19 Would you read the question back to him?

20 (Record read.)

21 **Q** How are they supposed to know that,  
22 Mr. Bonney?

23 MR. WALKER: How are they supposed to know  
24 that the monitoring is being -- is going on; is  
25 that the question?

Page 341

1 MR. WATERS: How are they supposed to know  
2 that they are entitled to know about the  
3 monitoring.

4 **A They should be told.**

5 **Q** But Mr. Carter is saying we don't have to  
6 tell them. That's what he is saying, isn't he?

7 MR. WALKER: Objection. That's a  
8 mischaracterization of that. That does not have  
9 anything to do with them being told about  
10 monitoring. It has something to do with them  
11 being told something about something else.

12 **A This memo was written in a certain manner**  
13 **that can be interpreted in a couple of different ways,**  
14 **and I would interpret it, from an industrial**  
15 **hygienist's point of view, and that's what he means is**  
16 **to wear, and if you are wearing it, you don't have to**  
17 **tell them they are over exposed, not exposed, over**  
18 **exposed.**

19 MR. WATERS: Objection, non-responsive.

20 **Q** Read with me again. "We are not obligated  
21 to report asbestos concentrations of less than 50  
22 fibers per milliliter to exposed employees." That's  
23 what he says; right?

24 **A That's what it says.**

25 **Q** If workers are not told that they are being

1 exposed to something that is te  
2 they are not going to know or  
3 allowed to know the monitoring  
4 discussed in the OSHA; correct?

5 **A As you interpret that,**  
6 **as I interpret it, no. I think**

7 MR. WATERS: Objection, non-responsive.  
8 Let's read the question one  
9 (Record read.)

10 **A With all those ifs, I w**

11 **Q** You would concede tha  
12 **A With the ifs, with the**

13 **Q** You would agree with  
14 jury in this case interprets thi  
15 Mr. Carter as indicating that  
16 policy to avoid telling emplo  
17 as 50 fibers per milliliter as  
18 fitted with respiratory protec  
19 with the interpretation that  
20 would you agree with me th  
21 policy, this confidential men  
22 totally inappropriate?

23 MR. WALKER: I am going  
24 evades the providence of  
25 speculation.

1 **A If "fitted" means jus**  
2 **worn, yes, it would be a s**  
3 **interpret something like fi**  
4 **right as you suggest.**

5 **Q** Okay. Let me show  
6 as an exhibit, but Alcoa --  
7 letterhead; you see that the

8 **A Yes.**

9 **Q** Engineering Standar  
10 1966. Do you see that?

11 **A Yes.**

12 **Q** And it's the standar  
13 piping vessel and tank insu

14 **A Yes.**

15 **Q** I show you, on the  
16 indicates, as specified ma  
17 "Unibestos Pipe Insulatio

18 **A Yes.**

19 **Q** "The molded unibe  
20 suitable for temperatures  
21 be rigid prefolded pipe in  
22 fibered amosite asbestos  
23 silica binder." It goes or  
24 by Pittsburgh-Corning Cat?

25 **A Yes.**

1 Q Were you aware that the Pittsburgh-Corning  
2 unibestos product is 90 percent pure amosite  
3 asbestos?

4 A No, I didn't. I don't even  
5 remember the product.

6 Q Okay. Fair.

7 I believe you agreed with me, sir,  
8 that if someone is in a position to observe visible  
9 dust from asbestos, that by definition, that  
10 would exceed the established by OSHA?

11 A I don't know that I could  
12 answer that affirmatively.

13 Q Okay. In the earlier document  
14 that we reviewed, it goes that indicated that if  
15 you could observe it, you would know that  
16 you were in a (

17 A Yes, I think something -- seeing  
18 some documents.

19 Q Do you generally, sir?

20 A Not necessarily on what is

21 along with the

22 MR. WATKINS: I want to change

23 the tape.

24 (Recess)

25 THE VIDEO: After changing to

1 tape 3, we heard at 3:15.

2 BY MR. WATKINS:

3 A Mr. Watkins: I have a 70 which

4 is a memorandum well in

5 Pittsburgh, relations of

6 asbestos standards. Do you see

7 that?

8 A Yes.

9 (There is marked

10 for identification)

11 Q Do you, as you

12 sit here?

13 A Not the

14 circumstances

15 Q Fair enough.

16 Point Comfort is of the

17 asbestos standards and

18 molasses. The place

19 between the two is for it

20 in the pot shell

21 A Yes.

22 Q Am I correct

23 employees were or

24 asbestos shortfalls

25 and then insert

1 A Yes.

2 Q Okay. And in using the raw asbestos for  
3 that process, that apparently created some dust; is  
4 that a fair statement?

5 A Never witnessed the operation.

6 Q It says, "The use of asbestos for this  
7 operation has been discontinued since November 22,  
8 1974." Do you see that?

9 A Yes.

10 Q So that means that from July of 1972 until  
11 November of 1974, at Point Comfort, they were using  
12 this raw asbestos material and mixing it in this  
13 format; correct?

14 A Yes.

15 Q So for a year and a half, since the time  
16 the regulations were put in place, they were  
17 continuing to use this procedure, which I think you  
18 would agree with me, in and of itself would be  
19 violative -- would violate the OSHA regulations.  
20 Do you agree with that, sir?

21 A I have no idea what the exposures might be.

22 Q Well, let's take a look. "The OSHA  
23 industrial hygienist did not cite us for exposing our  
24 employee to concentrations of asbestos in excess of  
25 those permissible. Undoubtedly this was because he

1 took no air samples but relied only on visual  
2 observation." Do you see that?

3 A Yes.

4 Q What that means, your notes here, is that  
5 the OSHA industrial hygienist observed some visible  
6 dust resulting from this operation. Do you agree with  
7 that, sir?

8 A What he observed, I don't know.

9 Q You don't recall what you meant when you  
10 created this memorandum?

11 A Let me look at the document here.

12 Okay.

13 Q Does that help you recall, sir?

14 A A little bit.

15 Q Do you believe that to be the case, sir,  
16 that the OSHA industrial hygienist found a violation  
17 not by creating -- or, not by doing some dust sampling  
18 but rather because he observed visible dust?

19 A Well, it doesn't say he observed visible  
20 dust, but he observed the operation, and the  
21 operation, per se, apparently was of a concern to him.

22 Q The operation, per se, this mix of raw  
23 asbestos was the reason Alcoa was found to be in  
24 violation of the asbestos standard; correct?

25 MR. WALKER: Excuse me. I think that

1 mischaracterizes it. I thought he said did not  
 2 cite us for exposure in paragraph two.  
 3 MR. WATERS: Well, whatever.  
 4 Q Can you answer my question?  
 5 MR. WALKER: Do you remember the question?  
 6 **A I just don't know what the basis for that**  
 7 **citation would have been.**  
 8 Q Okay. You do say, however, here,  
 9 "Contesting the citations could at best result in  
 10 reducing their number rather than eliminating them  
 11 entirely." Do you see that?  
 12 **A Yes.**  
 13 Q So you recognized that regardless of  
 14 Alcoa's position on this thing, you all were going to  
 15 be found to be in violation of the regulations to some  
 16 extent?  
 17 **A That's right.**  
 18 Q And at that time, you recognized that Alcoa  
 19 had violated the regulations in some fashion, and  
 20 presumably that was one of the reasons they stopped  
 21 this practice of mixing the raw asbestos on  
 22 November 22, 1974. Would that an fair statement?  
 23 **A Yes. They discovered they were still doing**  
 24 **it. That's why they discontinued. They didn't know**  
 25 **it was still being performed.**

1 Q No one focused on that until an OSHA  
 2 industrial hygienist noticed the practice and  
 3 expressed concern about it?  
 4 **A That's correct.**  
 5 Q And then you state, "The operation as  
 6 described to me was one that we would not be too proud  
 7 of." Do you see that?  
 8 **A Yes, I do.**  
 9 Q And when you heard that Alcoa employees  
 10 were mixing raw asbestos in this fashion, as late as  
 11 late 1974, you were appalled, weren't you?  
 12 **A I don't recall being appalled. I certainly**  
 13 **wasn't happy.**  
 14 Q Something that caused you extreme concern  
 15 for the safety of the employees who might have been  
 16 involved in that operation?  
 17 **A All right. Yes.**  
 18 Q Where is Mr. Carter these days?  
 19 **A I think Mr. Carter died.**  
 20 Q Oh, did he. Well, I guess he won't be  
 21 answering any questions.  
 22 **A Not too many. Not to us.**  
 23 Q Here's a memo from you to Dr. Bovard at the  
 24 Vancouver operations, August 28, 1975, Alcoa 72 for  
 25 the record. Do you see that?

1 **A Yes.**  
 2 **(Thereupon, Alcoa Exhibit No. 72 was marked**  
 3 **for identification.)**  
 4 Q And you indicate that "Regarding our recent  
 5 phone conversation, I believe there are convincing  
 6 reasons for us to find substitutes for asbestos." Do  
 7 you see that?  
 8 **A Yes.**  
 9 Q "We believe that it is in the interest of  
 10 our employees' health to eliminate the use of such  
 11 materials whenever possible." Do you see that?  
 12 **A Yes.**  
 13 Q And the reason you felt it was best to  
 14 eliminate asbestos materials was because of the  
 15 inherent difficulty with controlling or limiting  
 16 potential exposures?  
 17 **A Yes, to reduce or eliminate.**  
 18 Q You go on to state, "In the case of  
 19 asbestos, we have additional legal and economic  
 20 incentives to look for substitute materials." Do you  
 21 see that?  
 22 **A Yes.**  
 23 Q And the cost associated with trying to  
 24 follow the asbestos regulations was considerable and  
 25 it was of some concern; would you agree with that?

1 **A Yes.**  
 2 Q You say, "Where airborne fibers are present  
 3 we must at least do air sampling and analysis and  
 4 provide special medical examinations none of which  
 5 come without cost. Furthermore, all violations of  
 6 asbestos exposure limits are classified as serious  
 7 violations." Do you see that?  
 8 **A Yes.**  
 9 Q And would you agree with me, sir, as a  
 10 result of your interpretation there, that to the  
 11 extent there were occasions after 1972 when Alcoa may  
 12 have been in violation of the OSHA regulations, such  
 13 as the last example we saw in Point Comfort, that  
 14 those were, in fact, serious violations?  
 15 **A Yes, I believe they were. That was**  
 16 **strictly a technical classification.**  
 17 Q You go on to state that "We have strong  
 18 incentives to find suitable substitutes for asbestos.  
 19 In doing so, we will assure ourselves of a healthy  
 20 working environment, eliminate the very real  
 21 possibility of violating an OSHA standard whose  
 22 consequence can be costly engineering control and  
 23 eliminate the costs of special medical examinations  
 24 and industrial hygiene evaluations." Do you see that?  
 25 **A Yes.**

1 Q In that paragraph, you list three different  
2 economic reasons -- cost reasons for eliminating  
3 asbestos. One is costly engineering controls, another  
4 is the cost of special medical examinations, and the  
5 third is the high cost of these industrial hygiene  
6 evaluations or sampling processes. Do you see that?

7 A Yes.

8 Q And do you recall, as of August 1975, that  
9 in your mind, those cost considerations were important  
10 cost considerations?

11 A They were important if you spent them and  
12 you didn't have to spend them.

13 Q Let's look at Alcoa 74, an April 15, 1976  
14 Alcoa document addressed to Mr. Mueller from -- excuse  
15 me, from Mr. Mueller at Rockdale Safety and Health to  
16 Mr. McGregor at Rockdale. Do you see that?

17 A Yes.

18 (Thereupon, Alcoa Exhibit No. 74 was marked  
19 for identification.)

20 Q It states that "The hazardous nature of the  
21 asbestos mill board spacer strip used between pot  
22 shells and cradles was discussed. It was pointed out  
23 that new unused material poses no problem since the  
24 asbestos fibers are bonded," et cetera et cetera.  
25 "However, after prolonged service at high

1 temperatures, the bonding material breaks down and the  
2 mill board becomes brittle and crumbly. For this  
3 reason, special precautions must be taken. The  
4 substitute material has been located and asbestos mill  
5 board will be phased out." Do you see that?

6 A Yes.

7 Q Do you recall, sir, that as late as 1976,  
8 Alcoa was still utilizing asbestos mill board that  
9 created -- that crumbled as discussed here creating a  
10 hazard? Do you have a recollection of that?

11 A Not of mill board, no.

12 Q Incidentally, that mill board they are  
13 discussing, that's the -- and in this context, the way  
14 it's being used, a person who worked with the pots or  
15 the pot lining department would be someone who could  
16 be subject to exposure to that material. Would you  
17 agree to that?

18 A I don't know what they do, how they do it,  
19 with this material.

20 Q I beg your pardon. Where it indicates used  
21 between pot shells and cradles. Do you see that?

22 A Yes.

23 Q Well, the workers that would be handling  
24 that equipment, and for example, removing old crumbly  
25 friable mill board, would be pot liners and pot room

1 personnel; isn't that a fair statement?

2 A Yes.

3 Q All right. Were you aware, sir, that the  
4 Rockdale Works created an industrial hygiene manual in  
5 1977?

6 A I think I was aware that they put some type  
7 of a document together, but escapes my mind exactly  
8 what it contained.

9 Q Okay. Were you aware, sir, that as of that  
10 time, that is to say, 1977, asbestos was still being  
11 used in a number of capacities at Rockdale;  
12 for example, asbestos gaskets?

13 A Yes.

14 MR. WALKER: The question was were you  
15 aware of it. Do you have personal knowledge?

16 A I -- specifically, Rockdale, no.

17 Q You were not. Okay. Let me just show you  
18 where it says, "Asbestos is used in spout gaskets at  
19 the Percy." Do you see that?

20 A Yes.

21 Q Were you aware that as of 1977, the  
22 asbestos marinite product, a product that was first  
23 identified as a hazard in the early 1960's was still  
24 being used at Rockdale?

25 A Being used throughout the circuit since

1 they couldn't find any suitable substitute.

2 MR. WATERS: Objection to non-responsive as  
3 after -- to everything after "used throughout the  
4 circuit."

5 Q Okay. Were you aware that asbestos gasket  
6 cloth was being -- was still being used in 1977 at  
7 Rockdale?

8 A Not that specific material.

9 Q It indicates that "At Rockdale, materials  
10 used in insulating furnace test pipes, pots, et  
11 cetera, are of various compositions including  
12 asbestos." Do you see that?

13 A Yes.

14 Q You certainly were aware as of 1977 there  
15 was still a significant amount of pipe covering and  
16 other thermal insulation containing asbestos in place  
17 at Alcoa Rockdale?

18 A Yes, I assume that there still could be  
19 material in the pipeline.

20 Q Let's look at this section. This is under  
21 the mechanical maintenance department. Do you see  
22 that?

23 A Yes.

24 Q Are you aware that this is where  
25 Mr. Whatley was employed at Rockdale? Do you recall

1 that?

2 **A Well, I would assume that that is where a**  
3 **pipefitter would be working.**

4 Q Okay. Fair enough. Under "Insulation," it  
5 says, "Fiberglass, K-wool and a small amount of old  
6 asbestos heat insulation are used in hot equipment  
7 installation, thermal insulation on regenerators and  
8 carbon plant mixers. If deteriorating, dusting can be  
9 an irritant and respirators should be worn. All old  
10 asbestos should be handled carefully without creating  
11 a dust cloud with disposal to an approved dump area."  
12 Do you see that?

13 **A Yes.**

14 Q It says, "Dusting from asbestos can be an  
15 irritant." Do you see that?

16 **A Yes**

17 Q Actually, we know now and Alcoa knew then  
18 that dusting could be more than an irritant; didn't  
19 Alcoa know that? In fact, didn't Alcoa know at that  
20 time that asbestos dusting could cause cancer?

21 **A In the '70's, you are talking about?**

22 Q 1977 is the date.

23 **A Yes.**

24 Q Okay. It also says that respirators  
25 should be worn if there is dusting. Would you agree

1 with me, sir, that actually the regulations require  
2 that asbestos -- excuse me, that respirators have to  
3 be worn in this situation?

4 MR. WALKER: I object to the form of the  
5 question. It assumes facts not in evidence. It  
6 was, if deteriorating, respirators should be  
7 worn.

8 Q You can answer.

9 **A Well, I can interpret that as being should**  
10 **be worn, that they were required to be worn, too.**

11 Q Any reasons as of 1977 that you can think  
12 of that Alcoa Rockdale wouldn't be indicating to its  
13 employees that asbestos can cause cancer?

14 **A No, I can't.**

15 Q Let's look at this page, "Asbestos," this  
16 is in the pot lining department, "This material is  
17 found in the linings of some old pots as insulating  
18 material. When these linings are removed, the  
19 insulating materials are dumped in Building 27. If  
20 dusting occurs, inhalation of airborne fibers could  
21 result in asbestosis, a serious lung disease." Do you  
22 see that?

23 **A Yes.**

24 Q Were you aware, sir, that as late as 1977,  
25 there was still the potential for persons to be

1 exposed to asbestos insulation from pots?

2 **A No.**

3 Q Asbestos mill board. Now, we saw a memo  
4 that indicated that that material was supposed to be  
5 substituted, and that, in fact, there was appropriate  
6 substitute for asbestos mill board way back in 1975.  
7 Do you recall that?

8 **A Yes. What's the date of this?**

9 Q 1977.

10 It appears, sir, that in 1977, "They are  
11 still using asbestos mill board even though they have  
12 told us that there is a substitute available." Do you  
13 see that?

14 **A Yes, I do.**

15 Q And you, Tom Bonney, from Pittsburgh, had  
16 sent out a policy and told these people to stop using  
17 asbestos mill board two years before this, hadn't you?

18 MR. WALKER: I object to the form of the  
19 question. It mischaracterizes his testimony. I  
20 think it was replace as time goes on.

21 MR. WATERS: Whenever. Fair enough.

22 Q You can answer, sir.

23 **A I don't recall if it said stop using mill**  
24 **board or we were telling them to replace all asbestos**  
25 **materials that can be replaced.**

1 Q Right. And you told them that one material  
2 in particular for which there was a totally,  
3 absolutely available and workable substitute was this  
4 mill board, asbestos mill board; do you recall that?

5 **A No, I don't recall it.**

6 Q Do you want me to show you that old memo  
7 again? I guess we will just leave the record. It's  
8 in there. If you don't recall it now, it's fine.

9 Let's look at where it says, "Dug pot  
10 lining." When a pot is to be relined, it's cut out,  
11 cooled, soaked with water and the bath removed. The  
12 cathode or lining is then broken up with the aid of a  
13 pot digging machine and a pneumatic hammer. Okay.  
14 Have you ever observed the process of using a  
15 pneumatic drill or hammer?

16 **A Yes, I have.**

17 Q You have?

18 **A Yes, I have.**

19 Q And that's a dusty process, isn't it?

20 **A If it's done dry.**

21 Q And if it's done dry, sir, in this context  
22 as late as 1977, that would be a dangerous operation,  
23 wouldn't it?

24 **A It would be an operation of cause for**  
25 **concern and one that perhaps should be evaluated.**

1 Q Well, in fact, under the regulations, an  
2 operation of that nature has to be evaluated, doesn't  
3 it?

4 A If there was asbestos in that mix that they  
5 were breaking up, yes.

6 Q In fact, here under the specification form,  
7 it indicates that there is a possibility of a hazard  
8 when you are digging out the pot linings, as we  
9 previously discussed, do you see that?

10 A Yes.

11 Q Do you recall a product called Mycarta,  
12 does that ring a bell?

13 A The name seems vaguely familiar, but what  
14 it is, I don't recall.

15 Q Well, let me see if this rings a bell. Do  
16 you recall Mycarta being a laminated plastic product  
17 that contained asbestos and was manufactured by  
18 Westinghouse? Ring a bell?

19 A No.

20 Q Do you recall a material called  
21 vermiculite?

22 A Yes.

23 Q And do you understand or have you  
24 understood that vermiculite was a substance that was  
25 contaminated with asbestos tremolite fibers? Any

1 knowledge about that?

2 A Seems to me I recall -- vaguely familiar  
3 about that.

4 Q Okay. Well, let me show you the end of  
5 this 1977 document where it indicated that the ingot  
6 department used vermiculite at Rockdale as a  
7 refractory or insulating material. Do you see that?

8 A Yes.

9 Q And apparently the material was delivered  
10 in paper sacks and must have come in a powdered form.  
11 Do you see where it indicates "Possibility of hazard,  
12 none"?

13 A Yes.

14 Q Now, if, in fact, vermiculite did contain  
15 or was contaminated by tremolite, an asbestos fiber,  
16 you would agree with me that this statement that,  
17 there is no hazard, would be incorrect, would you not?

18 A If all vermiculite were contaminated with  
19 asbestos type fibers, it would be an area of concern,  
20 but you must realize that these were not realized by  
21 the professional industrial hygienists.

22 Q Whoever wrote them, these -- what the  
23 Rockdale personnel had to rely on, on a day-to-day  
24 basis, in an effort to keep the workers safe or to  
25 keep themselves safe, you would agree to that,

1 wouldn't you?

2 A Yes.

3 Q So much for Alcoa 75.

4 Sir, did you consider in 1977, in that  
5 general time frame, that your industrial hygiene  
6 departments at some of the various plants were  
7 undermanned or did not have sufficient qualified  
8 personnel to deal with all of the responsibilities  
9 necessary because of potential hazards and the like?

10 A In that general time frame, I think that  
11 was the case, and we were attempting to upgrade the  
12 total corporate effort.

13 Q Okay. Let me show you a memo that -- from  
14 Mr. C. L. Kamperman, Alcoa 76, dated June 25, 1977,  
15 referencing industrial hygiene at the Tennessee  
16 operations. Do you see that?

17 A Yes.

18 (Thereupon, Alcoa Exhibit No. 76 was marked  
19 for identification.)

20 Q And it appears you were copied on the  
21 second page?

22 A Yes.

23 Q If you look at the last paragraph, it says,  
24 "Tennessee operations is not alone in undermanned  
25 hygiene departments. I understand Warrick, Davenport,

1 Lafayette, Cleveland and Rockdale also need  
2 considerable updating." First of all, did I read that  
3 correctly?

4 A Yes.

5 Q Would you agree with Mr. Kamperman's  
6 opinion, as of June 1977, that Rockdale needed  
7 considerable work in terms of updating their  
8 industrial hygiene program?

9 A I know -- I don't know about the  
10 considerable, but they would certainly require some  
11 updating, yes.

12 Q I show you a letter, Alcoa 77, found in the  
13 Alcoa files, appears to have your initials. Is that  
14 your handwriting?

15 A Yes, it is.

16 Q Regarding occupational Carcinogens Control  
17 Act, and in particular it indicates regarding -- I am  
18 sorry, break this up. They are talking about  
19 occupational carcinogens. That's things in the  
20 workplace that cause cancer; correct, sir?

21 A That's right.

22 Q And they list a number of substances  
23 including -- you will see here asbestos, do you see  
24 that?

25 A Yes, I do.

1 Q And there it says, "Asbestos, including  
2 chrysotile, amosite, crocidolite, tremolite,  
3 anthophyllite and actinolite." Do you see that? At  
4 least as the California Department of Health is  
5 concerned, it appears, in their opinion, all of these  
6 different asbestos fiber types are carcinogens or  
7 cause cancer? Do you see that?

8 A Yes.

9 Q All right. Let's take a look at a 1977 --  
10 September 1977 memorandum from Mr. McClain to a  
11 variety of folks. Who is Mr. McClain? Do you recall?

12 A I really don't know. It seems to me he was  
13 a supervisor of sorts. Is this Point Comfort?

14 Q It's hard to tell. See how it's got the  
15 Alcoa logo there? Well, in any event, the memo is in  
16 reference to "Safety." Do you see that?

17 A Yes.

18 Q Read this statement with me, if you will,  
19 "Our overall safety program has improved, all aspects  
20 of safety, but we have not directly set out to  
21 minimize our chances of killing someone." Do you see  
22 that?

23 A Yes.

24 Q Now, let me ask first if you agree with  
25 Mr. McClain, as of 1977 that Alcoa had not set out to

1 A From your concept perhaps.

2 Q I mean, you want your workers to be safe  
3 from hazards whether it's asbestos in the workplace or  
4 whether it's things falling on them, don't you?

5 A That's true. My specialty is the health.

6 Q And when Mr. McClain talks about "Our  
7 overall safety program has not set out to minimize our  
8 chances of killing someone," do you agree with him in  
9 the context of the industrial hygiene side?

10 A No. I think McClain was the works manager,  
11 and I think he is just trying to get his other  
12 managers -- getting their attention, and that  
13 certainly does.

14 MR. WATERS: Objection to the  
15 non-responsive portion.

16 Q Let me show you a memo, this is Alcoa 79,  
17 from Mr. Barker at Rockdale to managers at Rockdale,  
18 December 12, 1977, regarding "OSHA industrial hygiene  
19 inspection at Rockdale." Do you see that?

20 A Yes.

21 (Thereupon, Alcoa Exhibit No. 79 was marked  
22 for identification.)

23 Q "Attached are copies of the citations  
24 received," et cetera, and turning to one of the  
25 attachments, if you will look with me, this is

1 try to reduce, or as he says, minimize their chances  
2 of killing employees, causing death in the workplace  
3 or from workplace practices?

4 A What was that question?

5 Q I will get her to read it back.  
6 (Record read.)

7 A I don't know that I can agree. That sounds  
8 rather overstated. We can always do better than we  
9 have in the past.

10 Q Would you agree with Mr. McClain that, in  
11 general, there had been some improvement in safety and  
12 health programs by 1977, as compared, for example, to  
13 1972 or before that?

14 MR. WALKER: I object to the form of the  
15 question. It assumes facts not in evidence.  
16 This memo concerns safety. It has not mentioned  
17 safety and health.

18 Q You can answer, sir, if you can.

19 A I don't know that I can answer that. He is  
20 addressing safety. Whether that collectively includes  
21 hygiene or not, I don't know.

22 Q Well, certainly, industrial hygiene is a  
23 part of safety in the context of restricting or  
24 reducing the injuries and deaths by Alcoa employees,  
25 is it not?

1 entitled "Attachment 2," it indicates No. 6, is, and I  
2 quote, "Not wearing approved asbestos respirator while  
3 handling asbestos, and in addition, questions whether  
4 the provided 3M8710 respirator is adequate  
5 protection," and it states that "This issue arose in  
6 the pot lining cradle insulation department." Do you  
7 see that?

8 A Yes.

9 Q Were you aware, sir, that there was a  
10 citation in this time frame at Rockdale for a failure  
11 to wear approved asbestos protection?

12 MR. WALKER: Do you want to see what  
13 Attachment 2 is in that letter, Mr. Bonney?  
14 Would that help you or not?

15 A I may want to look, but I am aware that  
16 there were citations in one sort or another in that  
17 time frame.

18 Q Well, we will just leave it at that.

19 MR. WATERS: Objection as non-responsive.

20 Q Okay. Let's look at Alcoa 80, which is a  
21 memorandum from yourself, July 28, 1978 regarding  
22 elimination of unnecessary use of asbestos-containing  
23 materials. "We have attempted to discourage the use  
24 of asbestos at all of our operating locations." Do  
25 you see that?

1 A Yes  
 2 (Thereupon, Alcoa Exhibit No. 80 was marked  
 3 for identification.)  
 4 Q And you indicate that that's for two  
 5 reasons. First of all, "Excessive exposure to  
 6 asbestos represents a real hazard." Do you see that?  
 7 A Yes.  
 8 Q And that's something you believe?  
 9 A In '78, I certainly did.  
 10 Q "Second, compliance with the applicable  
 11 OSHA standard costs us money which we would not have  
 12 to spend if substitute materials were used, e.g. for  
 13 air sampling, medical surveillance, disposal  
 14 procedures, et cetera." Do you see that?  
 15 A Yes.  
 16 Q "Although our plants have made impressive  
 17 headway, it appears that our goal of eliminating  
 18 unnecessary asbestos usage is not yet at hand." Does  
 19 this memo reflect what we just saw a few moments ago  
 20 with respect to the asbestos mill board, that even  
 21 though there was an adequate substitute several years  
 22 before, Rockdale was still using the asbestos stuff?  
 23 Is that the kinds of thing you are concerned about in  
 24 this memo?  
 25 A Yes, it was.

1 Q Okay. "As we visit our plants, we still  
 2 see asbestos products being used." This is as of  
 3 1978; correct, Mr. Bonney?  
 4 A Yes.  
 5 Q "We suspect that for many of them there are  
 6 asbestos-free, functionally acceptable alternates.  
 7 Because continued use of asbestos products may result  
 8 in unnecessary health hazards and concerns to our  
 9 employees as well as additional costs to Alcoa to  
 10 comply with specific provisions of the OSHA standard,  
 11 we believe that it is in Alcoa's best interest to  
 12 eliminate the use of asbestos products wherever  
 13 possible," and that had been your policy since at  
 14 least '74, '75, that time frame?  
 15 A Yes.  
 16 Q Let's look at Alcoa 81, which is a series  
 17 of citations for Alcoa operations, asbestos violations  
 18 at Warrick, Indiana.  
 19 (Thereupon, Alcoa Exhibit No. 81 was marked  
 20 for identification.)  
 21 Q It looks like the time frame is  
 22 approximately July of 1978. Do you see that?  
 23 A Yes.  
 24 Q It looks like you were sent a copy of this,  
 25 "Tom Bonney, Pittsburgh"?

1 A Yes.  
 2 Q And it indicates under "Type of  
 3 Violations," it says -- the word "Repeated" has been  
 4 typed in there. Do you see that?  
 5 A Yes.  
 6 Q Do you have a recollection, sir, of there  
 7 being repeated asbestos violations at the Warrick  
 8 plant that were of concern in the 1978 time frame?  
 9 A None, whatsoever.  
 10 Q Well, does reviewing this document that you  
 11 received previously, does that refresh your  
 12 recollection at all on that?  
 13 A No. I mean other than seeing it does say  
 14 "Repeated" and that there are some violations there.  
 15 What they are, I don't recall.  
 16 Q Let's see if there is anything interesting  
 17 here. You are not surprised by the fact that there  
 18 were various asbestos violations, OSHA violations at  
 19 different Alcoa facilities throughout the 1970's and  
 20 into the 1980's, are you, sir?  
 21 MR. WALKER: I am going to object as being  
 22 vague. If you are going to ask him questions  
 23 about violations, I think you need to be more  
 24 specific and not generalize it.  
 25 Q You can answer the question.

1 MR. WALKER: If you can.  
 2 A Yes. I am not surprised if I see a  
 3 citation here, a citation there, but as a regular  
 4 event, I would have been.  
 5 Q Are you familiar with -- let's see, what is  
 6 this? This is Alcoa 82, a memo from Mr. Parker at  
 7 Rockdale to yourself dated August 31, 1978 attaching  
 8 an asbestos survey form listing those asbestos  
 9 containing items, which I found in your stores catalog  
 10 as operating supplies. Do you see that?  
 11 A Yes.  
 12 (Thereupon, Alcoa Exhibit No. 82 was marked  
 13 for identification.)  
 14 Q And this Mr. Parker attaches a list, which,  
 15 among other things, it lists 15 different asbestos  
 16 items that are still being used at the plant. Do you  
 17 see that?  
 18 A Yes.  
 19 Q And one of those, particularly No. 6, is  
 20 something called Garlock gasket material, and it says,  
 21 "Miscellaneous gaskets plant wide." Do you see that?  
 22 A Yes.  
 23 Q And the department is what; is that  
 24 mechanical or maintenance, mechanical maintenance  
 25 department?

1 A Yes.

2 Q Okay. Do you recall or do you know from  
3 your own experience that pipefitters would be persons  
4 who would use and be exposed to Garlock gaskets?

5 A I wouldn't know from my personal  
6 experience.

7 Q Well, okay, you don't know from your  
8 personal experience, but do you know from something  
9 you may have heard from someone else about that type  
10 of material?

11 A No.

12 Q Take look at Alcoa 83, a memorandum from  
13 Kenneth Karsten from the Pittsburgh office dated  
14 April 19, 1979, concerning "Tennessee operations,  
15 industrial hygiene audit." Do you see that?

16 A Yes.

17 (Thereupon, Alcoa Exhibit No. 83 was marked  
18 for identification.)

19 Q It indicates, under -- with respect to  
20 asbestos, "Past asbestos sampling has indicated that  
21 at times the current OSHA standard has been exceeded."  
22 Do you see that?

23 A Yes.

24 Q It doesn't surprise you that as late as  
25 1979, one of your plants was indicating that it had

1 agree with that?

2 A Yes. That's all part of the picture.

3 Q And would you agree with me also that the  
4 upgrading that was discussed in the previous letter  
5 from that doctor, that Alcoa doctor, had certainly not  
6 been satisfactory as of April 1979 at least based on  
7 your memo of that date?

8 A Yes.

9 Q Okay.

10 MR. WALKER: Andy, you have -- that's a big  
11 stack. How much longer?

12 MR. WATERS: We are zipping right through  
13 it. I am not going to use them all, anyway.

14 A Promise?

15 Q Promise. I am actually skipping some as we  
16 go. That's 85, 86. Now, you had indicated that the  
17 policy of substituting nonasbestos for asbestos was  
18 enforced by '74 or '75; correct?

19 A Sorry.

20 Q You had indicated that the Alcoa policy to  
21 substitute wherever possible nonasbestos for asbestos  
22 material, such as the mill board we talked about, was  
23 in place by 1974 or 1975. Do you recall, generally?

24 A Recommendations to look for substitutes  
25 went back even further than that.

1 exceeded the OSHA standard from time to time?

2 A That can happen at any time, and that was  
3 the reason for surveillance, to make sure it doesn't  
4 get away from you.

5 Q Remember the memorandum we discussed before  
6 that indicated that Rockdale was behind some of the  
7 some other facilities and needed upgrading in terms of  
8 its industrial hygiene capabilities?

9 A Dr. Kamperman's letter.

10 Q Yes. Let's look at Alcoa 84, which is a  
11 memorandum from yourself to Mr. Rolf Rolles, dated  
12 April 23, 1979. Do you see that?

13 A Yes.

14 (Thereupon, Alcoa Exhibit No. 84 was marked  
15 for identification.)

16 Q And with respect to Rockdale, you indicate,  
17 "Rockdale requires industrial hygiene upgrading and  
18 more man-hours which are in very short supply." Do  
19 you see that?

20 A Yes.

21 Q Would you agree with me that the less  
22 industrial hygiene man-hours that you have at  
23 Rockdale, prior to 1979, the less ability -- the  
24 lesser ability Alcoa has to do monitoring and to  
25 observe for unsafe asbestos conditions; would you

1 Q This memorandum dated July 30, 1979 from  
2 Mr. Sakoian to someone at Rockdale, a Dr. Goltra at  
3 Rockdale, discusses "Asbestos Substitution." Do you  
4 see that?

5 A Yes.

6 Q "Much effort has been extended to reduce  
7 and eliminate asbestos use in most locations.  
8 However, as can be seen by this report, many uses  
9 still exist." Do you see that?

10 A Yes.

11 Q Would you agree, sir, that as of July of  
12 1979, Alcoa Rockdale was still involved with many uses  
13 of asbestos containing materials?

14 A Yes, to the extent that we had to bring in  
15 the big guns to have a concerted effort to clean out  
16 the house.

17 MR. WALKERS: Can we take a break?

18 MR. WATERS: Everytime we take a break,  
19 it's 30 to 35 minutes.

20 MR. WALKER: The last time I said two  
21 minutes. How long was it?

22 THE VIDEOGRAPHER: 25.

23 MR. WALKER: Before that --

24 THE VIDEOGRAPHER: We haven't taken a break  
25 -- less than 20 minutes all day.

1 Q Alcoa 100 appears to be a handwritten memo  
2 to Mr. Rumberger. Is this the article you wanted  
3 copies by someone? I am not sure. Would that be his  
4 secretary?

5 A Ellie, yes.

6 (Thereupon, Alcoa Exhibit No. 100 was  
7 marked for identification.)

8 Q And the attached article is -- indicates  
9 "Problems Have Long Plagued Asbestos Firms," from the  
10 Wall Street Journal, August 1982. Do you see that?

11 A Yes, I do.

12 Q Let's take a look, if you will follow along  
13 with me, in this article from the Alcoa files,  
14 "Dr. Irving Selikoff, an expert in asbestos related  
15 diseases at New York City's Mount Sinai Hospital says  
16 a 700 page report produced for the Department of Labor  
17 states that between 1940 and 1979 more than 27 million  
18 persons were exposed to asbestos in one form or  
19 another." Did I read that correctly?

20 A Yes.

21 Q That would include, presumably, thousands  
22 of Alcoa employees, wouldn't it, sir?

23 A I have no -- I see -- I have no idea.

24 Q Approximately -- you are not in a position  
25 to estimate how many Alcoa employees were exposed to

1 asbestos in the '50's, '60's or '70's, are you?

2 A No, I am not.

3 Q Can you tell us approximately how many  
4 Alcoa maintenance workers, pipefitters, et cetera,  
5 were employed in that -- in those time frames at the  
6 various Alcoa plants where asbestos was used?

7 A No. I don't have any idea of a number such  
8 as that.

9 Q How many employees did Alcoa have  
10 approximately at the time you retired, at the time you  
11 retired?

12 A I can only guess, maybe around 40,000 or  
13 something of that nature.

14 Q It goes on to state, "Approximately 20  
15 million of those people are still alive, some will  
16 suffer the ill effects of asbestos. He estimates that  
17 the industry should anticipate up to 10,000 cancer  
18 deaths a year related to asbestos to the end of the  
19 century. Asbestos related diseases include  
20 mesothelioma, a cancer of the lining of the lungs;  
21 asbestosis, a lung disease similar to emphysema."  
22 Now, are you -- Mr. Bonney, did you become familiar  
23 with, at Alcoa, with the statistics indicating 10,000  
24 cancer deaths a year?

25 A I am not familiar with that particular one.

1 They put some numbers into a computer, and that's what  
2 came out.

3 Q Did Mr. Rumberger advise you, upon reading  
4 this article, that a significant number of workers  
5 were going to continue to develop lung cancer or some  
6 type of cancer in the future as a result of this  
7 epidemic of asbestos disease?

8 MR. WALKER: Object, states facts not in  
9 evidence.

10 A I don't recall the article at all, or  
11 having seen it.

12 Q Fair enough. Alcoa 101 is a memo from  
13 Mr. Rumberger to a Mr. McKune. Do you recall  
14 Mr. McKune?

15 A No.

16 Q Okay. It's dated October 1982. Do you see  
17 that?

18 A Yes, I do.

19 (Thereupon, Alcoa Exhibit No. 101 was  
20 marked for identification.)

21 Q It indicates -- it's regarding the asbestos  
22 engineering standard, and he says, "We do not plan to  
23 limit our meeting to just this aspect, which is a  
24 longstanding need for an asbestos engineering standard  
25 but would also like to discuss other potential

1 exposures, for example, during application of masonry  
2 paint." Do you see that?

3 A Yes.

4 Q Were you aware as of 1982 Alcoa was still  
5 using asbestos in masonry paint for which Mr. McKune  
6 was concerned about the possibility of exposure?

7 A No. I don't remember that.

8 Q Would you agree with Mr. Rumberger's  
9 assessment that as of 1982, there was still a  
10 longstanding need for an asbestos engineering  
11 standard, still didn't have one?

12 MR. WALKER: I object, it states things not  
13 in evidence.

14 Q Does that comport with your recollection?

15 A Yes, we wanted a standard. Although it  
16 says engineering standard, it would really be an  
17 industrial hygiene standard. They provided the media,  
18 the engineering department.

19 Q Did I understand you to testify, sir, that  
20 you do not believe crocidolite asbestos was used by  
21 Alcoa? Did I understand you to testify to that effect  
22 previously?

23 A Yes, that was our general impression. If  
24 it were used, it would be a small amount.

25 Q All right. So you would agree with me that

1 crocidolite was used or you do not know?  
 2 A I do not know.  
 3 Q Let me show you Alcoa 102 a memorandum from  
 4 Mr. Knight at Rockdale, dated January 3, 1983. All  
 5 right. It talks about "Asbestos identification in old  
 6 cowsill insulation." Do you see that?  
 7 A Yes.  
 8 Q As apparently provided by Pabco, it says,  
 9 "Prior to the early 1970's, all calcium silicates and  
 10 several other types as well contained asbestos as the  
 11 reinforcing fiber." You were probably aware of that,  
 12 weren't you, Mr. Bonney?  
 13 A Yes.  
 14 (Thereupon, Alcoa Exhibit No. 102 marked  
 15 for identification.)  
 16 Q "Most of the asbestos used was chrysotile,  
 17 but some other types such as crocidolite and amosite  
 18 were also used." Did I read that correctly?  
 19 A Yes.  
 20 Q All are hazardous to health?  
 21 A Yes.  
 22 I am not saying that there was no  
 23 chrysotile and amosite, but I am saying the vast  
 24 majority of products contained chrysotile, probably  
 25 much more than 90 percent.

1 Q Okay. But certainly you don't have any  
 2 reason to dispute that there was crocidolite in some  
 3 of these other materials at Alcoa facilities?  
 4 A I have no reason to know if some small  
 5 applications might be crocidolite, no, I don't know,  
 6 but it could be.  
 7 (Thereupon, Alcoa Exhibit No. 103 was  
 8 marked for identification.)  
 9 Q Okay. 103, Alcoa 103, to Mr. Belk from  
 10 Mr. Rumberger, dated February 24, 1983. "Guidelines  
 11 for responding to employee requests for documenting  
 12 potential work exposures. Several plants have had  
 13 employee requests for notation or insertion in their  
 14 medical records of past potential exposures to  
 15 hazardous substances; example, asbestos." Do you  
 16 recall that, in this time frame, there was some  
 17 concern that employees wanted their records to reflect  
 18 that they had had exposures?  
 19 A I don't remember that.  
 20 Q It says, "Such requests have medical, legal  
 21 and industrial relations and industrial hygiene  
 22 ramifications." Do you see that?  
 23 A Yes.  
 24 Q "Of greatest concern is the legal liability  
 25 of having an incomplete, prejudicial but unchallenged

1 statement of possible exposure on record." Do you see  
 2 that?  
 3 A Yes.  
 4 Q From your standpoint as an industrial  
 5 hygienist, would you have been concerned about the  
 6 legal ramifications of having that information in an  
 7 employee's records?  
 8 A As an industrial hygienist, I would not  
 9 have any concern.  
 10 Q Okay. It says, "When an employee submits a  
 11 request for making an insertion in his or her records,  
 12 plant personnel should cooperate without necessarily  
 13 trying to discourage the insertion or educating the  
 14 employee, unless the employee desires discussion or  
 15 wants more information. Responding cooperatively in a  
 16 low key manner is intended to minimize the likelihood  
 17 of receiving many such requests." Do you see that?  
 18 A Yes.  
 19 Q Now, would you agree with me that the  
 20 reason Alcoa wanted to minimize these requests is  
 21 because, as stated above, their concerns of --  
 22 greatest concern was the potential legal liability if  
 23 these gentlemen were to develop asbestos diseases or  
 24 asbestos cancers in the future?  
 25 MR. WALKER: I object. It calls for

1 speculation on the part of this witness. He is  
 2 not part of that memo.  
 3 A No. I have no idea what Belk and Rumberger  
 4 were talking about there, and I don't ever remember  
 5 seeing that document.  
 6 Q Okay. Let's take a look at the reason why  
 7 Alcoa wanted to do that and limit those requests, if  
 8 you look at Alcoa 104 --  
 9 MR. WALKER: Excuse me, side bar comment.  
 10 MR. WATERS: Do you mind waiting until I  
 11 finish my question, so as not to break it up, so  
 12 I have to ask it again?  
 13 Q Let me show you -- one more time, I would  
 14 like to show you Alcoa 104, which I think will show  
 15 you why Alcoa was concerned about these requests.  
 16 Firstly --  
 17 MR. WALKER: Object to side bar comment.  
 18 Q -- let me ask you to read along with me  
 19 where it says, "Such vague employee statements for the  
 20 record as, quote, 'my previous work assignments  
 21 involved furnace demolition with likely exposure to  
 22 asbestos insulation,' could prove very damaging in the  
 23 event of trying to settle employee claims 20 to  
 24 30 years later." Do you see that?  
 25 A Yes, I do.

1 (Thereupon, Alcoa Exhibit No. 104 was  
2 marked for identification.)

3 Q And what they are saying here is if we  
4 create a record indicating that the employee may have  
5 been -- may have had some exposure, and 20 to 30 years  
6 later the individual develops asbestos cancer, then  
7 it's going to be awfully hard for us defend against  
8 that; that's what they are saying here, isn't it?

9 MR. WALKER: Objection. Calls for  
10 speculation and also calls for legal conclusion.

11 A I don't know. The document would have to  
12 speak for itself. I am -- again, I am not sure I ever  
13 saw it.

14 Q Okay. You would agree with me that  
15 employee exposures are supposed to be documented under  
16 OSHA; correct?

17 A Yes, they are.

18 Q And if an employees is exposed to asbestos,  
19 the law of the land requires employers like Alcoa to  
20 put that information in the employee file; correct?

21 A I am sorry?

22 MR. WATERS: Read that one back.

23 (Record read.)

24 MR. WALKER: I object, calls for legal  
25 conclusion.

1 A I don't know. I don't know if that was one  
2 of the specific provisions of the standard.

3 Q Well, let's take a look at the standard, as  
4 of 1972, "Employee Notification: Any employee found  
5 to have been exposed at any time to airborne  
6 concentrations of asbestos fiber in excess of the  
7 limits described in paragraph B of this section shall  
8 be notified in writing." Do you see that?

9 A Yes.

10 Q And let me find the other section. It  
11 talks about records, exposure records, do you recall  
12 that the time frame for retention of exposure records  
13 was 30 years?

14 A No, not specifically, but we would retain  
15 them indefinitely.

16 Q Indefinitely. Okay. As an industrial  
17 hygienist, and understanding that your concern as an  
18 industrial hygienist is not supposed to be with legal  
19 ramifications 20 or 30 years down the road, you will  
20 agree with that, won't you?

21 A Be aware of them, but not be concerned  
22 necessarily with them.

23 Q The primary significance of the industrial  
24 hygienist's role is to try to reduce or eliminate  
25 injuries, correct, industrial and occupational

1 diseases?

2 A Yes, it is.

3 Q And the reason that we have this  
4 requirement to document employee exposures is to  
5 assist down the road if the individual does ever  
6 develop an asbestos disease in trying to pinpoint  
7 that in time that he might have some treatment; you  
8 would agree with that, wouldn't you?

9 A I am not sure I know if that would be  
10 helpful for treatment.

11 Q Well, for example, sir, would you agree  
12 with me that a person who develops lung cancer is much  
13 more likely to understand and be diagnosed with that  
14 cancer at an early stage, early enough to perhaps save  
15 his life, if he is undergoing monitoring every six  
16 months because of past asbestos exposure? You would  
17 agree with that, wouldn't you?

18 A I think you would have to ask the  
19 physicians a question like that.

20 Q Do you know why it is, sir, that the  
21 regulations required periodic medical and chest x-ray  
22 examinations of persons who had significant exposures?

23 A To determine if there was any progressive  
24 change in the employee's health.

25 Q And that would include, for example, if the

1 person developed some type of a nodule or other  
2 cancerous condition in his lungs that might ultimately  
3 kill him?

4 A Perhaps, but you are out of my field.

5 Q Okay.

6 A Is that an Alcoa document?

7 Q It certainly is. It certainly is. Which  
8 is more important, following the requirements and  
9 documenting exposures that employees may have had or  
10 failing to document exposures because of a concern  
11 about claims for legal liability 20 or 30 years later?

12 A The fundamental need is to document it to  
13 determine whether or not a hazardous exposure is --  
14 the employee has been exposed to an exposure.

15 Q Let's take a look at a document from  
16 Mr. Rumberger, in Pittsburgh, dated June 15, 1983,  
17 reference "Asbestos exposure and potential health  
18 hazard. He says, "The need for greater control over  
19 potential exposures to asbestos is becoming more  
20 apparent." Do you see that?

21 A Yes, I do.

22 Q Now, in actual fact, that had been apparent  
23 to you as early as the 1962, 1964 time frame, with the  
24 recognition that the marinite materials, when cut and  
25 sawed, could lead to a significant exposure to

1 asbestos; you would agree with that, wouldn't you?

2 MR. WALKER: Would it help you to read the  
3 entire letter, since I don't think it was  
4 addressed to you?

5 A Let me take a look.

6 Q Sure, go ahead.

7 A There was a need for greater control, but  
8 an increasing need for greater control because not  
9 only the standards were becoming tighter but our  
10 appreciation of the toxicity of asbestos was becoming  
11 clearer and looks like it was more of a hazard than we  
12 had anticipated certainly in the early years.

13 Q Okay. Let's look at Alcoa 107, document  
14 from Mr. Parker at Rockdale, 1983 July 14, regarding  
15 asbestos exposures. It says, "There is one area where  
16 additional sampling will be required, that area is in  
17 the automotive repair shop, when employees are working  
18 with brake linings. As soon as it can be scheduled,  
19 we will be conducting tests to determine employee  
20 exposures when this work is being done." Do you see  
21 that?

22 A Yes.

23 (Thereupon, Alcoa Exhibit No. 107 was  
24 marked for identification.)

25 Q Any reason you can think of why monitoring

1 wasn't done for exposures resulting from brake shoe  
2 work, you know, in 1972 when it was first required  
3 under the act?

4 A It was considered to be a fairly minor  
5 exposure, and I think that our evaluation showed that  
6 the levels were insignificant.

7 MR. WATERS: Well, let me object as  
8 non-responsive.

9 Q This document indicates that you had not  
10 yet done any monitoring in the context of brake shoe  
11 work, brake lining work. Do you see that?

12 A Yes.

13 MR. WALKER: Excuse me. I am going to  
14 object. It mischaracterizes. I think it says  
15 "where additional sampling would be required,"  
16 which indicates that some sampling was done prior  
17 to that.

18 Q Okay. It says, "As soon as it can be  
19 scheduled, we will be conducting tests to determine  
20 employee exposures when this work is being done." Do  
21 you see that?

22 A Yes.

23 Q It certainly implies that they had not  
24 conducted such tests in order to determine those  
25 exposures; would you agree with that?

1 A Maybe yes, I don't know.

2 Q 108 is a confidential memo from Mr. Parker  
3 again at Rockdale regarding medical surveillance, and  
4 let's see, medical surveillance for asbestos exposed  
5 workers, September 20, 1983. Did you see that?

6 A Yes.

7 (Thereupon, Alcoa Exhibit No. 108 was  
8 marked for identification.)

9 Q And it lists a number of persons who would  
10 have had the type of exposure that requires medical  
11 monitoring. Such as -- do you see machinists, layout  
12 persons, carpenters? Do you see that?

13 A Yes, I do.

14 Q Brick masons, craft helpers; you see that?

15 A Yes, I do.

16 Q Pipefitters, mechanical millwrights and  
17 garage mechanics?

18 A Yes, I see them.

19 Q "Pots liners indicated to have a sufficient  
20 asbestos exposure so that they should be monitored on  
21 a regular basis." Do you see that?

22 A I see pot liners, but I don't see that they  
23 should be monitored because they have considerable  
24 exposure.

25 Q It says, "They had exposure installing

1 Super X insulation and pot shells prior to 1973." Do  
2 you see that?

3 A Does it say "exposure"?

4 Q Let's go back to the top. "I have listed  
5 the job classifications whose jobs have had the  
6 potential for asbestos exposure above the action  
7 level." Do you see that?

8 A Yes.

9 Q And underneath that he lists pot liners.  
10 Do you follow with me?

11 A Right. Then they would have the potential  
12 for being above the action level, I would agree with  
13 that.

14 Q Okay. Let's take a look at Alcoa 112,  
15 which is a listing, if you will follow with me, a  
16 number of employees at various plants being medically  
17 screened periodically for past and/or present asbestos  
18 exposure. Do you see that?

19 A Yes, I do.

20 (Thereupon, Alcoa Exhibit No. 112 was  
21 marked for identification.)

22 Q And it appears that your initials are  
23 there, TBB, and you say, "This whole area" -- this is  
24 your handwriting, isn't it?

25 A I don't know. That's not my handwriting.

1 Q Bear with me a second.

2 The handwriting on here says, "This whole  
3 area is a can of worms. The standard requires only  
4 those currently exposed above the limits. Some plants  
5 check those with past exposures, others don't." Do  
6 you see that?

7 A Yes.

8 Q What was your understanding of the  
9 regulatory requirements, current exposures or past  
10 exposures, persons that needed to be medically  
11 monitored?

12 A I would think that the current exposures  
13 but I think prudence would say to go back to the  
14 previous exposed people as well, but our people were  
15 medically monitored on a periodic basis.

16 Q Well, there appears to be some confusion,  
17 it looks like at some plants -- according to that  
18 note, some plants were monitoring people on -- with  
19 present or current exposure and other people were  
20 monitoring folks with past exposure. Do you recall  
21 that? Do you agree with that recollection?

22 A No. I don't know who generated this, and  
23 of course, we wouldn't be directly responsible for  
24 entries in the medical file.

25 Q Okay. Well, what was -- from the

1 standpoint of Alcoa's perspective, and this document  
2 was dated June 1985, what was it that Alcoa was  
3 requiring of its facilities in terms of medical  
4 monitoring, to the best of your recollection; was it  
5 current exposures or past exposures?

6 A I can't answer that. I don't know.

7 Q In any event, as you look at this rather  
8 lengthy list, about 20 different facilities, you will  
9 see that a number of them one, two, three, four, five,  
10 six, seven, eight -- nine of those facilities aren't  
11 medically monitoring anybody. Do you see that?

12 A Yes, I do.

13 Q And that would include some facilities such  
14 as the Arkansas operations, where we have already seen  
15 that there was asbestos exposure, and some of the  
16 other documents, same with the Vernon Works, we have  
17 seen asbestos exposure there, but it doesn't appear  
18 from this document that any of those people are being  
19 monitored. Do you see that?

20 A I know nothing about the circumstances,  
21 this -- the circumstances behind it.

22 Q You don't have any explanation for why that  
23 would be?

24 A No, I do not.

25 Q In any event, if you look at Rockdale, you

1 will see that 521 employees at least as of 1985 are  
2 being screened because of significant asbestos  
3 exposure. Do you see that?

4 MR. WALKER: I object. Assumes facts not  
5 in evidence. There is -- nothing in that  
6 document indicates significant asbestos exposure.

7 Q Do you see that, sir?

8 A Yes. And I have no knowledge of why they  
9 have so many and some have so few. I just do not  
10 know.

11 Q Well, it would appear, would it not, sir,  
12 if everyone was doing their job the way they were  
13 supposed to, that, at Rockdale, there must have been a  
14 significantly higher level or number of persons  
15 exposed over the years than at any of these other  
16 facilities; you would agree with that, wouldn't you?

17 MR. WALKER: Again, I am going to object.  
18 He has testified that he is not familiar with  
19 those numbers, he doesn't know anything about  
20 them, so any answer he might give would be purely  
21 speculation.

22 A No, I just don't know. Some may be overly  
23 conservative, some may be liberal. No, I just don't  
24 know that document.

25 Q This document, even though your initials

1 are on there, TBB, you saw this document back in 1985  
2 before you retired, but you now have no recollection,  
3 can't comment on it, at all?

4 A No. I saw it, obviously, but what it's all  
5 about, I don't know now.

6 Q In any event, it indicates that Alcoa has  
7 521 persons who were being monitored either for past  
8 or present asbestos exposure. You will agree with  
9 that, won't you?

10 A That's what that says.

11 MR. WALKER: At Rockdale?

12 MR. WATERS: At Rockdale.

13 A Rockdale, yes.

14 Q Alcoa 115, Alcoa document from  
15 Mr. Fererauch to a number of individuals, dated  
16 January 4, 1989. Do you see that?

17 A Yes, I do.

18 Q References asbestos, "In the meeting this  
19 morning on a variety of environmental issues, the  
20 subject of asbestos was discussed. We didn't have the  
21 knowledge in the meeting but there were strong  
22 feelings that we need to deal more aggressively with  
23 eliminating asbestos." First of all, did I read that  
24 correctly?

25 A Yes.

1 Q And do you recall this meeting, being  
2 involved with this?  
3 A No. This is not on my shift.  
4 Q You were gone by then?  
5 A Yes.  
6 Q I beg your pardon. Okay.  
7 "Would you please ensure yourself that,  
8 one, the plants are aware of their asbestos situation;  
9 two, we are not in violation of any regulations;  
10 three, we are doing the right thing. 1989 is a good  
11 year to put problems behind us." Did I read that  
12 correctly?  
13 A Yes, that's right.  
14 Q So as late as January of 1989,  
15 understandably after you have left Alcoa's employment,  
16 there is still concern being expressed in the  
17 Pittsburgh office that they may not be doing the right  
18 thing with respect to asbestos and that 1989 is a good  
19 year to get started?  
20 MR. WALKER: Excuse me. That's two  
21 separate questions there.  
22 Q Can you answer, Mr. Bonney?  
23 MR. WALKER: It calls for speculation  
24 because he wasn't around.  
25 A Yes. This is the final cleanup, if you

1 will. This is from the president to his vice  
2 president.  
3 Q Is that the president of the company?  
4 A Yes.  
5 Q So in 1989, the president of the company is  
6 saying, "Hey, let's take a look around, 1989 is a good  
7 year to put problems behind us including, since that's  
8 what we are talking about, asbestos problems";  
9 correct?  
10 MR. WALKER: I am going to object to best  
11 evidence rule, document speaks for itself.  
12 Q You can answer.  
13 A All right. A lot has been done.  
14 MR. WATERS: Objection, non-responsive.  
15 Can you read the question back to him?  
16 (Record read.)  
17 A I thought that's what I had answered. Yes,  
18 any time is a good time to do that, get the final  
19 cleanup. Yes.  
20 Q Okay. Very good.  
21 Now, are you familiar with a name named  
22 Gary Briesbach?  
23 A Yes. He came on, I think, in this area  
24 late, but I didn't know him well at all.  
25 Q Well, let me represent to you that

1 Mr. Griesbach has given a deposition in this case and  
2 has testified that he became involved at Rockdale with  
3 industrial hygiene and safety matters in the early  
4 1980's and continues, as I understand it, to this day  
5 to work for Alcoa as an industrial hygienist in the  
6 Rockdale vicinity; okay?  
7 MR. WALKER: I object to the assumption  
8 that he originally went in safety and hygiene. I  
9 think it was safety, and in the '90's, or so, he  
10 inherited industrial hygiene.  
11 Q In any event, Mr. Briesbach writes this  
12 memo on June 21st of 1993, and he talks about Asbestos  
13 and Toxic Substance Control Act training; okay?  
14 A Yes.  
15 Q And he says, "Attached are the  
16 environmental action plans for 1993, which were  
17 developed due to our poor environmental audit scores  
18 on these two subjects, one asbestos and the other is  
19 Tosca training." Do you see that?  
20 A Yes, I do.  
21 Q This is part of a report that Glade Lands  
22 is submitting to Knoxville that month, "From our  
23 industrial hygiene perspective, it should be noted  
24 that we also rated poor in the 1991 external safety  
25 industrial hygiene audit in these two areas." Did I

1 read that correctly?  
2 A Yes.  
3 Q Would it appear to you, Mr. Bonney, that as  
4 of 1993, Rockdale is still having some difficulties in  
5 terms of its industrial hygiene audits and in terms of  
6 addressing its asbestos concerns at Rockdale?  
7 MR. WALKER: I am going to object. It  
8 calls for speculation. He may not be familiar  
9 with these since he has been retired for ten or  
10 so years.  
11 A Yes, I don't know. You have a new — I was  
12 long retired, for one thing, and then you have a new  
13 man here, and how he interprets things. I just do not  
14 know, so I really can't comment on it.  
15 Q Okay. Let's take a look at a little more  
16 detail. Again, this is 1993. "Rockdale operations,  
17 including the smelter and the power plant, does not  
18 have a current survey of all asbestos containing  
19 areas." Do you see that?  
20 A Yes.  
21 Q Is that of surprise to you, in 1993,  
22 21 years after OSHA comes in to play, they still don't  
23 have a survey that shows them where the asbestos is  
24 located at the facility?  
25 A It surprises me, and I thought I saw some

1 of that in the documents that have come before us.

2 MR. WATERS: Let me object to everything  
3 after "It surprises me" as non-responsive.

4 Q "The audit team observed minor exposures of  
5 insulation at the power plant which were not marked as  
6 asbestos or nonasbestos." Do you see that?

7 A Yes.

8 Q Now, you are aware, are you not, sir, that  
9 if materials are not marked, the appropriate policy  
10 and the requirement is that you assume that it is in  
11 fact asbestos; correct?

12 A At this point in time, I don't know. This  
13 is -- again, these are new policies here, I have been  
14 out of it.

15 Q Well, you recall that the 1972 regulations  
16 required caution signs to be posted where asbestos  
17 materials, insulation materials were located; do you  
18 remember that, 21 years before this memo?

19 A I am not. Not where asbestos materials  
20 were located. Where asbestos controls -- where  
21 asbestos exposures might be possible.

22 Q Well, sir, if asbestos materials are  
23 located in a part of the plant and those materials  
24 have to be removed or renewed in some fashion,  
25 certainly there is the potential for exposure in that

1 process; is there not?

2 A When they are removed, there is a  
3 possibility of exposure, yes.

4 Q And, in fact, this audit team in 1993  
5 actually observed exposures to insulation at the power  
6 plant. Do you see that?

7 A That's what it says.

8 MR. WALKER: As far as it's speculation on  
9 his part, I mean the document indicates that. He  
10 can read the document, that says -- it says those  
11 words, but he has no personal knowledge of that.

12 Q Mr. Griesbach goes on to state that "The  
13 facility has not implemented a coordinated asbestos  
14 awareness program." Do you see that?

15 A Yes, I do.

16 Q Aren't you a little bit surprised that, as  
17 late as 1993, Alcoa Rockdale still doesn't even have a  
18 coordinated asbestos awareness program?

19 A I don't even know what that means.

20 Q Well, wouldn't you expect Alcoa to have put  
21 together an asbestos awareness program by this time?

22 MR. WALKER: I object on the grounds that  
23 it is vague using a term of coordinated asbestos  
24 awareness program might have some specific  
25 knowledge in 1993 after the time he had retired.

1 Q Okay. You can answer.

2 A If I knew what it meant, I might be able to  
3 have an opinion.

4 Q Do you have a problem understanding what  
5 coordinated asbestos awareness program means?

6 A Yes.

7 Q Which word is it you don't understand?

8 A The combination.

9 Q I see.

10 "They have developed a draft of an  
11 awareness program. However, they are in the planning  
12 stages to develop a more comprehensive training  
13 program and procedures for supervisors." Did I read  
14 that correctly?

15 A Yes.

16 Q Would you not have expected Rockdale to  
17 have already developed, by the 1990's, a comprehensive  
18 training program for supervisors?

19 MR. WALKER: I object, assumes a fact not  
20 in evidence, they did not hav a comprehensive  
21 program.

22 A I find it hard even to speculate. I don't  
23 know what his criteria might be. He may be more  
24 demanding in his than his predecessor or less,  
25 whatever.

1 Q Well, in your involvement with this field,  
2 through 1986, did you not expect that your -- that the  
3 various facilities that you were responsible for and  
4 had dealings with would have had comprehensive  
5 training programs concerning asbestos in place by 1986  
6 when you left?

7 A I would hope that they -- that we had some  
8 training program, but whether the program that I would  
9 set up would meet his criteria or not, or vice versa,  
10 I don't know.

11 Q Certainly, you would expect by 1986 that  
12 there would have been some type of training program  
13 for supervisors about asbestos hazards?

14 A Yes. I wouldn't exclude it from it already  
15 being in place, having some kind of a training.

16 Q Well, it doesn't indicate, sir, that they  
17 have redrafted an awareness program or that they are  
18 making it any better. He says they have developed a  
19 draft of the -- an awareness program, 1993. Do you  
20 see that?

21 A Yes.

22 Q If, in fact, sir, there was not an  
23 awareness program drafted before 1993, would you agree  
24 with me that that would be inappropriate given the  
25 nature of the hazards of asbestos?

1 **A What is an awareness program? I don't**  
 2 **know.**  
 3 **Q So you are not able to answer my question?**  
 4 **A I am not able to answer.**  
 5 **Q Would you have expected, sir, by the**  
 6 **1990's, at a facility Alcoa has admitted at least 521**  
 7 **employees had significant exposure, that there would**  
 8 **have been an employee handbook concerning the hazards**  
 9 **of asbestos?**  
 10 **MR. WALKER: I am going to object. It**  
 11 **assumes facts not in evidence, 521 employees had**  
 12 **significant exposure.**  
 13 **A I don't know. I don't know.**  
 14 **Q Let's take a look at Alcoa 120, a**  
 15 **memorandum from Karen Crawl in the Pittsburgh office**  
 16 **to a variety of personnel including Dan Peers at**  
 17 **Rockdale. Did you know Karen Crawl?**  
 18 **A No, I did not.**  
 19 **(Thereupon, Alcoa Exhibit No. 120 was**  
 20 **marked for identification.)**  
 21 **Q The reference in this 1995 memo is**  
 22 **"Asbestos Awareness Training Instructor Manual." Do**  
 23 **you see that?**  
 24 **A Yes, I do.**  
 25 **Q And then at page 5 of this Alcoa document,**

1 **and you can see how it's copywrited, 1995 Alcoa, down**  
 2 **here at the bottom. The section 2 is entitled**  
 3 **"Potential Health Effects." Do you see that?**  
 4 **A Yes.**  
 5 **Q And it says, "Significant exposures to the**  
 6 **families of asbestos workers have occurred as a result**  
 7 **of contaminated clothing brought home from the**  
 8 **workplace prior to our knowledge of the hazards.**  
 9 **That's why some care is taken to wear and dispose of**  
 10 **protective clothing properly." Did I read that**  
 11 **properly?**  
 12 **A Yes, you did.**  
 13 **Q Would you agree with me, sir, that**  
 14 **significant exposures to the families of some Alcoa**  
 15 **workers occurred during the 1950's and 1960's?**  
 16 **A I remember very well reading those reports,**  
 17 **and then I haven't seen anything subsequent to that,**  
 18 **and don't know whether that is a real fact or not.**  
 19 **MR. WATERS: Objection, non-responsive.**  
 20 **Can you read that one back to him, please?**  
 21 **(Record read.)**  
 22 **A I don't know that I would agree or disagree**  
 23 **with significant exposures. I do know that these**  
 24 **reports were out there and have seen no follow up on**  
 25 **that to find out whether or not additional families**

1 **are being harmed.**  
 2 **Q All right.**  
 3 **A Reportedly being harmed by asbestos.**  
 4 **MR. WATERS: Objection, non-responsive.**  
 5 **Q I am not asking you if someone was harmed,**  
 6 **sir. My question was, and I will have her read it**  
 7 **back to you one more time, if you agree that there**  
 8 **were significant exposures to family members.**  
 9 **Having said that, I am going to ask her to**  
 10 **read the question to you one more time.**  
 11 **(Record read.)**  
 12 **A I think I will answer the question the way**  
 13 **I answered before. I don't know that I can agree or**  
 14 **disagree.**  
 15 **Q That's a fine answer.**  
 16 **(Thereupon, Alcoa Exhibit No. 122 was**  
 17 **marked for identification.)**  
 18 **Q Let's take a look at Alcoa 122, the**  
 19 **asbestos management plan for Rockdale. We just**  
 20 **discussed this a few minutes ago. Do you recall that?**  
 21 **A Yes.**  
 22 **Q And we will look at page 16 where it talks,**  
 23 **in 1996, of what Alcoa's long range plan for asbestos**  
 24 **is. "Asbestos will likely be present when the plant**  
 25 **at Rockdale ultimately closes." Do you see that?**

1 **A Yes, I do.**  
 2 **Q "It should be noted that estimates to**  
 3 **remove all of the asbestos containing materials from**  
 4 **the power plant range from 30 million to 100 million**  
 5 **dollars." Do you see that?**  
 6 **A Yes, I do.**  
 7 **Q And that's the cost to remove the materials**  
 8 **in 1996, presumably other amounts of money have been**  
 9 **spent to remove other materials before 1996. Would**  
 10 **you agree with that?**  
 11 **A Yes.**  
 12 **Q Okay. And that's the amount of money**  
 13 **that it would cost to remove asbestos from the**  
 14 **power plants, never mind the carbon plant and**  
 15 **some of the other facilities at Rockdale; isn't that**  
 16 **correct?**  
 17 **A That's true.**  
 18 **Q And 30 million to 100 million dollars is a**  
 19 **lot of money, isn't it, sir?**  
 20 **A It is a lot of money. That's a lot of**  
 21 **power plant and a lot of asbestos.**  
 22 **Q Thank you very much.**  
 23 **MR. WATERS: Let's change the tape.**  
 24 **THE VIDEOGRAPHER: We are going off the**  
 25 **record at 5:08 to change the tape.**

(Recess taken.)

THE VIDEOGRAPHER: It's 5:09, and we changed the tape, tape No. 4. Go ahead, you are on the record.

BY MR. WATERS:

Q As of 1972, sir, will you agree with me that Alcoa workers at the Rockdale and Point Comfort facilities deserved to be told of the possibility of cancer resulting from exposure to asbestos in the work place?

A Yes. I would expect, yes.

Q Would you agree with me, sir, that if a potential health hazard in the workplace was significant enough to get your attention, as an industrial hygienist, then it was probably important enough to tell the workers about that issue?

A The time frame?

Q Generally.

A Generally, at the present time, if I were concerned about something, I would feel that the employees should be informed.

Q Well, if a potential health hazard was of sufficient concern to get your attention in 1948, then would you agree with me that it would be of sufficient significance to tell the workers about it?

A Not at that particular time. If it were of significance to do something about it, we would do something about it.

Q Well, if it was significant enough that it got your attention, okay, don't you believe that it would be significant enough to advise the workers about it?

A Not in the context of 1948. The employees were different, and the manner in which we operated was different. It was a paternalistic organization. We took care of those people without necessarily filling them with a lot of information, that they would demand today.

Q So you give workers a lot more information today because workers demand and require to be told about the workplace hazards they may be exposed to?

A Yes. And they are more informed, a more intelligent employee today than a generation or two ago.

Q So, sir, does a less intelligent employee not deserve the same treatment, not deserve to be told about hazards that could ultimately result in serious injury or death merely because they are less educated in the 1940's than they may be in the 1980's; is that what you are telling this jury?

A I am asking; what purpose would it serve to tell them?

MR. WATERS: Objection, non-responsive.

Could you read the question back to him?

(Record read.)

A It may have been partially that, but it didn't seem to be necessary. It wasn't necessary at the time.

Q And one of the reasons it wasn't at least at the time was because in the 1940's and the 1950's, you didn't have to worry about the federal government coming down on you for violating the law; isn't that correct?

A No, that's not correct. You find today that some physicians -- well, maybe not so much today but a few years ago, would not tell a person he has terminal cancer. Didn't know if he could handle it.

Q And you would agree with me that that would be wrong?

A Today, yes.

Q I am a little bit perplexed, are you telling this jury that the value of human health, human life, in the 1950's, at least to Alcoa, is less than the value of that life today?

A No, I am not telling you that. I am

telling you that we performed our job in a more one on one, and what needs to be done, do it. Whereas in today, the same things exist, but it is a more structured fashion, much, much, much more structured. Programs, training, these didn't exist at that particular time. The training was, you would get a group together and you would tell them some things, but now, you do training and you repeat it year by year.

Q But there is certainly nothing to have stopped Alcoa from telling its employees in the 1950's about workplace hazards, whether in small groups or in an auditorium; you will agree with that, won't you, sir?

A Right. If it served a useful purpose, we certainly would tell them. We were very candid.

Q And one such useful purpose would be if it was a good idea to advise the employees that certain materials to which they might be exposed could cause cancer and death, that would be a sufficient purpose in your mind, would it not, sir?

A It would be a useful purpose if by telling them these things that they would operate in the fashion that would minimize the hazard to their health.

1 Q Is there something about the workers in the  
2 1950's that suggests that they are just not  
3 intelligent enough or not educated enough to learn  
4 about hazards from Alcoa and take precautions?

5 A No, but they just were not all that  
6 interested in it. They really were not.

7 Q It doesn't sound -- you talk about a  
8 paternalistic attitude, but it doesn't sound to me  
9 like you have a lot of respect for the intelligence  
10 and the ability of Alcoa workers in the 1950's and  
11 1960's to be concerned about their own health and  
12 safety; is that a fair statement?

13 A No, it's not. I had a lot of respect for  
14 them, they were very bright people, but in this  
15 particular area, they weren't -- did not appear to be  
16 particularly concerned, and we felt that when problems  
17 existed, we would solve the problems rather than  
18 telling the employee what he should do or what the  
19 effects of the material might be.

20 Q So as a general policy matter, in this  
21 paternalistic attitude you talked about, it was felt  
22 by the corporate folks that you didn't really need to  
23 tell the employees about these dangers because it  
24 wouldn't probably do any good anyway?

25 A We would tell them, we would tell them one

1  
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3 f  
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5 A  
6 Q

7 We'll  
8 with n  
9 been a  
10 there a  
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13 been to  
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15 do you th  
16 would hav  
17 have a job

18 A No,  
19 Q He w  
20 that he mig  
21 later becaus  
22 that's comm

23 MR. WAL  
24 questions,

25 A At tha

1 on one, on occasion, but it was as necessary, as we  
2 felt it was necessary, and again, if it would serve a  
3 useful purpose to protect the health of the employee.

4 Q Let me ask you this: If you were, in 1960,  
5 to poll -- take a poll of all the Alcoa Rockdale and  
6 Point Comfort workers and ask them if they would like  
7 to know what materials in the workplace were known or  
8 suspected to cause cancer, what do you think their  
9 reaction would have been?

10 MR. WALKER: I object. It calls for  
11 speculation.

12 A I don't know.

13 Q You can't answer that question?

14 A At that particular time, when you are  
15 getting into a transition period.

16 Q Well, let's take 1955.

17 MR. WALKER: What is the question, I am  
18 sorry?

19 A Whether they would be interested in --

20 MR. WALKER: No. What do you understand  
21 the question to be?

22 MR. WATERS: He understands the question.

23 You don't need to ask him what the question is.

24 The question is on the record. We all heard it.

25 MR. WALKER: The only question on the

1 50 years ahead

2 MR. WATERS:

3 you need the

4 MR. WALKER:

5 responding.

6 A Let's go ag

7 (Record read)

8 Q That's the q

9 to.

10 A That's the o

11 we got into that, ex

12 50 years ahead, but talk

13 sure he would be int

14 together to find out

15 could fill him in with

16 helpful to him.

17 Q All right, sir. A

18 me, sir, that whether so

19 his grandfather or his fa

20 '50's and '60's, that they

21 like human beings by Al

22 A There is no quest

23 Q They all deserve at

24 to try to do their job in a s

25 regardless of the decade?

record is 1955.  
MR. WATERS: Yes, after  
1960, because he said  
transition.

Now I don't know what  
Let's -- we'll start the pro  
get through this eventually  
ne, sir, that if your average  
approached in 1958, let's sa  
a number of things at t  
or suspected to cause ca  
with me that his reaction  
say, "Gee, I'd like to  
I might be able to t  
ink, as your perspe  
ve been "Hey, wh  
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1 A Yes  
2 Q Ar  
3 Alcoa k/ can  
4 that you are n  
5 A you do  
6 the job assumpt  
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10 let me go ah  
11 your; you recall you  
12 on of the fact that  
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14 Let result in exposures t  
15 water than the permissi  
16 you recall that?  
17 member that document.  
18 in particular, 200 fibers  
19 ter or more was indicated to  
20 d from that type of work?  
21 Yes, for those operations that  
22 pled, right.

1 Q That doesn't  
2 in the 1950's was  
3 A Or a wrong  
4 Q And you will  
5 else we may argue  
6 better job now of tel  
7 cancer, and those ty  
8 A A lot differ  
9 knows? One can ha  
10 too much informatio  
11 looking at those that  
12 That's like yelling you  
13 MR. WALKER: And  
14 going to be? We ha  
15 a half.  
16 MR. WATERS: I don't  
17 into some interesting  
18 MR. WALKER: Let's  
19 MR. WATERS: If you  
20 (Recess taken.)  
21 THE VIDEOGRAPHER: We are on  
22 go after our short reces  
23 the record.  
24 MR. WALKER: Before w  
25 seriousness, both of you

Q Yes, sir. Would you agree with me  
that if an employee, an Alcoa employee, co  
day of that type of work in the 1975 and 19  
frame, that that would, in fact, be a signific  
exposure?

A Absolutely it would be.

MR. WALKER: Assuming the legitimacy of  
those numbers.

THE WITNESS: Yes.

Q Now, I know that you have not met  
Mr. Griesbach, sir, but I want to represent to y  
that Mr. Griesbach testified that in the 1973 to  
time period, he was involved with the tear out a  
removal of a furnace at Alcoa Rockdale. Okay.  
you assume that for me?

A Yes.

Q He testified that there were no  
measurements taken, that there was no monitoring  
that there were no warnings given and that he had  
knowledge of the hazards of asbestos during that  
operation. All right? Can you assume those facts f  
me?

A I will assume that.

Q Will you agree with me, sir, that those  
facts are indicative of a violation of not only

1 federal law but also Alcoa policies concerning the  
2 hazards of asbestos?

3 **A If those facts were indeed true, yes, I**  
4 **would agree with you.**

5 Q Okay. And, additionally, sir, if as I  
6 indicated before, there is evidence of exposures in  
7 either tear out or rip out context in the 1975 to 1977  
8 time frame, without monitoring, without wetting and  
9 without some of the other OSHA controls, that exposure  
10 would also be in violation of both the federal  
11 regulations and Alcoa's internal policies?

12 **A Yes, it would be.**

13 Q Sir, would you agree with me that in  
14 retrospect, in hindsight, it would have been better  
15 for Alcoa to advise workers in the 1950's about the  
16 suspected or the possible connection between asbestos  
17 and cancer, and that in doing so, Alcoa might have  
18 saved lives?

19 **A Break that down.**

20 Q I will be happy to rephrase it, if you  
21 like.

22 **A If you would, there are two parts there.**

23 Q Again, in retrospect, looking back, would  
24 you agree with me, sir, that Alcoa would have been  
25 better served to advise workers in the 1950's and

1 1960's about the suspected link between cancer and  
2 asbestos, so that in doing so, workers could have  
3 taken precautions and perhaps have saved some lives?

4 MR. WALKER: If you want to break those two  
5 questions up.

6 **A That's what I was trying to do.**

7 **We didn't know the cancer association in**  
8 **the '50's, Alcoa did not.**

9 Q You knew in the 1950's that there was  
10 reputed to be or suspected to be a link between the  
11 asbestos exposure and cancer. I think you have  
12 already told us that.

13 **A I don't know whether I knew it to be a**  
14 **fact. I know that these reports passed my desk, but**  
15 **asbestos wasn't a high priority item.**

16 Q I understand. In retrospect, sir, don't  
17 you think that the gentlemen who spent their lives  
18 working for Alcoa would have been best served if they  
19 had been told about this suspected connection that you  
20 all were aware of at Alcoa as early as 1955?

21 **A Again, a suspected connection you are**  
22 **saying, we didn't know that it was a hazardous**  
23 **material, cancerous material, and especially as the**  
24 **way we used it, so I don't know what purpose it would**  
25 **serve to transmit information of a speculative nature.**

1 MR. WATERS: Let me object as  
2 non-responsive.

3 Q You have told us that you were aware as of  
4 1955 that asbestos was suspected to cause cancer.  
5 With the Doll study in 1955, Alcoa became aware of  
6 that link or of that suspected link, and my question  
7 therefore is, as you sit here in 1998, looking back on  
8 it, wouldn't it have been better if Alcoa had advised  
9 its workers, "Hey, there is a suspected link between  
10 asbestos and cancer, everybody wear masks when you are  
11 working around this material"?

12 MR. WALKER: I hate to do this, but I  
13 object to the form of question, assumes facts not  
14 in evidence. His prior testimony was there was  
15 an article that discussed that, I don't know that  
16 he has testified that Alcoa suspected that link.

17 MR. WATERS: Whatever.

18 **A Whether it was a carcinogen or anything**  
19 **else -- let me put it this way: I don't think our**  
20 **response would be any different whether it was a**  
21 **carcinogen or some other form of -- some other effect.**  
22 **That doesn't determine whether we would tell them. If**  
23 **there was a real hazard to them, yes, we would tell**  
24 **them what it might be.**

25 MR. WATERS: Let me object to

1 non-responsive, and I am going to -- you are  
2 going to answer this question eventually one way  
3 or another. Let me have her read back to you one  
4 more time. Please listen very carefully.

5 THE WITNESS: Chop it down, if you would,  
6 if you can.

7 MR. WATERS: Let's have her read it back  
8 and I'll see what I can do for you.

9 (Record read.)

10 **A Even in retrospect, I find it difficult to**  
11 **say it would be better to do this and such. Let's**  
12 **grant you that we were of the cancer suspect, but it**  
13 **was not a potent one, and the risk, as we saw it, was**  
14 **minimal or nonexistent. So what purpose would it have**  
15 **been to tell them this?**

16 Q So even though there was a suspected risk,  
17 as indicated in the literature, and looking back at  
18 40 years of experience, if you had to do it all over  
19 again, you would not have advised Alcoa to tell the  
20 workers about that suspected risk?

21 **A Well, with what is in my brain now, I would**  
22 **have operated differently.**

23 Q And what would you have done, sir, with  
24 what is in your brain now, if you had that opportunity  
25 to go back and fix this problem?

1 A At that particular time, I would have known  
2 that it was a more hazardous material than I  
3 suspected, and it was a material that -- a hazard that  
4 would apply to our industry, and yes, therefore, I  
5 would transmit that information to the employees and  
take what steps necessary to protect the employee.

Q If the evidence in this case, sir, would  
3 indicate that persons exposed at Alcoa in the '50's  
9 and '60's had they not been exposed, would not have  
10 been diagnosed with cancer and died as a result, and  
11 you had an opportunity to go back and make that  
12 change, is that something you would do?

13 A If we knew that this was going to happen or  
14 the exposure was related to their disease, should we  
15 have done something? Is that what you are asking?

16 Q No, sir. I am saying, as you sit here  
17 today, if you knew that you could go back in time and  
18 make a difference and tell the workers "You are  
19 working around a material suspected to cause cancer,"  
20 and if in so doing you were able to save even one  
21 worker, isn't that a change that would have been worth  
22 making?

23 MR. WALKER: Again, I am going to object.  
24 It's speculative, irrelevant and immaterial, and  
25 we have been at it 12 minutes.

1 MR. WATERS: Just trying to get an answer  
2 to my question.

3 A If I thought there was a relationship  
4 between exposure and disease, I most certainly would  
5 really appreciate the opportunity to -- of going back  
6 in time and telling that person.

7 Q You know now there is a relationship. Tom  
8 Bonney, 1998, knows there is a relationship between  
9 asbestos and cancer?

10 A Yes, I do.

11 Q And all I am saying to you, sir, is if you  
12 could go back in time to 1955 and do it all over again  
13 and tell the workers about the cancer hazard or the  
14 potential cancer hazard and save even one life,  
15 wouldn't you, Tom Bonney, 1998 humanitarian, go back  
16 and make that move?

17 A I guess my struggle in not answering --

18 MR. WALKER: I think that's asked and  
19 answered. I think he answered that very  
20 question.

21 MR. WATERS: I don't think he did. I  
22 didn't ask the same question twice.

23 MR. WALKER: If you want to read it back  
24 for me. He said --

25 MR. WATERS: Look, I am going to take a lot

1 more than ten minutes if want to you keep  
2 interrupting.

3 MR. WALKER: Andy --

4 MR. WATERS: I'm trying to get an answer.

5 MR. WALKER: I know it has been a long day  
6 and this is evidence and we are all tired, but I  
7 really truly think he answered that question and  
8 its going --

9 MR. WATERS: No, he didn't answer the  
10 question. Everytime he goes back to saying,  
11 "Well, but I didn't know that in 1955," which is  
12 not the question.

13 MR. WALKER: He said, "If I had known that  
14 in 1955, I would have gone back and made those  
15 changes."

16 MR. WATERS: But that wasn't the question,  
17 the question had nothing to do with what he knew  
18 in 1955.

19 Q The question, sir, is you know today that  
20 asbestos exposure causes lungs cancer; correct, sir?

21 A Yes.

22 Q If you could, hypothetically, go back to  
23 1955, when all you knew was the suspected connection  
24 and if you could, by telling Alcoa workers then, save  
25 even one life, one person who died of lung cancer in

1 the last 20 years from asbestos exposure, wouldn't you  
2 do that, sir, if you had that opportunity?

3 A If I thought Alcoa were responsible, yes, I  
4 would.

5 Q But you don't feel that Alcoa's responsible  
6 in a case like this, do you, sir?

7 A I don't know that they are or they are not.  
8 I do not know. I think it's --

9 Q That's not your issue; fair enough?

10 A Right.

11 Q You are not going to come to Rockdale,  
12 Texas or Point Comfort, Texas and tell the jury this  
13 is not Alcoa's responsibility, are you, sir?

14 MR. WALKER: I am going to object. That  
15 question is kind of vague. It may invade the  
16 providence of the jury.

17 Q You can answer, sir.

18 A You are asking whether or not this case is  
19 Alcoa's responsibility.

20 Q You said that you are not in a position to  
21 comment as to whether or not Alcoa is responsible for  
22 the death of Mr. Whatley or Mr. Ramirez, and I just  
23 want to confirm with you that if you come to testify  
24 at the trial of these cases, you are not going to tell  
25 that jury, "Hey, this wasn't Alcoa's fault."

1 MR. WATERS: If that's the case, I have no  
2 more questions.

3 MR. WALKER: I am not sure that I  
4 understand your question, and I don't know if he  
5 has an opinion on it.

6 Q Can you answer, sir?

7 **A I don't know whether I could testify or am**  
8 **able to testify whether Alcoa is or is not**  
9 **responsible.**

10 Q So you will not testify to that effect,  
11 sir, can I have have that confirmation?

12 **A One way or the other.**

13 Q You will not testify, A, that Alcoa was  
14 responsible; you will not testify, B, that Alcoa was  
15 not responsible; is that a fair statement?

16 **A Yes, I don't know how you can.**

17 MR. WATERS: I pass the witness.

18 EXAMINATION

19 BY MR. FISHER:

20 Q Sir, my name is David Fisher. I promise  
21 I will be very brief. I represent J. T. Thorp  
22 Company, and I just want to go over a couple of things  
23 with you. I believe that you had indicated earlier in  
24 your deposition that you felt that you were the person  
25 with Alcoa that was most knowledgeable as to any of

1 the potential dangers which may have been out there  
2 concerning asbestos at any given point in time during  
3 your tenure there at Alcoa?

4 **A I guess generally, but Lester Cralley, my**  
5 **immediate supervisor, was a toxicologist, and Bert**  
6 **Dinman, who came in later, was a toxicologist also, so**  
7 **for the toxicology aspects, I certainly would lean**  
8 **heavily on their opinion, but as an industrial**  
9 **hygienist, you do learn a little bit of toxicology.**

10 Q I assume though that you would be  
11 comfortable stating that if we didn't have industrial  
12 hygienist, we had the toxicologist there or perhaps we  
13 had a medical doctor or we had somebody at Alcoa who  
14 could look into those issues and you feel comfortable  
15 in discussing those with us here today, and at least  
16 generally talking about potential dangers of asbestos  
17 and some of the materials reviewed, you feel  
18 comfortable being the person that has knowledge of  
19 those things in connection with your work at Alcoa?

20 **A Yes. Yes, I was.**

21 Q And would you also agree with me that you  
22 feel that Alcoa was making a very conscientious and  
23 thorough effort to be aware of what literature was out  
24 there concerning the potential dangers of asbestos  
25 during the time frame that you were with Alcoa?

1 **A Yes, we certainly were.**

2 Q And although some folks may disagree with  
3 you or what happened out there, you feel that Alcoa  
4 was adequately aware of any of the potential dangers  
5 that may exist concerning asbestos and that reasonable  
6 precautions were taken in connection with those  
7 potential risks; would you agree with that?

8 MR. WATERS: Objection, calls for  
9 speculation.

10 **A Yes. Yes, we did.**

11 Q And you would also consider Alcoa to be a  
12 rather large and sophisticated company given its size  
13 and its medical department and engineers and safety  
14 department and industrial hygienists and the number of  
15 employees in the plants all over the world, would you  
16 not?

17 **A Right, I would.**

18 Q Would you also consider Alcoa then a  
19 sophisticated user of products such as asbestos that  
20 might potentially pose risks but still are looked  
21 after and controlled by Alcoa?

22 **A Yes.**

23 MR. WATERS: Objection. Calls for a legal  
24 conclusion and is vague as to what you mean by  
25 sophisticated user.

1 Q Is it also fair to say that Alcoa does not  
2 go around -- let me give you a little background,  
3 sir. I represent a company called J. T. Thorp  
4 Company. I think the evidence that the jury is going  
5 to hear is that around the 1960, '65 time frame, we  
6 had two pickup trucks with a couple guys in them  
7 riding around, installing insulation product or doing  
8 some distribution work. Was it Alcoa's general policy  
9 to go around contacting folks like Thorp to help them  
10 out with industrial hygiene information or making them  
11 aware of potential dangers of products or did you all  
12 feel that you were pretty up on that by yourselves?

13 **A The general toxicological nature of**  
14 **asbestos, asbestos products, we thought we knew at the**  
15 **time. If there was anything we wanted to know**  
16 **specifically about some proprietary material, then,**  
17 **yes, we would go back to whomever supplies it.**

18 Q Okay. Would you go to a manufacturer or  
19 would you go to the contractor who was may be  
20 utilizing it or that type of thing?

21 **A Manufacturer most of the time.**

22 Q But there is nothing that you felt that was  
23 out there that you particularly needed to look to  
24 Thorp to help you out with as far as potential risks  
25 concerning asbestos, was there?

1 MR. WATERS: Objection, calls for  
2 speculation. There's no evidence that he even  
3 knows who Thorp was.

4 A Small outfit like that, no, we wouldn't  
5 generally go after them, and if they gave us some  
6 toxicological data, we would maybe treat it with  
7 suspicion.

8 MR. FISHER: I don't believe I have to ask  
9 you anything else, sir. Thank you for your time.

10 MR. WALKER: I will reserve my questions  
11 until the time of trial.

12 ---  
13 (Thereupon, at 5:55 o'clock p.m., the  
14 deposition was concluded.)  
15 ---  
16  
17

## 1 CERTIFICATE

2 COMMONWEALTH OF PENNSYLVANIA, )  
3 ) SS:  
4 COUNTY OF ALLEGHENY. )

5 I, Colleen O'Brien Adams, do hereby certify that  
6 before me, a Notary Public in and for the Commonwealth  
7 aforesaid, personally appeared THOMAS B. BONNEY,  
8 who then was by me first duly cautioned and sworn to  
9 testify the truth, the whole truth, and nothing but  
10 the truth in the taking of his oral deposition in the  
11 cause aforesaid; that the testimony then given by him  
12 as above set forth was by me reduced to stenotypy in  
13 the presence of said witness, and afterwards  
14 transcribed by means of computer-aided transcription.  
15

16 I do further certify that this deposition was  
17 taken at the time and place in the foregoing caption  
18 specified, and was completed without adjournment.

19 I do further certify that I am not a relative,  
20 counsel or attorney of either party, or otherwise  
21 interested in the event of this action.

22 IN WITNESS WHEREOF, I have hereunto set my hand  
23 and affixed my seal of office at Pittsburgh,  
24 Pennsylvania, on this \_\_\_\_\_ day of \_\_\_\_\_,  
25 1998.

26  
27 Colleen O'Brien Adams, Notary Public  
28 In and for the Commonwealth of Pennsylvania  
29 My commission expires November 19, 1999.  
30  
31 ---  
32  
33

## 1 I-N-D-E-X

2 EXAMINATION BY: PAGE  
3 Mr. Waters 198

|    |                                             |      |
|----|---------------------------------------------|------|
| 4  | ALCOA EXHIBITS:                             | PAGE |
| 5  | 30 - Memo, 4-9-65                           | 265  |
| 6  | 40 - Handwritten document                   | 207  |
| 7  | 41 - Historical background on asbestos      | 226  |
| 8  | 43 - Handbook                               | 233  |
| 9  | 45 - Material sheet list                    | 237  |
| 10 | 47 - Memo, 8-21-58                          | 259  |
| 11 | 49 - 1964 memo, "Respiratory protection"    | 262  |
| 12 | 53 - Memo, 3-7-68                           | 271  |
| 13 | 54 - Confidential memo                      | 285  |
| 14 | 55 - Memo, 10-3-68                          | 288  |
| 15 | 56 - 2-20-70 smelting operations            | 289  |
| 16 | 57 - Rockdale document                      | 290  |
| 17 | 58 - Committee report, 3-3-71               | 293  |
| 18 | 59 - Confidential memo                      | 298  |
| 19 | 60 - Memo, April 1972                       | 304  |
| 20 | 61 - Memo, 7-6-72                           | 306  |
| 21 | 61A - Memo, 8-1-72                          | 317  |
| 22 | 63 - Mem. 2-13-73                           | 319  |
| 23 | 64 - Citation, 3-6-73                       | 320  |
| 24 | 66 - Memo, 5-29-73                          | 321  |
| 25 | 68 - Memo, 2-20-74                          | 330  |
| 26 | 69 - Confidential document, 3-28-74         | 331  |
| 27 | 70 - Memo, 12-9-74                          | 345  |
| 28 | 71 - Memo, 8-28-75                          | 350  |
| 29 | 74 - 4-15-76 Alcoa document                 | 352  |
| 30 | 76 - Memo, 6-25-77                          | 362  |
| 31 | 79 - Memo, 12-12-77                         | 366  |
| 32 | 80 - Memo, 7-28-78                          | 368  |
| 33 | 81 - Series of citations                    | 369  |
| 34 | 82 - Memo, 8-31-78                          | 371  |
| 35 | 83 - Memo, 4-19-79                          | 372  |
| 36 | 84 - Memo, 4-23-79                          | 373  |
| 37 | 95 - Listing of asbestos materials          | 378  |
| 38 | 100 - Handwritten memo                      | 384  |
| 39 | 101 - Memo, October 1982                    | 386  |
| 40 | 102 - Memo, 1-3-83                          | 388  |
| 41 | 103 - Memo, 2-24-83                         | 389  |
| 42 | 104 - Memo                                  | 392  |
| 43 | 107 - Document regarding asbestos exposures | 396  |
| 44 | ---                                         |      |

|   |                                                     |      |
|---|-----------------------------------------------------|------|
| 1 | Index continued;                                    | PAGE |
| 2 | 108 - Memo, 9-20-83                                 | 398  |
| 3 | 112 - Listing of employees being medically screened | 399  |
| 4 | 120 - Memo                                          | 412  |
| 5 | 122 - Asbestos management plan                      | 414  |
| 6 | ---                                                 |      |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               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--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>-\$-</b></p> <p><b>\$3,000</b> [1] 200:14</p> <p><b>-&amp;-</b></p> <p><b>&amp;</b> [5] 196:16,23 197:6,10 197:14</p> <p><b>-!-</b></p> <p><b>'</b> [1] 391:22</p> <p><b>'26</b> [1] 234:4</p> <p><b>'30's</b> [1] 233:23</p> <p><b>'38</b> [1] 257:2</p> <p><b>'40's</b> [3] 201:5 257:18 329:21</p> <p><b>'45</b> [2] 257:5,8</p> <p><b>'48</b> [4] 201:11 241:16,23 257:6</p> <p><b>'50's</b> [9] 204:9 251:12,14 257:18 266:2 385:1 423:20 429:8 432:8</p> <p><b>'52</b> [1] 241:23</p> <p><b>'55</b> [1] 253:1</p> <p><b>'60's</b> [11] 201:6,19,20 204:10 205:17 206:4 257:18 300:4 385:1 423:20 432:9</p> <p><b>'62</b> [1] 207:25</p> <p><b>'64</b> [2] 208:1 262:10</p> <p><b>'65</b> [4] 209:16 213:1 218:9 439:5</p> <p><b>'66</b> [1] 213:12</p> <p><b>'67</b> [1] 210:11</p> <p><b>'68</b> [1] 210:11</p> <p><b>'69</b> [1] 290:3</p> <p><b>'70's</b> [8] 204:10 205:17 283:20 284:5 300:4 327:15 356:21 385:1</p> <p><b>'72</b> [1] 327:17</p> <p><b>'74</b> [2] 369:14 374:18</p> <p><b>'75</b> [2] 369:14 374:18</p> <p><b>'78</b> [1] 368:9</p> <p><b>'87</b> [4] 227:24 228:1 230:20,22</p> <p><b>'90's</b> [1] 406:9</p> <p><b>'my</b> [1] 391:20</p> <p><b>-0-</b></p> <p><b>004241</b> [1] 233:11</p> <p><b>-1-</b></p> <p><b>1</b> [4] 196:18 256:22,25 317:10</p> <p><b>1,200</b> [1] 343:20</p> <p><b>1-3-83</b> [1] 442:22</p> <p><b>10</b> [3] 234:17 318:10,16</p> <p><b>10,000</b> [3] 294:11 385:17 385:23</p> <p><b>10-3-68</b> [1] 442:9</p> <p><b>100</b> [7] 275:20 326:16 384:1,6 415:4,18 442:21</p> | <p><b>101</b> [3] 386:12,19 442:22</p> <p><b>102</b> [3] 388:3,14 442:22</p> <p><b>103</b> [4] 389:7,9,9 442:23</p> <p><b>104</b> [4] 391:8,14 392:1 442:23</p> <p><b>107</b> [3] 396:13,23 442:24</p> <p><b>108</b> [4] 197:15 398:2,7 443:2</p> <p><b>10:00</b> [1] 228:17</p> <p><b>10:39</b> [1] 228:22</p> <p><b>11</b> [2] 383:14,18</p> <p><b>112</b> [3] 399:14,20 443:2</p> <p><b>115</b> [1] 403:14</p> <p><b>11:45</b> [1] 272:12</p> <p><b>11:52</b> [2] 272:14,15</p> <p><b>12</b> [5] 199:17,20 200:7 366:18 432:25</p> <p><b>12-12-77</b> [1] 442:18</p> <p><b>12-15-87</b> [1] 226:24</p> <p><b>12-9-74</b> [1] 442:16</p> <p><b>120</b> [3] 412:14,19 443:3</p> <p><b>122</b> [3] 414:16,18 443:4</p> <p><b>13</b> [8] 248:17 274:16 275:12 277:9,15 278:13 297:19 318:23</p> <p><b>14</b> [1] 396:14</p> <p><b>15</b> [10] 229:25 234:4,17 318:10,16 322:20 323:6 352:13 371:15 395:16</p> <p><b>15219</b> [2] 196:23 197:12</p> <p><b>16</b> [1] 414:22</p> <p><b>17</b> [1] 325:18</p> <p><b>1719</b> [1] 197:8</p> <p><b>19</b> [2] 372:14 441:18</p> <p><b>1926</b> [1] 234:4</p> <p><b>1930's</b> [3] 232:1 254:25 255:6</p> <p><b>1935</b> [2] 255:15 277:23</p> <p><b>1938</b> [5] 231:11,14 232:1 232:6 256:25</p> <p><b>1940</b> [1] 384:17</p> <p><b>1940's</b> [6] 232:19 255:6 258:19 377:23 417:24 418:10</p> <p><b>1948</b> [10] 231:20 232:9 251:3,3 252:17 256:10 270:17,19 416:23 417:8</p> <p><b>1949</b> [2] 234:5,6</p> <p><b>1950's</b> [27] 201:17 202:3 202:12,17 203:10,10 204:1 205:22 213:17 251:10 258:19 284:3 287:4 413:15 418:10,23 419:11 420:2,10 422:21 424:9,18,24 425:2 428:15 428:25 429:9</p> <p><b>1951</b> [1] 243:14</p> <p><b>1952</b> [17] 238:2,25 242:5 244:1,7,18 245:5,18,22 246:7,17 248:17 249:1 251:1,25 252:11 254:7</p> <p><b>1954</b> [6] 250:6,12 251:25 252:11,25 254:7</p> <p><b>1955</b> [21] 203:20 237:10</p> | <p>237:12 251:16 252:2,23 253:19 266:18 275:13 278:11,13 421:16 422:1 429:20 430:4,5 433:12 434:11,14,18,23</p> <p><b>1958</b> [7] 259:2 260:1,6 260:15,25 261:14 422:9</p> <p><b>1960</b> [3] 421:4 422:3 439:5</p> <p><b>1960's</b> [13] 204:1 205:23 206:11,14 207:20 208:19 222:14 258:20 264:18 354:23 413:15 420:11 429:1</p> <p><b>1962</b> [1] 395:23</p> <p><b>1964</b> [15] 209:16 210:15 218:8 220:5,22 221:5,22 226:1 262:8,16 263:12 264:2 280:6 395:23 442:8</p> <p><b>1965</b> [26] 211:7 212:7,14 212:20,21,22 213:11,16 213:17,23 214:6 215:14 216:4,14 217:20,23 218:8 219:2 221:22 265:9,15 266:10,20 267:5,11 274:25</p> <p><b>1966</b> [3] 210:11 213:5 343:10</p> <p><b>1967</b> [1] 206:6</p> <p><b>1967-1968</b> [1] 267:19</p> <p><b>1968</b> [17] 269:17 270:4 271:1 272:5,21 273:14 277:8 278:13,15 282:5,5 282:20 283:1 285:17,25 286:5 288:9</p> <p><b>1969</b> [6] 210:15 215:7,18 216:3 218:13 220:13</p> <p><b>1970</b> [6] 233:23 289:16 289:17 290:18 291:18 292:25</p> <p><b>1970's</b> [6] 204:2 264:18 328:10 370:19 378:5 388:9</p> <p><b>1971</b> [6] 234:6 293:16 296:16 297:19 298:5 306:7</p> <p><b>1972</b> [31] 218:20 219:21 220:12 246:17 304:15,23 305:6 306:13 307:9,21 307:22 308:13 309:12,16 309:23 311:6 313:24 314:13 315:2 317:11 319:7,13 330:12 346:10 351:11 365:13 393:4 397:2 408:15 416:6 442:12</p> <p><b>1973</b> [5] 318:23 320:10 321:24 399:1 427:12</p> <p><b>1974</b> [11] 329:25 331:11 336:14,18,19 345:6 346:8 346:11 348:22 349:11 374:23</p> <p><b>1975</b> [9] 315:2 329:4 349:24 352:8 358:6 374:23 427:3,12 428:7</p> <p><b>1976</b> [3] 329:4 352:13 353:7</p> <p><b>1977</b> [23] 315:2 354:5,10 354:21 355:6,14 356:22</p> | <p>357:11,24 358:9,10 359:22 361:5 362:4,14 363:6 364:9,10,25 365:12 366:18 427:3 428:7</p> <p><b>1978</b> [7] 220:25 221:5 367:21 369:3,22 370:8 371:7</p> <p><b>1979</b> [8] 372:14,25 373:12,23 374:6 375:1 375:12 384:17</p> <p><b>198</b> [1] 442:2</p> <p><b>1980</b> [2] 376:15,20</p> <p><b>1980's</b> [4] 370:20 380:18 406:4 417:24</p> <p><b>1982</b> [7] 379:22 381:24 384:10 386:16 387:4,9 442:22</p> <p><b>1983</b> [5] 388:4 389:10 395:16 396:14 398:5</p> <p><b>1984</b> [2] 214:24 243:15</p> <p><b>1985</b> [3] 401:2 402:1 403:1</p> <p><b>1986</b> [3] 411:2,5,11</p> <p><b>1987</b> [1] 229:25</p> <p><b>1989</b> [6] 403:16 404:10 404:14,18 405:5,6</p> <p><b>1990's</b> [3] 222:16 410:17 412:6</p> <p><b>1991</b> [1] 406:24</p> <p><b>1993</b> [10] 406:12,16 407:4 407:16,21 409:4,17,25 411:19,23</p> <p><b>1995</b> [2] 412:21 413:1</p> <p><b>1996</b> [3] 414:23 415:8,9</p> <p><b>1998</b> [15] 196:18 198:16 227:23 241:15 242:17 243:6,21 244:6 246:17 336:12,18 430:7 433:8 433:15 441:15</p> <p><b>1999</b> [1] 441:18</p> <p><b>1:02</b> [2] 316:4,7</p> <p><b>-2-</b></p> <p><b>2</b> [8] 272:16 288:9 319:3 322:5 334:3 367:1,13 413:2</p> <p><b>2-13-73</b> [1] 442:13</p> <p><b>2-20-70</b> [1] 442:10</p> <p><b>2-20-74</b> [1] 442:15</p> <p><b>2-24-83</b> [1] 442:23</p> <p><b>20</b> [14] 289:16 326:19 329:25 375:25 385:14 391:23 392:5 393:19 395:11 398:5 401:8 422:20 423:11 435:1</p> <p><b>200</b> [4] 322:23 326:16 327:2 426:21</p> <p><b>207</b> [1] 442:5</p> <p><b>20TH</b> [1] 196:1</p> <p><b>21</b> [3] 260:25 407:22 408:18</p> <p><b>210</b> [1] 197:15</p> <p><b>21st</b> [2] 259:1 406:12</p> <p><b>22</b> [2] 346:7 348:22</p> <p><b>226</b> [1] 442:6</p> | <p><b>23</b> [1] 373:12</p> <p><b>233</b> [1] 442:6</p> <p><b>237</b> [1] 442:7</p> <p><b>24</b> [2] 200:10 389:10</p> <p><b>24TH</b> [1] 196:10</p> <p><b>25</b> [4] 198:16 362:14 375:22 376:14</p> <p><b>25093</b> [1] 196:6</p> <p><b>259</b> [1] 442:7</p> <p><b>262</b> [1] 442:8</p> <p><b>265</b> [1] 442:5</p> <p><b>27</b> [2] 357:19 384:17</p> <p><b>271</b> [1] 442:8</p> <p><b>28</b> [5] 199:14 202:15 331:11 349:24 367:21</p> <p><b>285</b> [1] 442:9</p> <p><b>288</b> [1] 442:9</p> <p><b>289</b> [1] 442:10</p> <p><b>29</b> [5] 238:2 244:18 282:5 321:24 379:22</p> <p><b>290</b> [1] 442:10</p> <p><b>293</b> [1] 442:11</p> <p><b>298</b> [1] 442:11</p> <p><b>2:05</b> [2] 316:8 317:3</p> <p><b>-3-</b></p> <p><b>3</b> [6] 215:3 231:9 288:9 293:16 345:1 388:4</p> <p><b>3-28-74</b> [1] 442:15</p> <p><b>3-3-71</b> [1] 442:11</p> <p><b>3-6-73</b> [1] 442:14</p> <p><b>3-7-68</b> [1] 442:8</p> <p><b>30</b> [17] 229:17 265:13,18 275:5 375:1,19 391:24 392:5 393:13,19 395:11 415:4,18 422:20,25 423:11 442:5</p> <p><b>304</b> [1] 442:12</p> <p><b>306</b> [1] 442:12</p> <p><b>31</b> [1] 371:7</p> <p><b>317</b> [1] 442:13</p> <p><b>319</b> [1] 442:13</p> <p><b>320</b> [1] 442:14</p> <p><b>321</b> [1] 442:14</p> <p><b>33.7.9</b> [1] 343:9</p> <p><b>330</b> [1] 442:15</p> <p><b>331</b> [1] 442:15</p> <p><b>345</b> [1] 442:16</p> <p><b>35</b> [1] 375:19</p> <p><b>350</b> [1] 442:16</p> <p><b>352</b> [1] 442:17</p> <p><b>362</b> [1] 442:17</p> <p><b>366</b> [1] 442:18</p> <p><b>368</b> [1] 442:18</p> <p><b>369</b> [1] 442:19</p> <p><b>371</b> [1] 442:19</p> <p><b>372</b> [1] 442:20</p> <p><b>373</b> [1] 442:20</p> <p><b>378</b> [1] 442:21</p> <p><b>384</b> [1] 442:21</p> <p><b>386</b> [1] 442:22</p> |
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------------|
| <b>located</b> [8] 204:20<br>217:11 268:1 353:4<br>407:24 408:17,20,23                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>machinists</b> [1] 398:11                                                                                                                                                                                                                                                                                                                                                                                 | 196:7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 364:25 365:10 366:6,10                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>memorandum</b> [2] 270:25 272:22 274:15<br>283:4 288:6 291:19 300:6<br>300:19 304:13 317:8<br>345:4,11 347:10 364:10<br>367:21 372:12 373:5,11<br>375:1 388:3 412:15                                                                                                                         |                                           |                                       |
| <b>location</b> [2] 208:1 210:8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>MacRae</b> [1] 196:23                                                                                                                                                                                                                                                                                                                                                                                     | <b>mask</b> [3] 325:6 336:3,6                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>McGregor</b> [2] 290:11<br>352:16                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>memos</b> [3] 220:5,22<br>290:7                                                                                                                                                                                                                                                              |                                           |                                       |
| <b>locations</b> [9] 263:9 319:4<br>319:21,22 320:1 367:24<br>375:7 382:24 383:1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>magnesia</b> [1] 234:5                                                                                                                                                                                                                                                                                                                                                                                    | <b>masks</b> [3] 273:8 332:16<br>430:10                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>McKune</b> [3] 386:13,14<br>387:5                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>men</b> [3] 291:11,14 325:4                                                                                                                                                                                                                                                                  |                                           |                                       |
| <b>logo</b> [2] 343:7 364:15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>magnitude</b> [4] 210:14<br>211:15 323:7 325:11                                                                                                                                                                                                                                                                                                                                                           | <b>mason</b> [2] 273:1 297:24                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>mean</b> [11] 220:3 221:10<br>295:19 326:7 366:2<br>370:13 376:15 383:15<br>409:9 425:1 438:24                                                                                                                                                                                                                                                                                                                                                                                | <b>Menke</b> [4] 297:17 299:9<br>299:13 300:25                                                                                                                                                                                                                                                  |                                           |                                       |
| <b>longer</b> [3] 304:6 374:11<br>425:13                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>main</b> [1] 283:22                                                                                                                                                                                                                                                                                                                                                                                       | <b>masonry</b> [2] 387:1,5                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>meaning</b> [2] 199:20<br>339:8                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>mentioned</b> [2] 259:23<br>365:16                                                                                                                                                                                                                                                           |                                           |                                       |
| <b>longstanding</b> [2] 386:24<br>387:10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>maintenance</b> [5] 225:11<br>355:21 371:24,24 385:4                                                                                                                                                                                                                                                                                                                                                      | <b>masons</b> [4] 223:4,18<br>225:15 398:14                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>meaningful</b> [1] 309:10                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>merely</b> [2] 291:14 417:23                                                                                                                                                                                                                                                                 |                                           |                                       |
| <b>look</b> [79] 200:4 207:10<br>207:13 210:7 212:2<br>214:15 220:24 221:18<br>226:10 233:20 234:20<br>244:17 248:25 249:15<br>270:8 272:25 289:15<br>290:10 300:24 301:1<br>304:12 306:7 308:25<br>309:3 321:10,16 322:18<br>322:19 323:15 325:18<br>326:13 329:23 331:4<br>332:12 333:14 337:7<br>339:21 346:22 347:11<br>350:20 352:13 355:20<br>357:15 359:9 362:23<br>364:9 366:25 367:15,20<br>369:16 372:12 373:10<br>374:24 376:17 378:17<br>379:20 382:6,17 383:2<br>383:21 384:12 391:6,8<br>393:3 395:15 396:5,13<br>399:14 401:7,25 405:6<br>407:15 412:14 414:18,22<br>424:22 433:25 437:14<br>439:23 | <b>major</b> [1] 302:23                                                                                                                                                                                                                                                                                                                                                                                      | <b>Massena</b> [7] 236:24,25<br>237:16 238:11 253:22<br>254:4,17                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>means</b> [15] 234:2 258:13<br>298:8 334:17 338:25<br>339:6 340:17 341:15<br>342:19 343:1 346:10<br>347:4 409:19 410:5 441:8                                                                                                                                                                                                                                                                                                                                                  | <b>merit</b> [1] 291:5                                                                                                                                                                                                                                                                          |                                           |                                       |
| <b>looked</b> [6] 206:5 207:19<br>271:10 275:1 290:1<br>438:20                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>majority</b> [1] 388:24                                                                                                                                                                                                                                                                                                                                                                                   | <b>mastic</b> [1] 383:7                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>meant</b> [3] 340:15 347:9<br>410:2                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>mesothelioma</b> [11] 205:25 206:3,9 226:8<br>294:10,11,12 295:6 296:7<br>296:11 385:20                                                                                                                                                                                                      |                                           |                                       |
| <b>looking</b> [15] 206:20,23<br>207:17 243:3 280:17<br>300:2 318:19 320:23<br>322:5 333:10 422:25<br>425:11 428:23 430:7<br>431:17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>makes</b> [2] 330:4 332:11                                                                                                                                                                                                                                                                                                                                                                                | <b>material</b> [62] 208:3,7,14<br>216:25 222:1,11 233:22<br>236:5 237:3,9,14,16,20<br>237:22,24 238:2,15,17<br>247:5 249:25 250:21<br>263:14,17 273:15 275:24<br>298:19 313:21 323:5<br>330:13 343:16 345:24<br>346:12 352:23 353:1,4<br>353:16,19 355:8,19<br>357:16,18 358:4 359:1<br>360:20 361:7,9 371:20<br>372:10 374:22 379:2<br>381:4,5 420:19 425:10<br>429:23,23 430:11 432:2<br>432:3,19 439:16 442:7                                                                                    | <b>measure</b> [1] 309:9                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>message</b> [3] 273:12<br>285:23,25                                                                                                                                                                                                                                                          |                                           |                                       |
| <b>looks</b> [5] 226:24 369:21<br>369:24 396:11 400:17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>mandatory</b> [1] 277:6                                                                                                                                                                                                                                                                                                                                                                                   | <b>materials</b> [69] 207:5<br>215:20 216:1 221:21<br>233:12 235:13 236:6<br>237:13 238:14 247:6<br>248:6,13,15,22,22 249:1<br>249:9,19 250:13 253:25<br>254:22 255:22 256:14<br>260:7 276:20 287:9,23<br>290:3 295:15 297:8 303:6<br>317:15,18 318:19 322:20<br>323:16 324:20 325:16<br>327:2 328:12 343:13<br>350:11,14,20 355:9<br>357:19 358:25 367:23<br>368:12 375:13 378:25<br>380:25 382:14 383:3<br>389:3 395:24 408:9,17<br>408:17,19,22,23 415:3,7<br>415:9 419:19 421:7<br>437:17 442:21 | <b>Measurement</b> [1] 211:3                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>messages</b> [2] 229:14,15                                                                                                                                                                                                                                                                   |                                           |                                       |
| <b>lost</b> [2] 243:7 292:10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>man</b> [6] 219:5 264:24,25<br>265:1 334:22 407:13                                                                                                                                                                                                                                                                                                                                                        | <b>matter</b> [9] 204:8 212:12<br>212:16 213:8 253:10<br>296:12,16 336:13 420:20                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>measurements</b> [4] 309:10 322:14 339:5<br>427:18                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>met</b> [2] 305:21 427:10                                                                                                                                                                                                                                                                    |                                           |                                       |
| <b>Louis</b> [2] 380:13 381:9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>man-hours</b> [3] 373:18<br>373:22 378:14                                                                                                                                                                                                                                                                                                                                                                 | <b>matters</b> [1] 406:3                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>measures</b> [6] 260:11<br>271:21 291:9 305:15<br>306:5 329:5                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>method</b> [5] 240:15<br>249:24 309:9 334:5,6                                                                                                                                                                                                                                                |                                           |                                       |
| <b>low</b> [1] 390:16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>management</b> [2] 414:19<br>443:4                                                                                                                                                                                                                                                                                                                                                                        | <b>Maxwell</b> [2] 268:1<br>271:10                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>mechanical</b> [4] 355:21<br>371:24,24 398:16                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>mid</b> [7] 201:20 202:17<br>203:10 206:13 251:10,12<br>251:14                                                                                                                                                                                                                               |                                           |                                       |
| <b>lunch</b> [1] 317:3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>manufactured</b> [3] 343:23 360:17 383:11                                                                                                                                                                                                                                                                                                                                                                 | <b>may</b> [54] 205:1 206:1,2<br>210:8 222:24 227:14<br>237:10 239:17,17,18<br>243:14 246:1 248:14<br>256:5 266:12 277:24<br>278:2 279:4 281:13 288:2<br>301:12 306:23 312:13<br>319:3 321:24 329:20<br>334:10 336:19 351:11<br>367:15 369:7 372:9<br>376:12 380:12 382:17,18<br>392:4,5 395:9 402:22,23<br>404:17 407:8 410:23<br>417:16,24 418:6 425:5<br>426:9 435:15 437:1 438:2<br>438:5 439:19                                                                                                 | <b>mechanics</b> [1] 398:17                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>might</b> [37] 209:25 210:25<br>230:8 231:5 234:18<br>251:11 258:23 270:12<br>272:9 300:8 302:13<br>303:12 320:21 324:16,17<br>329:16 333:15 337:7<br>346:21 349:15 389:5<br>394:7 395:2 402:20<br>408:21 409:24 410:2,23<br>419:19 420:19 422:14,20<br>423:14 424:6 428:17<br>430:24 438:20 |                                           |                                       |
| <b>luncheon</b> [1] 316:8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>manufacturer</b> [3] 380:5<br>439:18,21                                                                                                                                                                                                                                                                                                                                                                   | <b>McClain</b> [6] 364:10,11                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>media</b> [1] 387:17                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Mike</b> [1] 378:21                                                                                                                                                                                                                                                                          |                                           |                                       |
| <b>lung</b> [29] 201:16 202:19<br>232:14 251:11 252:3<br>253:13,23 254:5,14,24<br>255:7 265:11,21,25<br>266:22 267:6,11 270:10<br>270:11 275:7 297:2,10<br>302:8 327:12 357:21<br>385:21 386:5 394:12<br>434:25                                                                                                                                                                                                                                                                                                                                                                                                    | <b>manufacturers</b> [1] 293:13                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>medical</b> [17] 205:12,13<br>255:18 351:4,23 352:4<br>368:13 389:14,20 394:21<br>398:3,4,10 400:24 401:3<br>437:13 438:13                                                                                                                                                                                                                                                                                                                                                    | <b>MILAM</b> [1] 196:1                                                                                                                                                                                                                                                                          |                                           |                                       |
| <b>lungs</b> [3] 385:20 395:2<br>434:20                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>manufacturing</b> [1] 256:5                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>medically</b> [5] 399:16<br>400:10,15 401:11 443:3                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Miles</b> [1] 205:20                                                                                                                                                                                                                                                                         |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Manville</b> [1] 381:19                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>meet</b> [1] 411:9                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>mill</b> [17] 318:1 352:21<br>353:2,4,8,11,12,25 358:3<br>358:6,11,17,23 359:4,4<br>368:20 374:22                                                                                                                                                                                            |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>March</b> [9] 271:1 272:21<br>273:13 282:5,20 283:1<br>293:16 320:10 331:11                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>meeting</b> [6] 198:22 215:4<br>386:23 403:18,21 404:1                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>milliliter</b> [3] 331:18<br>341:22 342:17                                                                                                                                                                                                                                                   |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>marinite</b> [46] 207:22<br>208:3,13,21 209:15,23<br>210:2,7,10 211:7,20<br>212:2,8 213:17 214:16<br>214:18,25 215:10,15,15<br>215:19 216:1 217:25<br>218:13,21 219:25 220:5<br>220:8,22 221:22 222:5<br>223:15,18 262:7,8,17<br>263:10,24 264:6 284:8<br>289:19 290:2 306:23<br>307:1 354:22 395:24                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>member</b> [2] 317:12<br>377:15                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>million</b> [7] 326:3 384:17<br>385:15 415:4,4,18,18                                                                                                                                                                                                                                         |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>marked</b> [53] 207:10,14<br>214:13 226:13 233:1,8<br>237:6 258:25 259:11<br>262:20 265:18 271:4<br>285:6 288:17 289:23<br>290:15 293:20 297:16<br>298:3 304:20 306:16<br>317:5,8 319:10 320:8,12<br>321:21 330:7 331:9 343:5<br>345:9 350:2 352:18<br>362:18 366:21 368:2<br>369:19 371:12 372:17<br>373:14 378:22 384:7<br>386:20 388:14 389:8<br>392:2 396:24 398:8<br>399:21 408:5,9 412:20<br>414:17 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>members</b> [2] 273:1<br>414:8                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>millwrights</b> [4] 223:5<br>223:18 225:15 398:16                                                                                                                                                                                                                                            |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>MARKETING</b> [1]                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>memo</b> [75] 230:8 254:10<br>259:1,12 264:2,9 265:13<br>266:20 270:24 273:8<br>281:5 282:6 283:10,12<br>284:20,21 290:1,17<br>297:18 299:10 306:12<br>307:15 318:23 321:24<br>329:23 332:20 341:12<br>342:21 345:13 349:23<br>358:3 359:6 362:13<br>364:15 365:16 366:16<br>368:19,24 371:6 374:7<br>379:20 384:1 386:12<br>391:2 398:2 406:12<br>408:18 412:21 442:5,7,8<br>442:8,9,9,11,12,12,13<br>442:14,15,16,16,17,18<br>442:18,19,20,20,21,22<br>442:22,23,23 443:2,3 |                                                                                                                                                                                                                                                                                                 | <b>memoranda</b> [3] 206:8<br>337:1 378:9 | <b>mimeograph</b> [2] 300:7<br>300:14 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>mimeographs</b> [1] 300:3                                                                                                                                                                                                                                                                    |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>mind</b> [11] 212:23 214:3<br>263:16 266:23 267:8<br>330:11 352:9 354:7<br>391:10 415:14 419:21                                                                                                                                                                                              |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>minds</b> [1] 279:9                                                                                                                                                                                                                                                                          |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>mine</b> [1] 207:13                                                                                                                                                                                                                                                                          |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>mineral</b> [1] 221:25                                                                                                                                                                                                                                                                       |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>minimal</b> [4] 198:20<br>287:8 297:13 431:14                                                                                                                                                                                                                                                |                                           |                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>minimize</b> [7] 284:7                                                                                                                                                                                                                                                                       |                                           |                                       |

-M-

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--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 364:21 365:1 366:7<br>390:16,20 419:24<br><b>minimum</b> [1] 315:8<br><b>minor</b> [2] 397:4 408:4<br><b>minus</b> [1] 200:11<br><b>minute</b> [1] 376:4<br><b>minutes</b> [11] 228:23<br>229:17 297:23 375:19,21<br>375:25 414:20 426:1,2<br>432:25 434:1<br><b>miscellaneous</b> [2]<br>247:13 371:21<br><b>mischaracterization</b><br>[2] 337:13 341:8<br><b>mischaracterizes</b> [3]<br>348:1 358:19 397:14<br><b>misinterpreted</b> [1]<br>310:19<br><b>misleading</b> [1] 296:1<br><b>missed</b> [1] 227:11<br><b>missing</b> [1] 259:13<br><b>mix</b> [4] 239:13 240:8<br>347:22 360:4<br><b>mixed</b> [2] 238:17 239:2<br><b>mixers</b> [1] 356:8<br><b>mixing</b> [13] 239:7 240:2<br>241:12 244:15 245:21<br>246:7 295:18 326:13<br>345:17,23 346:12 348:21<br>349:10<br><b>mixture</b> [1] 345:18<br><b>Modifications</b> [1]<br>289:20<br><b>molasses</b> [2] 345:18,24<br><b>mold</b> [1] 289:19<br><b>molded</b> [1] 343:19<br><b>moment</b> [4] 233:17<br>332:10,17 382:18<br><b>moments</b> [3] 198:13<br>262:6 368:19<br><b>money</b> [6] 289:12 368:11<br>415:8,12,19,20<br><b>monitored</b> [6] 398:20<br>398:23 400:11,15 401:19<br>403:7<br><b>monitoring</b> [49] 210:24<br>210:25 257:19,21 258:6<br>258:10,15,18 305:23<br>307:10,16 309:5,13,17<br>309:23 310:14,17 311:17<br>311:25 312:15,21,22<br>313:14,19 314:12 315:4<br>315:8,11,15,20 330:22<br>339:23 340:1,10,24 341:3<br>341:10 342:3 373:24<br>394:15 396:25 397:10<br>398:11 400:18,20 401:4<br>401:11 427:18 428:8<br><b>month</b> [1] 406:22<br><b>months</b> [1] 394:16<br><b>morning</b> [1] 403:19<br><b>mortar</b> [1] 249:16<br><b>most</b> [12] 203:24 237:25<br>247:25 248:1 280:9 375:7<br>376:23 381:16 388:16<br>433:4 436:25 439:21 | <b>motion</b> [1] 236:19<br><b>Mount</b> [3] 271:9 281:6<br>384:15<br><b>move</b> [1] 433:16<br><b>Mt</b> [1] 281:9<br><b>Mueller</b> [2] 352:14,15<br><b>Mullin</b> [1] 197:18<br><b>multiple</b> [1] 228:8<br><b>multiplication</b> [1] 326:5<br><b>must</b> [9] 221:1 276:4<br>281:7 305:15 351:3 353:3<br>361:10,20 402:13<br><b>Mycarta</b> [2] 360:11,16<br><br><hr/> <b>-N-</b> <hr/> <b>name</b> [5] 247:7 298:16<br>360:13 405:21 436:20<br><b>named</b> [2] 267:25 405:21<br><b>National</b> [2] 301:2,8<br><b>nature</b> [13] 200:25<br>225:20 256:16 283:22<br>329:18 332:24 333:1<br>352:20 360:2 385:13<br>411:25 429:25 439:13<br><b>near</b> [1] 330:4<br><b>necessarily</b> [14] 210:6<br>211:12,13 232:3 282:15<br>292:5 295:19 308:17<br>344:20 379:15,17 390:12<br>393:22 417:11<br><b>necessary</b> [19] 208:12<br>210:23 229:18 263:13,19<br>264:5,6 269:18 275:22<br>277:5 305:8,22 327:10<br>362:9 418:7,7 421:1,2<br>432:6<br><b>need</b> [23] 221:14 222:18<br>228:15 230:15 257:12<br>275:20 305:21 307:15,18<br>312:15 332:13 363:1<br>370:23 386:24 387:10<br>395:12,18 396:7,8 403:22<br>420:22 421:23 423:3<br><b>needed</b> [9] 215:15 220:6<br>220:7 267:7 337:22 363:6<br>373:7 400:10 439:23<br><b>needs</b> [4] 222:3,4 307:11<br>419:2<br><b>negatively</b> [1] 344:12<br><b>neighborhood</b> [2]<br>234:16 326:16<br><b>never</b> [6] 257:17 313:5,9<br>313:9 346:5 415:14<br><b>new</b> [11] 206:8 236:25<br>259:14 268:1 301:4<br>307:23 352:23 384:15<br>407:11,12 408:13<br><b>Newburgh</b> [1] 320:15<br><b>newsletter</b> [1] 263:21<br><b>next</b> [2] 248:25 249:15<br><b>nine</b> [1] 401:10<br><b>NIOSH</b> [1] 318:24<br><b>nodule</b> [1] 395:1<br><b>non-asbestos</b> [1] 382:15<br><b>non-malignant</b> [1]<br>276:16 | <b>non-respiratory</b> [1]<br>324:2<br><b>non-responsive</b> [1]<br>269:25<br><b>non-responsive</b> [55]<br>201:24 203:1 207:1 208:9<br>209:10 211:18 212:5<br>216:8 219:11 222:21<br>241:18 245:15 247:4<br>252:8 255:24 258:1 263:5<br>267:3 276:6 277:20<br>279:14,25 281:21 282:3<br>282:12,18 286:21 287:14<br>288:4 292:7 295:12,21<br>296:4 297:15 306:3<br>312:10 314:9,22 338:5<br>339:2 340:18 341:19<br>342:7 355:2 366:15<br>367:19 397:8 405:14<br>408:3 413:19 414:4 418:3<br>423:2 430:2 431:1<br><b>non-responsiveness</b><br>[3] 246:4 251:22 264:15<br><b>non-smokers</b> [1] 297:3<br><b>nonasbestos</b> [3] 374:17<br>374:21 408:6<br><b>none</b> [8] 229:13 240:18<br>240:25 261:14 312:1<br>351:4 361:12 370:9<br><b>nonexistent</b> [1] 431:14<br><b>nor</b> [1] 223:23<br><b>Notary</b> [3] 196:22 441:4<br>441:17<br><b>notation</b> [1] 389:13<br><b>note</b> [1] 400:18<br><b>noted</b> [4] 236:21 306:24<br>406:23 415:2<br><b>notes</b> [3] 214:14 215:3<br>347:4<br><b>nothing</b> [12] 221:19,24<br>261:2 321:8 332:2 335:4<br>401:20 402:5 419:10<br>434:17 439:22 441:6<br><b>notice</b> [1] 196:21<br><b>noticed</b> [1] 349:2<br><b>notification</b> [2] 337:23<br>393:4<br><b>notified</b> [1] 393:8<br><b>noting</b> [1] 381:18<br><b>November</b> [4] 346:7,11<br>348:22 441:18<br><b>now</b> [66] 200:9 203:21<br>215:13 224:10 226:10<br>240:16 242:23 244:11<br>245:8,20 246:20 249:4<br>249:15 258:22 261:6<br>268:19 270:15 271:10<br>278:3 283:14 291:3,18<br>297:6 298:23 299:8,13<br>301:10 303:9 304:22<br>311:4 317:10 322:15,17<br>323:3 326:11,14 327:9<br>330:16 333:12 334:25<br>340:8 356:17 358:3 359:8<br>361:14 364:24 374:16<br>376:5 379:5 380:14<br>381:23 385:22 390:19<br>395:22 403:2,5 405:21<br>408:8 419:8 422:5 423:18 | 425:6 427:10 431:21,24<br>433:7<br><b>nowhere</b> [3] 328:10<br>332:11,13<br><b>nuisance</b> [1] 287:9<br><b>number</b> [29] 222:24<br>232:22,23 234:21 236:11<br>247:7 249:20 255:18<br>286:7 295:17 303:12<br>304:8 315:3 319:20<br>324:24 326:23 327:4<br>348:10 354:11 363:22<br>385:7 386:4 398:9 399:16<br>401:9 402:14 403:15<br>422:10 438:14<br><b>numbers</b> [7] 295:9 324:9<br>324:12 327:7 386:1<br>402:19 427:8<br><br><hr/> <b>-O-</b> <hr/> <b>O'Brien</b> [3] 196:22<br>441:4,17<br><b>o'clock</b> [5] 196:24<br>228:17 316:7,8 440:13<br><b>oath</b> [4] 198:11 202:1<br>203:5 242:22<br><b>Obection</b> [1] 219:11<br><b>object</b> [108] 201:23 202:5<br>206:25 208:8,22 209:9<br>211:17 215:22 216:7<br>219:4 221:9 222:20<br>223:20 225:1 230:6,13<br>235:2 236:8 238:23<br>239:10,16 240:12 241:17<br>244:22 245:1,15 246:3<br>246:18 247:3 249:11<br>250:15 251:21 252:7,24<br>254:2 255:23 256:19<br>257:25 258:4,14 263:4<br>264:14 266:3 269:4,20<br>269:24 272:7,19 274:6<br>277:13 281:20 282:3<br>286:10,20 288:3 292:12<br>294:5,19 295:11,24<br>297:14 298:14 299:16<br>303:14,24 308:4 313:18<br>314:8,17 315:9,24 320:24<br>324:1 332:23,25 333:21<br>334:2 337:5 338:4 339:1<br>342:23 357:4 358:18<br>365:14 370:21 386:8<br>387:12 390:25 391:17<br>392:24 397:7,14 402:4<br>402:17 405:10 406:7<br>407:7 408:2 409:22<br>410:19 412:10 421:10<br>422:23 430:1,13,25<br>432:23 435:14<br><b>objection</b> [48] 202:25<br>209:17 212:5 230:17<br>236:21 240:10 241:6,9<br>246:10 264:8 267:2 276:6<br>277:20 278:6 279:13,24<br>282:12,18 284:16 287:13<br>289:4 292:7 293:5 295:21<br>296:4 306:2 312:9 314:22<br>335:10 337:12,17,21<br>340:18 341:7,19 342:7<br>355:2 366:14 367:19<br>392:9 405:14 413:19<br>414:4 418:3 423:2 438:8 | 438:23 440:1<br><b>obligated</b> [4] 261:14<br>331:1,17 341:20<br><b>obliged</b> [1] 261:18<br><b>observation</b> [2] 339:22<br>347:2<br><b>observations</b> [1] 239:6<br><b>observe</b> [9] 212:7,9<br>213:23 309:7 339:25<br>340:9 344:8,15 373:25<br><b>observed</b> [9] 213:18<br>347:5,8,18,19,20 359:14<br>408:4 409:5<br><b>observing</b> [1] 328:2<br><b>obtaining</b> [1] 380:1<br><b>obviously</b> [3] 242:24<br>266:24 403:4<br><b>occasion</b> [1] 421:1<br><b>occasions</b> [1] 351:11<br><b>occupational</b> [5] 284:23<br>287:11 363:16,19 393:25<br><b>occupations</b> [1] 223:16<br><b>occur</b> [2] 245:24 250:4<br><b>occurred</b> [3] 318:20<br>413:6,15<br><b>occurrence</b> [3] 263:11<br>280:3 281:14<br><b>occurs</b> [1] 357:20<br><b>October</b> [6] 288:9<br>297:17,19 309:12 386:16<br>442:22<br><b>off</b> [13] 228:16,22 244:21<br>244:24 248:20 272:11<br>288:9 304:11 306:19<br>316:5 323:4 376:7 415:24<br><b>office</b> [5] 322:1 372:13<br>404:17 412:15 441:14<br><b>officer</b> [2] 299:9 300:25<br><b>offices</b> [2] 196:23 197:3<br><b>Often</b> [1] 239:23<br><b>old</b> [8] 323:4,5 353:24<br>356:5,9 357:17 359:6<br>388:5<br><b>older</b> [2] 264:24 265:1<br><b>once</b> [3] 217:23 264:3<br>305:16<br><b>one</b> [105] 200:4 203:12<br>210:6,8 217:6,7 219:23<br>221:6 230:20 233:16<br>236:5 237:13,18 242:12<br>243:16 244:23,24 248:10<br>253:23 254:9 258:23<br>259:18,23 270:16 276:4<br>276:5 277:1 279:20<br>280:15 281:17,23 282:8<br>282:23 283:7 284:12<br>286:15 290:6 292:8<br>293:13 294:11,13 296:8<br>296:12 300:16 306:19<br>308:25 314:23 315:6<br>317:25 320:1 321:18<br>322:17 324:16,16 328:21<br>330:14 339:8 340:5 342:8<br>348:20 349:1,6 352:3<br>359:1,25 366:24 367:16<br>371:19 372:25 377:24<br>378:7 382:18 383:6 |
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| 364:21 365:1 366:7<br>390:16,20 419:24<br><b>minimum</b> [1] 315:8<br><b>minor</b> [2] 397:4 408:4<br><b>minus</b> [1] 200:11<br><b>minute</b> [1] 376:4<br><b>minutes</b> [11] 228:23<br>229:17 297:23 375:19,21<br>375:25 414:20 426:1,2<br>432:25 434:1<br><b>miscellaneous</b> [2]<br>247:13 371:21<br><b>mischaracterization</b><br>[2] 337:13 341:8<br><b>mischaracterizes</b> [3]<br>348:1 358:19 397:14<br><b>misinterpreted</b> [1]<br>310:19<br><b>misleading</b> [1] 296:1<br><b>missed</b> [1] 227:11<br><b>missing</b> [1] 259:13<br><b>mix</b> [4] 239:13 240:8<br>347:22 360:4<br><b>mixed</b> [2] 238:17 239:2<br><b>mixers</b> [1] 356:8<br><b>mixing</b> [13] 239:7 240:2<br>241:12 244:15 245:21<br>246:7 295:18 326:13<br>345:17,23 346:12 348:21<br>349:10<br><b>mixture</b> [1] 345:18<br><b>Modifications</b> [1]<br>289:20<br><b>molasses</b> [2] 345:18,24<br><b>mold</b> [1] 289:19<br><b>molded</b> [1] 343:19<br><b>moment</b> [4] 233:17<br>332:10,17 382:18<br><b>moments</b> [3] 198:13<br>262:6 368:19<br><b>money</b> [6] 289:12 368:11<br>415:8,12,19,20<br><b>monitored</b> [6] 398:20<br>398:23 400:11,15 401:19<br>403:7<br><b>monitoring</b> [49] 210:24<br>210:25 257:19,21 258:6<br>258:10,15,18 305:23<br>307:10,16 309:5,13,17<br>309:23 310:14,17 311:17<br>311:25 312:15,21,22<br>313:14,19 314:12 315:4<br>315:8,11,15,20 330:22<br>339:23 340:1,10,24 341:3<br>341:10 342:3 373:24<br>394:15 396:25 397:10<br>398:11 400:18,20 401:4<br>401:11 427:18 428:8<br><b>month</b> [1] 406:22<br><b>months</b> [1] 394:16<br><b>morning</b> [1] 403:19<br><b>mortar</b> [1] 249:16<br><b>most</b> [12] 203:24 237:25<br>247:25 248:1 280:9 375:7<br>376:23 381:16 388:16<br>433:4 436:25 439:21 | <b>motion</b> [1] 236:19<br><b>Mount</b> [3] 271:9 281:6<br>384:15<br><b>move</b> [1] 433:16<br><b>Mt</b> [1] 281:9<br><b>Mueller</b> [2] 352:14,15<br><b>Mullin</b> [1] 197:18<br><b>multiple</b> [1] 228:8<br><b>multiplication</b> [1] 326:5<br><b>must</b> [9] 221:1 276:4<br>281:7 305:15 351:3 353:3<br>361:10,20 402:13<br><b>Mycarta</b> [2] 360:11,16<br><br><hr/> <b>-N-</b> <hr/> <b>name</b> [5] 247:7 298:16<br>360:13 405:21 436:20<br><b>named</b> [2] 267:25 405:21<br><b>National</b> [2] 301:2,8<br><b>nature</b> [13] 200:25<br>225:20 256:16 283:22<br>329:18 332:24 333:1<br>352:20 360:2 385:13<br>411:25 429:25 439:13<br><b>near</b> [1] 330:4<br><b>necessarily</b> [14] 210:6<br>211:12,13 232:3 282:15<br>292:5 295:19 308:17<br>344:20 379:15,17 390:12<br>393:22 417:11<br><b>necessary</b> [19] 208:12<br>210:23 229:18 263:13,19<br>264:5,6 269:18 275:22<br>277:5 305:8,22 327:10<br>362:9 418:7,7 421:1,2<br>432:6<br><b>need</b> [23] 221:14 222:18<br>228:15 230:15 257:12<br>275:20 305:21 307:15,18<br>312:15 332:13 363:1<br>370:23 386:24 387:10<br>395:12,18 396:7,8 403:22<br>420:22 421:23 423:3<br><b>needed</b> [9] 215:15 220:6<br>220:7 267:7 337:22 363:6<br>373:7 400:10 439:23<br><b>needs</b> [4] 222:3,4 307:11<br>419:2<br><b>negatively</b> [1] 344:12<br><b>neighborhood</b> [2]<br>234:16 326:16<br><b>never</b> [6] 257:17 313:5,9<br>313:9 346:5 415:14<br><b>new</b> [11] 206:8 236:25<br>259:14 268:1 301:4<br>307:23 352:23 384:15<br>407:11,12 408:13<br><b>Newburgh</b> [1] 320:15<br><b>newsletter</b> [1] 263:21<br><b>next</b> [2] 248:25 249:15<br><b>nine</b> [1] 401:10<br><b>NIOSH</b> [1] 318:24<br><b>nodule</b> [1] 395:1<br><b>non-asbestos</b> [1] 382:15<br><b>non-malignant</b> [1]<br>276:16 | <b>non-respiratory</b> [1]<br>324:2<br><b>non-responisve</b> [1]<br>269:25<br><b>non-responsive</b> [55]<br>201:24 203:1 207:1 208:9<br>209:10 211:18 212:5<br>216:8 219:11 222:21<br>241:18 245:15 247:4<br>252:8 255:24 258:1 263:5<br>267:3 276:6 277:20<br>279:14,25 281:21 282:3<br>282:12,18 286:21 287:14<br>288:4 292:7 295:12,21<br>296:4 297:15 306:3<br>312:10 314:9,22 338:5<br>339:2 340:18 341:19<br>342:7 355:2 366:15<br>367:19 397:8 405:14<br>408:3 413:19 414:4 418:3<br>423:2 430:2 431:1<br><b>non-responsiveness</b><br>[3] 246:4 251:22 264:15<br><b>non-smokers</b> [1] 297:3<br><b>nonasbestos</b> [3] 374:17<br>374:21 408:6<br><b>none</b> [8] 229:13 240:18<br>240:25 261:14 312:1<br>351:4 361:12 370:9<br><b>nonexistent</b> [1] 431:14<br><b>nor</b> [1] 223:23<br><b>Notary</b> [3] 196:22 441:4<br>441:17<br><b>notation</b> [1] 389:13<br><b>note</b> [1] 400:18<br><b>noted</b> [4] 236:21 306:24<br>406:23 415:2<br><b>notes</b> [3] 214:14 215:3<br>347:4<br><b>nothing</b> [12] 221:19,24<br>261:2 321:8 332:2 335:4<br>401:20 402:5 419:10<br>434:17 439:22 441:6<br><b>notice</b> [1] 196:21<br><b>noticed</b> [1] 349:2<br><b>notification</b> [2] 337:23<br>393:4<br><b>notified</b> [1] 393:8<br><b>noting</b> [1] 381:18<br><b>November</b> [4] 346:7,11<br>348:22 441:18<br><b>now</b> [66] 200:9 203:21<br>215:13 224:10 226:10<br>240:16 242:23 244:11<br>245:8,20 246:20 249:4<br>249:15 258:22 261:6<br>268:19 270:15 271:10<br>278:3 283:14 291:3,18<br>297:6 298:23 299:8,13<br>301:10 303:9 304:22<br>311:4 317:10 322:15,17<br>323:3 326:11,14 327:9<br>330:16 333:12 334:25<br>340:8 356:17 358:3 359:8<br>361:14 364:24 374:16<br>376:5 379:5 380:14<br>381:23 385:22 390:19<br>395:22 403:2,5 405:21<br>408:8 419:8 422:5 423:18 | 425:6 427:10 431:21,24<br>433:7<br><b>nowhere</b> [3] 328:10<br>332:11,13<br><b>nuisance</b> [1] 287:9<br><b>number</b> [29] 222:24<br>232:22,23 234:21 236:11<br>247:7 249:20 255:18<br>286:7 295:17 303:12<br>304:8 315:3 319:20<br>324:24 326:23 327:4<br>348:10 354:11 363:22<br>385:7 386:4 398:9 399:16<br>401:9 402:14 403:15<br>422:10 438:14<br><b>numbers</b> [7] 295:9 324:9<br>324:12 327:7 386:1<br>402:19 427:8<br><br><hr/> <b>-O-</b> <hr/> <b>O'Brien</b> [3] 196:22<br>441:4,17<br><b>o'clock</b> [5] 196:24<br>228:17 316:7,8 440:13<br><b>oath</b> [4] 198:11 202:1<br>203:5 242:22<br><b>Obection</b> [1] 219:11<br><b>object</b> [108] 201:23 202:5<br>206:25 208:8,22 209:9<br>211:17 215:22 216:7<br>219:4 221:9 222:20<br>223:20 225:1 230:6,13<br>235:2 236:8 238:23<br>239:10,16 240:12 241:17<br>244:22 245:1,15 246:3<br>246:18 247:3 249:11<br>250:15 251:21 252:7,24<br>254:2 255:23 256:19<br>257:25 258:4,14 263:4<br>264:14 266:3 269:4,20<br>269:24 272:7,19 274:6<br>277:13 281:20 282:3<br>286:10,20 288:3 292:12<br>294:5,19 295:11,24<br>297:14 298:14 299:16<br>303:14,24 308:4 313:18<br>314:8,17 315:9,24 320:24<br>324:1 332:23,25 333:21<br>334:2 337:5 338:4 339:1<br>342:23 357:4 358:18<br>365:14 370:21 386:8<br>387:12 390:25 391:17<br>392:24 397:7,14 402:4<br>402:17 405:10 406:7<br>407:7 408:2 409:22<br>410:19 412:10 421:10<br>422:23 430:1,13,25<br>432:23 435:14<br><b>objection</b> [48] 202:25<br>209:17 212:5 230:17<br>236:21 240:10 241:6,9<br>246:10 264:8 267:2 276:6<br>277:20 278:6 279:13,24<br>282:12,18 284:16 287:13<br>289:4 292:7 293:5 295:21<br>296:4 306:2 312:9 314:22<br>335:10 337:12,17,21<br>340:18 341:7,19 342:7<br>355:2 366:14 367:19<br>392:9 405:14 413:19<br>414:4 418:3 423:2 438:8 | 438:23 440:1<br><b>obligated</b> [4] 261:14<br>331:1,17 341:20<br><b>obliged</b> [1] 261:18<br><b>observation</b> [2] 339:22<br>347:2<br><b>observations</b> [1] 239:6<br><b>observe</b> [9] 212:7,9<br>213:23 309:7 339:25<br>340:9 344:8,15 373:25<br><b>observed</b> [9] 213:18<br>347:5,8,18,19,20 359:14<br>408:4 409:5<br><b>observing</b> [1] 328:2<br><b>obtaining</b> [1] 380:1<br><b>obviously</b> [3] 242:24<br>266:24 403:4<br><b>occasion</b> [1] 421:1<br><b>occasions</b> [1] 351:11<br><b>occupational</b> [5] 284:23<br>287:11 363:16,19 393:25<br><b>occupations</b> [1] 223:16<br><b>occur</b> [2] 245:24 250:4<br><b>occurred</b> [3] 318:20<br>413:6,15<br><b>occurrence</b> [3] 263:11<br>280:3 281:14<br><b>occurs</b> [1] 357:20<br><b>October</b> [6] 288:9<br>297:17,19 309:12 386:16<br>442:22<br><b>off</b> [13] 228:16,22 244:21<br>244:24 248:20 272:11<br>288:9 304:11 306:19<br>316:5 323:4 376:7 415:24<br><b>office</b> [5] 322:1 372:13<br>404:17 412:15 441:14<br><b>officer</b> [2] 299:9 300:25<br><b>offices</b> [2] 196:23 197:3<br><b>Often</b> [1] 239:23<br><b>old</b> [8] 323:4,5 353:24<br>356:5,9 357:17 359:6<br>388:5<br><b>older</b> [2] 264:24 265:1<br><b>once</b> [3] 217:23 264:3<br>305:16<br><b>one</b> [105] 200:4 203:12<br>210:6,8 217:6,7 219:23<br>221:6 230:20 233:16<br>236:5 237:13,18 242:12<br>243:16 244:23,24 248:10<br>253:23 254:9 258:23<br>259:18,23 270:16 276:4<br>276:5 277:1 279:20<br>280:15 281:17,23 282:8<br>282:23 283:7 284:12<br>286:15 290:6 292:8<br>293:13 294:11,13 296:8<br>296:12 300:16 306:19<br>308:25 314:23 315:6<br>317:25 320:1 321:18<br>322:17 324:16,16 328:21<br>330:14 339:8 340:5 342:8<br>348:20 349:1,6 352:3<br>359:1,25 366:24 367:16<br>371:19 372:25 377:24<br>378:7 382:18 383:6 |
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| 384:18 385:25 387:11<br>391:13 392:22 393:1<br>396:15 401:9 404:8<br>406:18 407:12 413:20<br>414:7,10 418:9 419:1,2<br>419:17 420:25 421:1<br>423:10 425:9 426:16<br>427:2 431:2,3,13 432:20<br>433:14 434:25,25 436:12 | <b>ones</b> [2] 276:3 333:17<br><b>ongoing</b> [1] 211:22<br><b>onto</b> [3] 247:12 268:14<br>269:9<br><b>open</b> [2] 290:21 326:14<br><b>operate</b> [1] 419:23<br><b>operated</b> [2] 417:9<br>431:22<br><b>operating</b> [4] 319:4,21<br>367:24 371:10<br><b>operation</b> [28] 210:7,8<br>211:9 212:7,10,18,25<br>305:13,20 309:6 311:18<br>311:25 322:22 323:24<br>327:8 330:23 346:5,7<br>347:6,20,21,22 349:5,16<br>359:22,24 360:2 427:21<br><b>Operational</b> [2] 238:16<br>247:17<br><b>operations</b> [22] 211:20<br>213:6,25 233:2 256:4<br>257:19 289:16 292:6<br>305:1 322:15 324:11,14<br>344:9 349:24 362:16,24<br>369:17 372:14 401:14<br>407:16 426:24 442:10<br><b>opinion</b> [21] 210:15<br>223:10 224:23 225:8,14<br>225:16 241:25 242:1,5<br>242:20,24 243:13 246:11<br>246:13,14 278:23 363:6<br>364:5 410:3 436:5 437:8<br><b>opinions</b> [1] 243:19<br><b>opportunity</b> [7] 303:12<br>339:25 423:23 431:24<br>432:11 433:5 435:2<br><b>opposed</b> [3] 318:15<br>337:14 338:19<br><b>oral</b> [1] 441:6<br><b>oranges</b> [1] 295:18<br><b>order</b> [6] 210:22 218:1<br>227:8,19 250:20 397:24<br><b>organization</b> [3] 293:10<br>293:12 417:10<br><b>oriented</b> [1] 377:21<br><b>originally</b> [1] 406:8<br><b>OSHA</b> [35] 304:22<br>305:20,21 306:19 308:2<br>308:16 311:5 312:25<br>315:23 319:7 321:13<br>325:15 327:6,17 328:20<br>330:16 342:4 344:10<br>346:19,22 347:5,16 349:1<br>351:12,21 366:18 368:11<br>369:10 370:18 372:21<br>373:1 381:14 392:16<br>407:22 428:9<br><b>otherwise</b> [7] 222:5<br>242:6,18 243:3,18 336:5<br>441:12 | <b>ourselves</b> [1] 351:19<br><b>outdoors</b> [1] 274:2<br><b>outfit</b> [1] 440:4<br><b>outside</b> [5] 204:20<br>271:23 285:1,9,11<br><b>overall</b> [2] 364:19 366:7<br><b>overkill</b> [1] 425:9<br><b>overly</b> [1] 402:22<br><b>overseas</b> [1] 383:1<br><b>overstated</b> [1] 365:8<br><b>Owen</b> [2] 331:5 332:20<br><b>Owen's</b> [1] 337:1<br><b>own</b> [7] 253:1 254:8<br>267:13 280:23 285:2<br>372:3 420:11<br><br><b>-P-</b><br><b>p.m</b> [3] 316:7,9 440:13<br><b>P.O</b> [2] 197:8,15<br><b>Pabco</b> [1] 388:8<br><b>pack</b> [1] 345:18<br><b>packing</b> [2] 238:17 239:3<br><b>page</b> [21] 202:7,14 215:3<br>225:25 231:9 233:11<br>248:17,25 249:15 288:9<br>322:5,18 343:15 357:15<br>362:21 384:16 412:25<br>414:22 442:2,4 443:1<br><b>pages</b> [1] 233:16<br><b>paid</b> [1] 213:3<br><b>paint</b> [2] 387:2,5<br><b>paints</b> [1] 236:1<br><b>pamphlet</b> [1] 380:7<br><b>paper</b> [4] 221:2 235:23<br>318:1 361:10<br><b>paragraph</b> [7] 273:1<br>302:4 319:3 348:2 352:1<br>362:23 393:7<br><b>pardon</b> [7] 217:6 228:4<br>251:13 259:8 266:5<br>353:20 404:6<br><b>Parker</b> [6] 322:6 371:6<br>371:14 378:18 396:14<br>398:2<br><b>part</b> [14] 214:1 238:1<br>267:2 279:15 315:10,13<br>339:21 365:23 374:2<br>391:1,2 406:21 408:23<br>409:9<br><b>partially</b> [1] 418:6<br><b>particles</b> [1] 326:3<br><b>particular</b> [24] 221:15<br>248:17,22 253:17 259:18<br>267:1 279:20 280:4 283:6<br>301:2 309:5 311:18<br>329:25 335:1 359:2<br>363:17 385:25 417:1<br>419:6 420:15 421:14<br>422:25 426:21 432:1<br><b>particularly</b> [10] 221:21<br>226:7 230:11 254:7<br>268:16 327:1 328:6<br>371:19 420:16 439:23<br><b>parts</b> [1] 428:22<br><b>party</b> [3] 226:20 227:13<br>441:12 | 441:12<br><b>pass</b> [1] 436:17<br><b>passed</b> [1] 429:14<br><b>past</b> [12] 292:23 365:9<br>372:20 377:11 389:14<br>394:16 399:17 400:5,9<br>400:20 401:5 403:7<br><b>patch</b> [1] 298:7<br><b>patching</b> [1] 298:1<br><b>paternalistic</b> [3] 417:10<br>420:8,21<br><b>Patrick</b> [1] 197:11<br><b>pay</b> [1] 279:12<br><b>Peers</b> [1] 412:16<br><b>PEL</b> [5] 312:3 330:18<br>342:1 344:10 380:13<br><b>PEL's</b> [2] 311:19 323:1<br><b>Pennsylvania</b> [6]<br>196:22,23 197:12 441:2<br>441:14,18<br><b>people</b> [32] 223:17 225:6<br>225:19 226:5 259:9,12<br>270:6,21 271:14 274:19<br>285:1 294:16,21 295:14<br>295:19 296:22 301:10<br>313:12 329:2 333:7<br>340:11 358:16 379:14<br>381:9 385:15 400:14,14<br>400:18,19 401:18 417:11<br>420:14<br><b>per</b> [23] 226:19 250:21<br>307:4 310:20 322:22,23<br>323:17 325:23 326:2,3<br>326:16 327:2 330:24,25<br>330:25 331:18 333:3<br>340:16 341:22 342:17<br>347:21,22 426:21<br><b>perceived</b> [2] 210:17<br>222:18<br><b>percent</b> [21] 233:22<br>234:4,5,9,17 235:21<br>275:20 294:16,17 295:7<br>295:14,16 297:11 318:5<br>318:10,15,16 344:2<br>383:14,18 388:25<br><b>percentage</b> [1] 234:18<br><b>percentages</b> [1] 295:2<br><b>Percy</b> [1] 354:19<br><b>perfectly</b> [2] 333:6,6<br><b>perform</b> [4] 234:1<br>309:13 311:17,24<br><b>performed</b> [2] 348:25<br>419:1<br><b>perhaps</b> [9] 199:15 213:1<br>283:18 359:25 366:1<br>394:14 395:4 429:3<br>437:12<br><b>period</b> [5] 232:5 330:25<br>421:15 422:3 427:13<br><b>periodic</b> [2] 394:21<br>400:15<br><b>periodically</b> [1] 399:17<br><b>permissible</b> [5] 308:21<br>308:24 310:3 346:25<br>426:18<br><b>perplexed</b> [1] 418:21<br><b>person</b> [15] 203:24<br>294:11,23 297:9 323:8<br>333:2 353:14 377:10<br>394:12 395:1 418:16<br>433:6 434:25 436:24<br>437:18<br><b>person's</b> [1] 223:10<br><b>personal</b> [18] 196:3,12<br>204:25 218:10 219:22<br>232:18 239:6,17,18<br>258:17 274:9 311:9 313:3<br>334:22 354:15 372:5,8<br>409:11<br><b>personally</b> [2] 382:12<br>441:5<br><b>personnel</b> [13] 216:24<br>220:14 258:19 261:21<br>313:25 314:1,10 337:2<br>354:1 361:23 362:8<br>390:12 412:16<br><b>persons</b> [14] 222:24<br>223:14 265:21 295:6<br>357:25 372:3 384:18<br>394:22 398:9,12 400:10<br>402:14 403:7 432:8<br><b>perspective</b> [7] 210:9<br>272:2,4 329:19 401:1<br>406:23 422:15<br><b>pertained</b> [2] 232:11<br>263:2<br><b>pertaining</b> [1] 196:21<br><b>perusing</b> [1] 382:19<br><b>phased</b> [1] 353:5<br><b>phone</b> [1] 350:5<br><b>phrase</b> [2] 292:19 301:19<br><b>phrased</b> [1] 332:9<br><b>physician</b> [3] 205:10<br>267:25 280:16<br><b>physicians</b> [4] 280:14<br>311:12 394:19 418:15<br><b>pickup</b> [1] 439:6<br><b>picture</b> [3] 269:11,21<br>374:2<br><b>piece</b> [1] 274:12<br><b>pinpoint</b> [1] 394:6<br><b>pipe</b> [9] 234:3,15 247:8<br>317:19 323:5 343:17,19<br>343:21 355:15<br><b>pipefitter</b> [1] 356:3<br><b>pipefitters</b> [3] 372:3<br>385:4 398:16<br><b>pipeline</b> [1] 355:19<br><b>pipes</b> [3] 235:11 247:18<br>355:10<br><b>pipng</b> [1] 343:13<br><b>Pittsburgh</b> [16] 196:23<br>197:12 204:20 217:13<br>288:8 322:1,10 331:15<br>345:5 358:15 369:25<br>372:13 395:16 404:17<br>412:15 441:14<br><b>Pittsburgh-Corning</b><br>[2] 343:24 344:1<br><b>place</b> [12] 214:10 216:14<br>219:6 240:1 274:4 346:16<br>355:16 374:23 411:5,15<br>416:10 441:10<br><b>placed</b> [2] 218:8 303:11 | <b>places</b> [1] 324:16<br><b>Plagued</b> [1] 384:9<br><b>plaintiffs</b> [5] 196:5,14<br>196:20 197:2 198:4<br><b>plan</b> [4] 386:22 414:19<br>414:23 443:4<br><b>planning</b> [1] 410:11<br><b>plans</b> [1] 406:16<br><b>plant</b> [36] 216:23 217:19<br>221:16 237:22 238:8<br>247:14 249:20 259:9,12<br>260:7 271:18,25 286:7<br>289:13 297:20 303:10<br>304:18 324:17 356:8<br>370:8 371:16,21 379:1,3<br>381:5,6,10 390:12 407:17<br>408:5,23 409:6 414:24<br>415:4,14,21<br><b>plants</b> [23] 215:11 238:12<br>238:13 239:4 260:16<br>261:1 269:23 286:12<br>306:5 362:6 368:16 369:1<br>372:25 381:17 385:6<br>389:12 399:16 400:4,17<br>400:18 404:8 415:14<br>438:15<br><b>plastic</b> [1] 360:16<br><b>play</b> [3] 311:6,21 407:22<br><b>Plunkett</b> [1] 259:14<br><b>plus</b> [2] 200:11 327:2<br><b>pneumatic</b> [2] 359:13<br>359:15<br><b>point</b> [45] 213:22 215:4<br>215:7 216:19 217:11,15<br>217:17 218:24 220:25<br>221:5 222:23 223:8<br>224:12 225:7,13 232:24<br>235:4,16 236:18 253:17<br>273:6,13,18 285:2 289:17<br>290:8,9 293:14 294:15<br>313:24 320:5 327:9,14<br>335:22 341:15 345:5,16<br>346:11 351:13 364:13<br>408:12 416:7 421:6<br>435:12 437:2<br><b>pointed</b> [1] 352:22<br><b>policies</b> [8] 216:13<br>217:14 280:24 382:20,23<br>408:13 428:1,11<br><b>policy</b> [13] 209:22 216:3<br>216:24 336:21 342:16,21<br>358:16 369:13 374:17,20<br>408:9 420:20 439:8<br><b>poll</b> [2] 421:5,5<br><b>pollution</b> [1] 306:24<br><b>poor</b> [2] 406:17,24<br><b>population</b> [2] 294:11<br>297:3<br><b>Port</b> [1] 216:18<br><b>portion</b> [22] 198:15,23<br>203:1 207:1 208:9 211:18<br>222:21 245:16 247:3<br>255:24 279:14 281:21<br>282:4 286:21 287:14<br>288:3 289:5 297:15<br>312:10 314:9 339:1<br>366:15<br><b>pose</b> [1] 438:20 |
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                                                                                                                                                            |
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| <p><b>poses</b> [2] 301:3 352:23</p> <p><b>position</b> [17] 209:12<br/>216:17 217:12 218:8<br/>231:3,4 265:10,25 283:17<br/>312:1,14,21 326:6 344:8<br/>348:14 384:24 435:20</p> <p><b>possibilities</b> [3] 248:21<br/>249:6 250:8</p> <p><b>possibility</b> [13] 212:1<br/>244:20 245:6,12 249:10<br/>277:22 287:10 351:21<br/>360:7 361:11 387:6 409:3<br/>416:8</p> <p><b>possible</b> [22] 209:22<br/>232:4 245:22,23,25 246:1<br/>246:9 261:24 269:22<br/>280:25 287:22,22 304:10<br/>350:11 369:13 374:21<br/>379:9 382:14 390:1<br/>408:21 423:24 428:16</p> <p><b>posted</b> [3] 304:7 328:11<br/>408:16</p> <p><b>posters</b> [2] 328:19 329:3</p> <p><b>posting</b> [1] 328:25</p> <p><b>pot</b> [29] 223:1,19 224:6<br/>225:6 247:14 249:19<br/>288:10,12,15,21,25<br/>289:14,19 317:16 345:20<br/>352:21 353:15,21,25,25<br/>357:16 359:9,10,13 360:8<br/>367:6 398:22 399:1,9</p> <p><b>potent</b> [2] 276:3 431:13</p> <p><b>potential</b> [63] 202:2<br/>208:13 211:11,25 212:23<br/>215:16 217:24 220:20<br/>222:24 241:12 244:16<br/>246:9,15,20,24 250:14<br/>250:20,22 251:1,9,25<br/>252:11,23 253:8 257:11<br/>261:4 264:7 276:21<br/>277:18 286:24 287:3,7<br/>291:2 303:4 307:10 308:7<br/>310:6 328:6,7 350:16<br/>357:25 362:9 379:10<br/>386:25 389:12,14 390:22<br/>395:17,19 399:6,11<br/>408:25 413:3 416:13,22<br/>433:14 437:1,16,24 438:4<br/>438:7 439:11,24</p> <p><b>potentially</b> [5] 214:4<br/>253:12,14 324:9 438:20</p> <p><b>pots</b> [7] 247:19 289:1<br/>353:14 355:10 357:17<br/>358:1 398:19</p> <p><b>powder</b> [4] 239:7,14<br/>240:2 244:15</p> <p><b>powdered</b> [1] 361:10</p> <p><b>power</b> [7] 196:7 407:17<br/>408:5 409:5 415:4,14,21</p> <p><b>practice</b> [4] 324:21<br/>328:15 348:21 349:2</p> <p><b>practices</b> [3] 216:13<br/>365:3 380:9</p> <p><b>precautions</b> [16] 209:14<br/>209:23,24 210:1 214:8<br/>216:16 253:9 262:3<br/>275:23 277:11 290:2<br/>353:3 420:4 422:14 429:3<br/>438:6</p> <p><b>preceded</b> [1] 205:19</p> <p><b>precise</b> [1] 307:11</p> <p><b>precisely</b> [2] 273:13<br/>306:8</p> <p><b>precludes</b> [1] 332:3</p> <p><b>predecessor</b> [1] 410:24</p> <p><b>predicate</b> [4] 244:8<br/>253:3 254:6 324:1</p> <p><b>Predicted</b> [1] 322:13</p> <p><b>predominant</b> [2] 280:15<br/>280:16</p> <p><b>predominantly</b> [1] 248:6</p> <p><b>predominate</b> [1] 300:5</p> <p><b>prefer</b> [1] 285:12</p> <p><b>prefolded</b> [1] 343:21</p> <p><b>preform</b> [2] 234:1,2</p> <p><b>preformed</b> [1] 235:10</p> <p><b>prejudicial</b> [1] 389:25</p> <p><b>prepare</b> [2] 198:18 229:6</p> <p><b>prepared</b> [6] 221:7<br/>227:2,7,16 260:2,5</p> <p><b>preparing</b> [3] 228:6<br/>283:15 296:22</p> <p><b>presence</b> [4] 263:25<br/>291:14 378:11 441:8</p> <p><b>present</b> [14] 197:17<br/>230:4 231:1 245:23<br/>246:14 281:12 307:4<br/>328:13 351:2 399:17<br/>400:19 403:8 414:24<br/>416:19</p> <p><b>presented</b> [4] 239:19<br/>240:11 246:16 379:16</p> <p><b>presently</b> [3] 204:6<br/>259:16 300:5</p> <p><b>president</b> [4] 405:1,2,3<br/>405:5</p> <p><b>presumably</b> [5] 286:8<br/>348:20 381:1 384:21<br/>415:8</p> <p><b>presume</b> [1] 290:23</p> <p><b>pretty</b> [2] 300:13 439:12</p> <p><b>prevent</b> [6] 249:25<br/>276:14,19 284:25 285:8<br/>285:11</p> <p><b>preventative</b> [1] 260:11</p> <p><b>previous</b> [10] 208:24<br/>241:23 253:2 284:1 290:7<br/>292:14 307:15 374:4<br/>391:20 400:14</p> <p><b>previously</b> [13] 198:5<br/>199:7 201:4 202:1 207:19<br/>237:18 258:21 298:11<br/>312:25 360:9 370:11<br/>378:9 387:22</p> <p><b>Price</b> [1] 197:6</p> <p><b>primarily</b> [3] 211:15<br/>258:11 293:4</p> <p><b>primary</b> [1] 393:23</p> <p><b>priority</b> [1] 429:15</p> <p><b>privileged</b> [1] 293:17</p> <p><b>proactive</b> [1] 284:4</p> <p><b>problem</b> [18] 208:19<br/>230:17 243:2 263:22</p> <p>276:4 298:13 299:4,6<br/>327:19 329:18 333:25<br/>339:12,13 352:23 410:4<br/>423:1 424:11 431:25</p> <p><b>problems</b> [9] 208:24<br/>271:20 289:13 384:9<br/>404:11 405:7,8 420:16<br/>420:17</p> <p><b>procedure</b> [4] 196:21<br/>237:20 342:20 346:17</p> <p><b>procedures</b> [12] 217:14<br/>218:12,13 220:7,12<br/>221:25 222:3,9 280:24<br/>368:14 410:13</p> <p><b>process</b> [8] 239:8 245:20<br/>326:14 346:3 359:14,19<br/>409:1 422:6</p> <p><b>processes</b> [3] 253:15<br/>256:6 352:6</p> <p><b>produce</b> [4] 239:8<br/>253:11 293:13,14</p> <p><b>produced</b> [4] 238:7<br/>247:13 322:22 384:16</p> <p><b>producing</b> [1] 336:8</p> <p><b>product</b> [16] 207:22<br/>214:25 234:9 262:7 318:6<br/>344:2,5 354:22,22 360:11<br/>360:16 383:7,10,13,18<br/>439:7</p> <p><b>production</b> [2] 287:21<br/>289:13</p> <p><b>products</b> [19] 226:6<br/>234:2 235:1,7,11,19,23<br/>235:25 240:17 249:17<br/>251:1 294:17 369:2,7,12<br/>388:24 438:19 439:11,14</p> <p><b>professional</b> [4] 293:12<br/>327:25 328:13 361:21</p> <p><b>profile</b> [1] 377:13</p> <p><b>program</b> [26] 216:2<br/>237:21 257:3 340:1 363:8<br/>364:19 366:7 377:22<br/>378:4 379:16 409:14,18<br/>409:21,24 410:5,11,13<br/>410:18,21 411:8,8,12,17<br/>411:19,23 412:1</p> <p><b>programs</b> [7] 215:19<br/>257:7 285:2 311:9 365:12<br/>411:5 419:5</p> <p><b>progressive</b> [1] 394:23</p> <p><b>prolonged</b> [2] 302:6<br/>352:25</p> <p><b>promise</b> [3] 374:14,15<br/>436:20</p> <p><b>proper</b> [2] 268:24 324:1</p> <p><b>properly</b> [8] 202:8<br/>215:23 236:9 268:21<br/>294:7 316:1 413:10,11</p> <p><b>properties</b> [1] 247:25</p> <p><b>proposed</b> [1] 381:20</p> <p><b>proposing</b> [1] 381:24</p> <p><b>propound</b> [1] 225:2</p> <p><b>proprietary</b> [1] 439:16</p> <p><b>protect</b> [4] 208:20 209:8<br/>421:3 432:6</p> <p><b>protection</b> [36] 210:11<br/>211:8 212:11 213:7,19</p> <p>218:10 262:14,24 263:8<br/>264:5 273:16 274:20<br/>275:15 277:2,6,12 286:2<br/>290:6 308:15 311:7 313:3<br/>315:20 324:6,22,25 325:7<br/>325:12,14 331:21 332:3<br/>334:23 338:12 342:18<br/>367:5,11 442:8</p> <p><b>protective</b> [7] 210:3<br/>271:21 286:9 311:9<br/>320:19 321:12 413:10</p> <p><b>proud</b> [1] 349:6</p> <p><b>prove</b> [1] 391:22</p> <p><b>provide</b> [9] 291:2 315:25<br/>321:5,6,11 332:16 337:24<br/>351:4 381:15</p> <p><b>provided</b> [10] 230:21<br/>236:23 260:7 268:22<br/>284:10 331:19 345:19<br/>367:4 387:17 388:8</p> <p><b>providence</b> [2] 342:24<br/>435:16</p> <p><b>provides</b> [1] 378:24</p> <p><b>providing</b> [2] 228:6<br/>332:2</p> <p><b>provision</b> [1] 330:20</p> <p><b>provisions</b> [3] 319:6<br/>369:10 393:2</p> <p><b>prudence</b> [1] 400:13</p> <p><b>public</b> [5] 196:22 301:4<br/>301:11 441:4,17</p> <p><b>publication</b> [1] 280:7</p> <p><b>publicity</b> [2] 280:11<br/>291:5</p> <p><b>publicized</b> [4] 291:4,20<br/>292:5,22</p> <p><b>published</b> [2] 203:19<br/>292:17</p> <p><b>pulled</b> [1] 304:11</p> <p><b>pulmonary</b> [3] 269:12<br/>269:21 270:9</p> <p><b>pumped</b> [1] 325:3</p> <p><b>purchasing</b> [1] 290:11</p> <p><b>pure</b> [1] 344:2</p> <p><b>purely</b> [1] 402:20</p> <p><b>purifying</b> [1] 325:15</p> <p><b>purpose</b> [10] 227:16<br/>231:1 418:1 419:15,17<br/>419:20,22 421:3 429:24<br/>431:14</p> <p><b>purposes</b> [1] 232:22</p> <p><b>pursuant</b> [1] 196:20</p> <p><b>purview</b> [1] 204:11</p> <p><b>push</b> [1] 377:23</p> <p><b>put</b> [13] 217:21 251:6,23<br/>292:16 303:17 346:16<br/>354:6 386:1 392:20<br/>404:11 405:7 409:20<br/>430:19</p> <p><b>putting</b> [4] 311:11<br/>328:18 329:2 334:17</p> | <p><b>qualify</b> [2] 257:2 291:16</p> <p><b>quantities</b> [1] 240:15</p> <p><b>questioning</b> [2] 254:8<br/>267:22</p> <p><b>questions</b> [16] 202:6<br/>242:16 244:23 245:2<br/>246:22 301:15 349:21<br/>367:3 370:22 404:21<br/>422:24 426:9,14 429:5<br/>436:2 440:10</p> <p><b>quickly</b> [1] 303:21</p> <p><b>quote</b> [2] 367:2 391:20</p> <p><b>quoted</b> [1] 296:7</p> <hr/> <p style="text-align: center;"><b>-R-</b></p> <hr/> <p><b>R</b> [1] 321:17</p> <p><b>R&amp;M</b> [1] 247:13</p> <p><b>ramifications</b> [3]<br/>389:22 390:6 393:19</p> <p><b>Ramirez</b> [4] 196:11,13<br/>315:19 435:22</p> <p><b>ran</b> [1] 312:25</p> <p><b>range</b> [5] 200:9,14<br/>331:19 414:23 415:4</p> <p><b>Ranging</b> [1] 235:21</p> <p><b>rare</b> [1] 294:10</p> <p><b>rate</b> [6] 199:19 294:12<br/>295:6 296:7,11 297:1</p> <p><b>rated</b> [1] 406:24</p> <p><b>rather</b> [9] 276:15 285:13<br/>347:18 348:10 365:8<br/>401:7 420:17 425:10<br/>438:12</p> <p><b>raw</b> [6] 345:23 346:2,12<br/>347:22 348:21 349:10</p> <p><b>re</b> [1] 236:20</p> <p><b>reach</b> [4] 242:15 250:16<br/>250:19 325:23</p> <p><b>reaction</b> [4] 240:17<br/>421:9 422:12,15</p> <p><b>read</b> [104] 202:15 209:1<br/>209:3 215:18 218:16<br/>219:12,13 228:20 230:15<br/>230:18 241:18,20 242:11<br/>242:13 248:10,12 253:5<br/>253:6 255:9 258:1,3<br/>259:20 262:23,25 263:6<br/>266:14,24 269:11 270:13<br/>273:25 278:2 279:14,17<br/>282:13,14 285:3 286:16<br/>288:15 291:6,11 292:8,9<br/>292:11 294:13 295:22,23<br/>299:23 301:14,25 302:1<br/>302:2 303:13,20,23 304:8<br/>307:5 314:23,24 317:23<br/>333:21,24 334:3,3 335:19<br/>335:21 337:11 339:23<br/>340:19,20 341:20 342:8<br/>342:9 345:20 363:2<br/>364:18 365:5,6 384:19<br/>388:18 391:18 392:22,23<br/>396:2 403:23 404:11<br/>405:15,16 407:1 409:10<br/>410:13 413:10,20,21<br/>414:6,10,11 418:4,5<br/>423:3,7 431:3,7,9 433:23</p> <p><b>readily</b> [1] 255:16</p> |
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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>reading</b> [6] 198:20,21<br>278:8 301:24 386:3<br>413:16                                                                                                                                                            | <b>recommendation</b> [3]<br>262:19 269:14 379:15                                                                                                                                                                                                                                                                                                                                                                                  | <b>regular</b> [4] 259:19 292:2<br>371:3 398:21                                                                                                                                                                                                                                                       | 264:11 274:24 278:4,9<br>293:18 302:12 306:23<br>331:17 337:19 341:21<br>375:8 384:16 406:21<br>442:11                                                                                       | 330:3,11 368:20 372:19<br>373:16 404:18 420:9,13                                                                                                                                 |
| <b>ready</b> [2] 228:21 425:21                                                                                                                                                                                          | <b>Recommendations</b> [1]<br>374:24                                                                                                                                                                                                                                                                                                                                                                                               | <b>regulation</b> [1] 308:12                                                                                                                                                                                                                                                                          | <b>reported</b> [1] 287:18                                                                                                                                                                   | <b>respected</b> [2] 280:13<br>282:21                                                                                                                                            |
| <b>real</b> [6] 287:7 299:6<br>351:20 368:6 413:18<br>430:23                                                                                                                                                            | <b>recommended</b> [3]<br>249:24 380:8 382:13                                                                                                                                                                                                                                                                                                                                                                                      | <b>regulations</b> [42] 261:8<br>261:18,23 306:19 307:25<br>308:1 309:17,23 312:16<br>313:14 315:7,23 320:18<br>323:13 324:24 328:14,25<br>329:7 330:17,21 332:7<br>333:4,9,14,15 335:4,6,8<br>335:12 346:16,19 348:15<br>348:19 350:24 351:12<br>357:1 360:1 381:14<br>394:21 404:9 408:15<br>428:11 | <b>Reportedly</b> [1] 414:3                                                                                                                                                                  | <b>respirator</b> [9] 276:22<br>311:9 333:2 334:14,17<br>338:2,24 367:2,4                                                                                                        |
| <b>realize</b> [1] 361:20                                                                                                                                                                                               | <b>record</b> [57] 198:2 209:3<br>214:11 215:21 219:13<br>228:17,20,22,23 230:18<br>233:11 241:20 242:13<br>248:12 253:6 258:3<br>262:23 272:12,15 279:17<br>282:14 286:16 292:9,11<br>295:23 302:2 312:3<br>314:24 316:5 317:3 319:2<br>334:4 335:21 337:11<br>340:20 342:9 345:1<br>349:25 359:7 365:6 376:8<br>376:11 390:1 391:20<br>392:4,23 405:16 413:21<br>414:11 415:25 416:4<br>418:5 421:24 422:1 423:7<br>425:23 431:9 | <b>regulatory</b> [2] 307:19<br>400:9                                                                                                                                                                                                                                                                 | <b>reporting</b> [2] 331:12<br>337:14                                                                                                                                                        | <b>respirators</b> [12] 221:2<br>250:3 273:3 325:3,15<br>338:6,7 340:12 356:9,24<br>357:2,6                                                                                      |
| <b>realized</b> [1] 361:20                                                                                                                                                                                              | <b>records</b> [9] 236:20<br>311:11 389:14,17 390:7<br>390:11 393:11,11,12                                                                                                                                                                                                                                                                                                                                                         | <b>reinforcing</b> [1] 388:11                                                                                                                                                                                                                                                                         | <b>reports</b> [14] 203:7 255:3<br>255:6 265:20 266:16,24<br>267:16 275:6,17 277:25<br>278:17 413:16,24 429:14                                                                               | <b>respiratory</b> [23] 212:10<br>262:14,24 263:8 264:4<br>270:12,21 273:16 274:20<br>275:14 277:2,6,12 286:2<br>290:6 308:15 311:7 324:6<br>331:21 332:3 338:12<br>342:18 442:8 |
| <b>really</b> [20] 200:18 207:18<br>274:11 275:19 279:11,11<br>279:11 293:2 319:16<br>333:20 364:12 377:23<br>378:4,6 387:16 407:14<br>420:6,22 433:5 434:7                                                             | <b>reason</b> [21] 222:14<br>266:12 278:15 283:5<br>291:9 329:10,11 335:25<br>336:14,20,21 347:23<br>350:13 353:3 373:3 389:2<br>389:4 390:20 391:6 394:3<br>396:25                                                                                                                                                                                                                                                                | <b>relate</b> [1] 293:11                                                                                                                                                                                                                                                                              | <b>represent</b> [9] 214:22<br>236:22 268:9 293:22<br>332:1 405:25 427:11<br>436:21 439:3                                                                                                    | <b>respond</b> [2] 241:22 270:5                                                                                                                                                  |
| <b>reasonable</b> [3] 262:3<br>339:25 438:5                                                                                                                                                                             | <b>rectify</b> [1] 289:12                                                                                                                                                                                                                                                                                                                                                                                                          | <b>related</b> [6] 285:19 327:1<br>384:14 385:18,19 432:14                                                                                                                                                                                                                                            | <b>representation</b> [2]<br>332:6 333:20                                                                                                                                                    | <b>responding</b> [3] 389:11<br>390:15 423:5                                                                                                                                     |
| <b>reasons</b> [8] 277:1 348:20<br>350:6 352:2,2 357:11<br>368:5 418:9                                                                                                                                                  | <b>recycled</b> [1] 298:20                                                                                                                                                                                                                                                                                                                                                                                                         | <b>relations</b> [1] 389:21                                                                                                                                                                                                                                                                           | <b>representative</b> [4]<br>196:3,12 324:10 327:7<br>339:24                                                                                                                                 | <b>response</b> [8] 268:6<br>280:17 284:20 289:7,9<br>329:19,20 430:20                                                                                                           |
| <b>recalling</b> [1] 377:2                                                                                                                                                                                              | <b>red</b> [1] 234:23                                                                                                                                                                                                                                                                                                                                                                                                              | <b>relationship</b> [7] 253:16<br>254:5 278:20 279:8 433:3<br>433:7,8                                                                                                                                                                                                                                 | <b>representatives</b> [1]<br>333:13                                                                                                                                                         | <b>responsibilities</b> [2]<br>224:19 362:8                                                                                                                                      |
| <b>recalls</b> [1] 202:10                                                                                                                                                                                               | <b>redrafted</b> [1] 411:17                                                                                                                                                                                                                                                                                                                                                                                                        | <b>relative</b> [1] 441:11                                                                                                                                                                                                                                                                            | <b>representing</b> [1] 333:13                                                                                                                                                               | <b>responsibility</b> [3]<br>264:20 435:13,19                                                                                                                                    |
| <b>received</b> [16] 203:14,16<br>238:20 239:1 255:17<br>261:1 269:23 271:9<br>274:17 300:19,21 337:1<br>345:16 366:24 370:11<br>380:7                                                                                  | <b>reduce</b> [5] 218:2 350:17<br>365:1 375:6 393:24                                                                                                                                                                                                                                                                                                                                                                               | <b>relied</b> [2] 284:15 347:1                                                                                                                                                                                                                                                                        | <b>represents</b> [2] 324:8<br>368:6                                                                                                                                                         | <b>responsible</b> [15] 208:17<br>209:5 220:14 264:16<br>313:13 321:18 381:13<br>400:23 411:3 435:3,5,21<br>436:9,14,15                                                          |
| <b>receiving</b> [3] 259:17<br>322:16 390:17                                                                                                                                                                            | <b>reduced</b> [2] 306:1 441:7                                                                                                                                                                                                                                                                                                                                                                                                     | <b>relined</b> [1] 359:10                                                                                                                                                                                                                                                                             | <b>reputation</b> [7] 291:4,21<br>291:23 292:5,18,22 293:1                                                                                                                                   | <b>responsiveness</b> [1]<br>284:17                                                                                                                                              |
| <b>recent</b> [2] 205:15 350:4                                                                                                                                                                                          | <b>reducing</b> [2] 348:10<br>365:24                                                                                                                                                                                                                                                                                                                                                                                               | <b>rely</b> [2] 280:23 361:23                                                                                                                                                                                                                                                                         | <b>reputed</b> [1] 429:10                                                                                                                                                                    | <b>restricting</b> [1] 365:23                                                                                                                                                    |
| <b>recently</b> [4] 205:18,19<br>271:10 275:1                                                                                                                                                                           | <b>reduction</b> [1] 247:18                                                                                                                                                                                                                                                                                                                                                                                                        | <b>remainder</b> [1] 312:16                                                                                                                                                                                                                                                                           | <b>request</b> [1] 390:11                                                                                                                                                                    | <b>restrictions</b> [2] 200:24<br>334:18                                                                                                                                         |
| <b>recess</b> [9] 228:19 272:13<br>316:8 344:24 376:9,11<br>416:1 425:20,22                                                                                                                                             | <b>refer</b> [4] 202:7,23 230:9<br>231:13                                                                                                                                                                                                                                                                                                                                                                                          | <b>remained</b> [1] 303:9                                                                                                                                                                                                                                                                             | <b>requested</b> [1] 284:12                                                                                                                                                                  | <b>result</b> [19] 224:6 227:3<br>286:2 287:20,20,23<br>312:19 323:4 324:14<br>326:15 348:9 351:10<br>357:21 369:7 386:6 413:6<br>417:22 426:17 432:10                           |
| <b>recognition</b> [3] 207:21<br>276:12 395:24                                                                                                                                                                          | <b>reference</b> [9] 200:3<br>225:25 236:10 306:22<br>332:11 364:16 379:25<br>395:17 412:21                                                                                                                                                                                                                                                                                                                                        | <b>remember</b> [20] 206:20<br>266:12,13 267:9,23 278:8<br>300:12,12 301:20 322:17<br>344:5,17 348:5 373:5<br>387:7 389:19 391:4<br>408:18 413:16 426:20                                                                                                                                              | <b>requesting</b> [1] 376:4                                                                                                                                                                  | <b>resulted</b> [2] 312:1 426:23                                                                                                                                                 |
| <b>recognize</b> [7] 234:25<br>235:6,8 277:18 280:5<br>301:10 305:9                                                                                                                                                     | <b>referenced</b> [1] 238:3                                                                                                                                                                                                                                                                                                                                                                                                        | <b>removed</b> [5] 239:24 415:3<br>415:7,9,13                                                                                                                                                                                                                                                         | <b>requests</b> [7] 389:11,13<br>389:20 390:17,20 391:7<br>391:15                                                                                                                            | <b>resulting</b> [9] 211:8,20<br>212:10,24 255:7 305:19<br>347:6 397:1 416:9                                                                                                     |
| <b>recognized</b> [23] 206:9<br>231:10 239:1 246:2,25<br>248:21 249:9,10 250:12<br>250:25 253:8 264:4 265:9<br>274:15 275:10 279:18<br>280:1 291:19 293:24<br>307:9 348:13,18 424:8                                     | <b>references</b> [2] 207:4<br>403:18                                                                                                                                                                                                                                                                                                                                                                                              | <b>reminded</b> [1] 268:4                                                                                                                                                                                                                                                                             | <b>require</b> [7] 218:4 277:6<br>313:3 324:24 357:1<br>363:10 417:15                                                                                                                        | <b>results</b> [6] 305:23 306:24<br>312:15 340:2,10 342:3                                                                                                                        |
| <b>recognizing</b> [2] 262:7<br>262:14                                                                                                                                                                                  | <b>referencing</b> [1] 362:15                                                                                                                                                                                                                                                                                                                                                                                                      | <b>reminds</b> [1] 236:19                                                                                                                                                                                                                                                                             | <b>required</b> [24] 217:24<br>219:2 261:23 273:12<br>277:3 290:5 292:2 310:5<br>310:9,18 313:15 319:6<br>319:15 328:20,25 330:17<br>338:17 340:1 357:10<br>394:21 396:16 397:2,15<br>408:16 | <b>retain</b> [1] 393:14                                                                                                                                                         |
| <b>recollect</b> [1] 225:9                                                                                                                                                                                              | <b>referring</b> [3] 266:7<br>290:11 294:23                                                                                                                                                                                                                                                                                                                                                                                        | <b>removal</b> [3] 323:22<br>327:1 427:14                                                                                                                                                                                                                                                             | <b>requirements</b> [20]<br>305:20,21 307:19 308:2<br>310:20 311:1,5,13,20<br>312:2,24 313:8 314:3,12<br>314:12,15 327:17 340:6<br>395:8 400:9                                               | <b>retention</b> [1] 393:12                                                                                                                                                      |
| <b>recollect</b> [27] 224:10<br>238:11 247:22 248:5<br>251:2 258:22 259:16<br>267:4 274:3 289:8,10<br>300:13 301:21 304:24<br>322:15 326:8 332:7<br>353:10 370:6,12 379:7<br>381:23 383:15 387:14<br>400:21 401:4 403:2 | <b>refers</b> [1] 299:9                                                                                                                                                                                                                                                                                                                                                                                                            | <b>remove</b> [5] 239:24 415:3<br>415:7,9,13                                                                                                                                                                                                                                                          | <b>requires</b> [7] 309:17<br>328:4 331:25 373:17<br>392:19 398:10 400:3                                                                                                                     | <b>retired</b> [7] 228:3 385:10<br>385:11 403:2 407:9,12<br>409:25                                                                                                               |
| <b>recommend</b> [1] 269:9                                                                                                                                                                                              | <b>reflect</b> [2] 368:19 389:17                                                                                                                                                                                                                                                                                                                                                                                                   | <b>removed</b> [15] 240:3<br>273:21 299:14,17,20,24<br>300:20,25 302:5 303:16<br>303:21 357:18 359:11<br>408:24 409:2                                                                                                                                                                                 | <b>requiring</b> [4] 273:14<br>274:19 275:13 401:3                                                                                                                                           | <b>retirement</b> [1] 228:5                                                                                                                                                      |
|                                                                                                                                                                                                                         | <b>reflects</b> [1] 228:5                                                                                                                                                                                                                                                                                                                                                                                                          | <b>removing</b> [2] 296:23<br>353:24                                                                                                                                                                                                                                                                  | <b>research</b> [5] 204:22<br>280:16 284:14 301:2,8                                                                                                                                          | <b>retrospect</b> [5] 255:1<br>428:14,23 429:16 431:10                                                                                                                           |
|                                                                                                                                                                                                                         | <b>refractory</b> [4] 249:16<br>250:13 318:19 361:7                                                                                                                                                                                                                                                                                                                                                                                | <b>render</b> [1] 270:21                                                                                                                                                                                                                                                                              | <b>researcher</b> [2] 280:10<br>282:21                                                                                                                                                       | <b>reveal</b> [1] 284:8                                                                                                                                                          |
|                                                                                                                                                                                                                         | <b>refresh</b> [2] 274:3 370:11                                                                                                                                                                                                                                                                                                                                                                                                    | <b>renewed</b> [1] 408:24                                                                                                                                                                                                                                                                             | <b>reserve</b> [1] 440:10                                                                                                                                                                    | <b>review</b> [4] 198:17 202:8<br>217:8 265:8                                                                                                                                    |
|                                                                                                                                                                                                                         | <b>regard</b> [2] 224:5 238:11                                                                                                                                                                                                                                                                                                                                                                                                     | <b>renowned</b> [3] 280:19<br>282:7,21                                                                                                                                                                                                                                                                | <b>resistance</b> [1] 379:13                                                                                                                                                                 | <b>reviewed</b> [7] 206:12<br>254:21 255:18 265:15<br>318:13 344:14 437:17                                                                                                       |
|                                                                                                                                                                                                                         | <b>regarding</b> [16] 215:4<br>249:5 271:5 284:21<br>297:18 318:24 345:5<br>350:4 363:16,17 366:18<br>367:21 386:21 396:14<br>398:3 442:24                                                                                                                                                                                                                                                                                         | <b>repair</b> [2] 289:19 396:17                                                                                                                                                                                                                                                                       | <b>respect</b> [14] 216:18 225:5<br>225:10,20 281:17 291:5                                                                                                                                   | <b>reviewing</b> [2] 199:13<br>370:10                                                                                                                                            |
|                                                                                                                                                                                                                         | <b>regardless</b> [8] 212:15<br>253:7,14 336:19 348:13<br>382:24 423:25 424:6                                                                                                                                                                                                                                                                                                                                                      | <b>repeat</b> [1] 419:8                                                                                                                                                                                                                                                                               | <b>report</b> [19] 202:18 203:14<br>203:17 225:25 226:9                                                                                                                                      | <b>Richard</b> [1] 251:18                                                                                                                                                        |
|                                                                                                                                                                                                                         | <b>regenerators</b> [1] 356:7                                                                                                                                                                                                                                                                                                                                                                                                      | <b>repeated</b> [3] 370:3,7,14                                                                                                                                                                                                                                                                        |                                                                                                                                                                                              |                                                                                                                                                                                  |
|                                                                                                                                                                                                                         | <b>Register</b> [1] 306:6                                                                                                                                                                                                                                                                                                                                                                                                          | <b>repeatedly</b> [1] 298:20                                                                                                                                                                                                                                                                          |                                                                                                                                                                                              |                                                                                                                                                                                  |
|                                                                                                                                                                                                                         | <b>regs</b> [1] 312:25                                                                                                                                                                                                                                                                                                                                                                                                             | <b>rephrase</b> [2] 321:10<br>428:20                                                                                                                                                                                                                                                                  |                                                                                                                                                                                              |                                                                                                                                                                                  |
|                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>replace</b> [2] 358:20,24                                                                                                                                                                                                                                                                          |                                                                                                                                                                                              |                                                                                                                                                                                  |
|                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>replaced</b> [2] 303:16<br>358:25                                                                                                                                                                                                                                                                  |                                                                                                                                                                                              |                                                                                                                                                                                  |

|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                          |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>reading</b> [6] 198:20,21<br>278:8 301:24 386:3<br>413:16                                                                                                                                                               | <b>recommendation</b> [3] 262:19 269:14 379:15<br><b>Recommendations</b> [1] 374:24                                                                                                                                                                                                                                                                                                                                                | <b>regular</b> [4] 259:19 292:2<br>371:3 398:21                                                                                                          | 264:11 274:24 278:4,9<br>293:18 302:12 306:23<br>331:17 337:19 341:21<br>375:8 384:16 406:21<br>442:11                                                                                                                                                                                                | 330:3,11 368:20 372:19<br>373:16 404:18 420:9,13                                                                                                                                 |
| <b>ready</b> [2] 228:21 425:21                                                                                                                                                                                             | <b>recommended</b> [3] 249:24 380:8 382:13                                                                                                                                                                                                                                                                                                                                                                                         | <b>regulation</b> [1] 308:12                                                                                                                             | <b>regulations</b> [42] 261:8<br>261:18,23 306:19 307:25<br>308:1 309:17,23 312:16<br>313:14 315:7,23 320:18<br>323:13 324:24 328:14,25<br>329:7 330:17,21 332:7<br>333:4,9,14,15 335:4,6,8<br>335:12 346:16,19 348:15<br>348:19 350:24 351:12<br>357:1 360:1 381:14<br>394:21 404:9 408:15<br>428:11 | <b>respected</b> [2] 280:13<br>282:21                                                                                                                                            |
| <b>real</b> [6] 287:7 299:6<br>351:20 368:6 413:18<br>430:23                                                                                                                                                               | <b>record</b> [57] 198:2 209:3<br>214:11 215:21 219:13<br>228:17,20,22,23 230:18<br>233:11 241:20 242:13<br>248:12 253:6 258:3<br>262:23 272:12,15 279:17<br>282:14 286:16 292:9,11<br>295:23 302:2 312:3<br>314:24 316:5 317:3 319:2<br>334:4 335:21 337:11<br>340:20 342:9 345:1<br>349:25 359:7 365:6 376:8<br>376:11 390:1 391:20<br>392:4,23 405:16 413:21<br>414:11 415:25 416:4<br>418:5 421:24 422:1 423:7<br>425:23 431:9 | <b>regulatory</b> [2] 307:19<br>400:9                                                                                                                    | <b>reports</b> [14] 203:7 255:3<br>255:6 265:20 266:16,24<br>267:16 275:6,17 277:25<br>278:17 413:16,24 429:14                                                                                                                                                                                        | <b>respirator</b> [9] 276:22<br>311:9 333:2 334:14,17<br>338:2,24 367:2,4                                                                                                        |
| <b>realize</b> [1] 361:20                                                                                                                                                                                                  | <b>records</b> [9] 236:20<br>311:11 389:14,17 390:7<br>390:11 393:11,11,12                                                                                                                                                                                                                                                                                                                                                         | <b>reinforcing</b> [1] 388:11                                                                                                                            | <b>represent</b> [9] 214:22<br>236:22 268:9 293:22<br>332:1 405:25 427:11<br>436:21 439:3                                                                                                                                                                                                             | <b>respirators</b> [12] 221:2<br>250:3 273:3 325:3,15<br>338:6,7 340:12 356:9,24<br>357:2,6                                                                                      |
| <b>realized</b> [1] 361:20                                                                                                                                                                                                 | <b>rectify</b> [1] 289:12                                                                                                                                                                                                                                                                                                                                                                                                          | <b>relate</b> [1] 293:11                                                                                                                                 | <b>representation</b> [2] 332:6 333:20                                                                                                                                                                                                                                                                | <b>respiratory</b> [23] 212:10<br>262:14,24 263:8 264:4<br>270:12,21 273:16 274:20<br>275:14 277:2,6,12 286:2<br>290:6 308:15 311:7 324:6<br>331:21 332:3 338:12<br>342:18 442:8 |
| <b>really</b> [20] 200:18 207:18<br>274:11 275:19 279:11,11<br>279:11 293:2 319:16<br>333:20 364:12 377:23<br>378:4,6 387:16 407:14<br>420:6,22 433:5 434:7                                                                | <b>red</b> [1] 234:23                                                                                                                                                                                                                                                                                                                                                                                                              | <b>related</b> [6] 285:19 327:1<br>384:14 385:18,19 432:14                                                                                               | <b>representative</b> [4] 196:3,12 324:10 327:7                                                                                                                                                                                                                                                       | <b>respond</b> [2] 241:22 270:5                                                                                                                                                  |
| <b>reason</b> [21] 222:14<br>266:12 278:15 283:5<br>291:9 329:10,11 335:25<br>336:14,20,21 347:23<br>350:13 353:3 373:3 389:2<br>389:4 390:20 391:6 394:3<br>396:25                                                        | <b>redrafted</b> [1] 411:17                                                                                                                                                                                                                                                                                                                                                                                                        | <b>relations</b> [1] 389:21                                                                                                                              | <b>representatives</b> [1] 339:24                                                                                                                                                                                                                                                                     | <b>responding</b> [3] 389:11<br>390:15 423:5                                                                                                                                     |
| <b>reasonable</b> [3] 262:3<br>339:25 438:5                                                                                                                                                                                | <b>reduce</b> [5] 218:2 350:17<br>365:1 375:6 393:24                                                                                                                                                                                                                                                                                                                                                                               | <b>relationship</b> [7] 253:16<br>254:5 278:20 279:8 433:3<br>433:7,8                                                                                    | <b>representing</b> [1] 333:13                                                                                                                                                                                                                                                                        | <b>response</b> [8] 268:6<br>280:17 284:20 289:7,9<br>329:19,20 430:20                                                                                                           |
| <b>reasons</b> [8] 277:1 348:20<br>350:6 352:2,2 357:11<br>368:5 418:9                                                                                                                                                     | <b>reduced</b> [2] 306:1 441:7                                                                                                                                                                                                                                                                                                                                                                                                     | <b>relative</b> [1] 441:11                                                                                                                               | <b>represents</b> [2] 324:8<br>368:6                                                                                                                                                                                                                                                                  | <b>responsibilities</b> [2] 224:19 362:8                                                                                                                                         |
| <b>recalling</b> [1] 377:2                                                                                                                                                                                                 | <b>reducing</b> [2] 348:10<br>365:24                                                                                                                                                                                                                                                                                                                                                                                               | <b>relatively</b> [1] 211:16                                                                                                                             | <b>reputation</b> [7] 291:4,21<br>291:23 292:5,18,22 293:1                                                                                                                                                                                                                                            | <b>responsibility</b> [3] 264:20 435:13,19                                                                                                                                       |
| <b>recalls</b> [1] 202:10                                                                                                                                                                                                  | <b>reduction</b> [1] 247:18                                                                                                                                                                                                                                                                                                                                                                                                        | <b>relied</b> [2] 284:15 347:1                                                                                                                           | <b>reputed</b> [1] 429:10                                                                                                                                                                                                                                                                             | <b>responsible</b> [15] 208:17<br>209:5 220:14 264:16<br>313:13 321:18 381:13<br>400:23 411:3 435:3,5,21<br>436:9,14,15                                                          |
| <b>received</b> [16] 203:14,16<br>238:20 239:1 255:17<br>261:1 269:23 271:9<br>274:17 300:19,21 337:1<br>345:16 366:24 370:11<br>380:7                                                                                     | <b>refer</b> [4] 202:7,23 230:9<br>231:13                                                                                                                                                                                                                                                                                                                                                                                          | <b>relined</b> [1] 359:10                                                                                                                                | <b>request</b> [1] 390:11                                                                                                                                                                                                                                                                             | <b>responsiveness</b> [1] 284:17                                                                                                                                                 |
| <b>receiving</b> [3] 259:17<br>322:16 390:17                                                                                                                                                                               | <b>reference</b> [9] 200:3<br>225:25 236:10 306:22<br>332:11 364:16 379:25<br>395:17 412:21                                                                                                                                                                                                                                                                                                                                        | <b>rely</b> [2] 280:23 361:23                                                                                                                            | <b>requested</b> [1] 284:12                                                                                                                                                                                                                                                                           | <b>restricting</b> [1] 365:23                                                                                                                                                    |
| <b>recent</b> [2] 205:15 350:4                                                                                                                                                                                             | <b>referenced</b> [1] 238:3                                                                                                                                                                                                                                                                                                                                                                                                        | <b>remainder</b> [1] 312:16                                                                                                                              | <b>requesting</b> [1] 376:4                                                                                                                                                                                                                                                                           | <b>restrictions</b> [2] 200:24<br>334:18                                                                                                                                         |
| <b>recently</b> [4] 205:18,19<br>271:10 275:1                                                                                                                                                                              | <b>references</b> [2] 207:4<br>403:18                                                                                                                                                                                                                                                                                                                                                                                              | <b>remained</b> [1] 303:9                                                                                                                                | <b>requests</b> [7] 389:11,13<br>389:20 390:17,20 391:7<br>391:15                                                                                                                                                                                                                                     | <b>result</b> [19] 224:6 227:3<br>286:2 287:20,20,23<br>312:19 323:4 324:14<br>326:15 348:9 351:10<br>357:21 369:7 386:6 413:6<br>417:22 426:17 432:10                           |
| <b>recess</b> [9] 228:19 272:13<br>316:8 344:24 376:9,11<br>416:1 425:20,22                                                                                                                                                | <b>referencing</b> [1] 362:15                                                                                                                                                                                                                                                                                                                                                                                                      | <b>remember</b> [20] 206:20<br>266:12,13 267:9,23 278:8<br>300:12,12 301:20 322:17<br>344:5,17 348:5 373:5<br>387:7 389:19 391:4<br>408:18 413:16 426:20 | <b>require</b> [7] 218:4 277:6<br>313:3 324:24 357:1<br>363:10 417:15                                                                                                                                                                                                                                 | <b>resulted</b> [2] 312:1 426:23                                                                                                                                                 |
| <b>recognition</b> [3] 207:21<br>276:12 395:24                                                                                                                                                                             | <b>referring</b> [3] 266:7<br>290:11 294:23                                                                                                                                                                                                                                                                                                                                                                                        | <b>reminded</b> [1] 268:4                                                                                                                                | <b>required</b> [24] 217:24<br>219:2 261:23 273:12<br>277:3 290:5 292:2 310:5<br>310:9,18 313:15 319:6<br>319:15 328:20,25 330:17<br>338:17 340:1 357:10<br>394:21 396:16 397:2,15<br>408:16                                                                                                          | <b>resulting</b> [9] 211:8,20<br>212:10,24 255:7 305:19<br>347:6 397:1 416:9                                                                                                     |
| <b>recognize</b> [7] 234:25<br>235:6,8 277:18 280:5<br>301:10 305:9                                                                                                                                                        | <b>refers</b> [1] 299:9                                                                                                                                                                                                                                                                                                                                                                                                            | <b>reminds</b> [1] 236:19                                                                                                                                | <b>requirements</b> [20] 305:20,21 307:19 308:2<br>310:20 311:1,5,13,20<br>312:2,24 313:8 314:3,12<br>314:12,15 327:17 340:6<br>395:8 400:9                                                                                                                                                           | <b>results</b> [6] 305:23 306:24<br>312:15 340:2,10 342:3                                                                                                                        |
| <b>recognized</b> [23] 206:9<br>231:10 239:1 246:2,25<br>248:21 249:9,10 250:12<br>250:25 253:8 264:4 265:9<br>274:15 275:10 279:18<br>280:1 291:19 293:24<br>307:9 348:13,18 424:8                                        | <b>reflect</b> [2] 368:19 389:17                                                                                                                                                                                                                                                                                                                                                                                                   | <b>removal</b> [3] 323:22<br>327:1 427:14                                                                                                                | <b>requirement</b> [4] 273:16<br>305:6 394:4 408:10                                                                                                                                                                                                                                                   | <b>retain</b> [1] 393:14                                                                                                                                                         |
| <b>recognizing</b> [2] 262:7<br>262:14                                                                                                                                                                                     | <b>reflects</b> [1] 228:5                                                                                                                                                                                                                                                                                                                                                                                                          | <b>remove</b> [5] 239:24 415:3<br>415:7,9,13                                                                                                             | <b>requirements</b> [20] 305:20,21 307:19 308:2<br>310:20 311:1,5,13,20<br>312:2,24 313:8 314:3,12<br>314:12,15 327:17 340:6<br>395:8 400:9                                                                                                                                                           | <b>retention</b> [1] 393:12                                                                                                                                                      |
| <b>recollect</b> [1] 225:9                                                                                                                                                                                                 | <b>refractory</b> [4] 249:16<br>250:13 318:19 361:7                                                                                                                                                                                                                                                                                                                                                                                | <b>removed</b> [15] 240:3<br>273:21 299:14,17,20,24<br>300:20,25 302:5 303:16<br>303:21 357:18 359:11<br>408:24 409:2                                    | <b>requires</b> [7] 309:17<br>328:4 331:25 373:17<br>392:19 398:10 400:3                                                                                                                                                                                                                              | <b>retired</b> [7] 228:3 385:10<br>385:11 403:2 407:9,12<br>409:25                                                                                                               |
| <b>recollection</b> [27] 224:10<br>238:11 247:22 248:5<br>251:2 258:22 259:16<br>267:4 274:3 289:8,10<br>300:13 301:21 304:24<br>322:15 326:8 332:7<br>353:10 370:6,12 379:7<br>381:23 383:15 387:14<br>400:21 401:4 403:2 | <b>refresh</b> [2] 274:3 370:11                                                                                                                                                                                                                                                                                                                                                                                                    | <b>removing</b> [2] 296:23<br>353:24                                                                                                                     | <b>requiring</b> [4] 273:14<br>274:19 275:13 401:3                                                                                                                                                                                                                                                    | <b>retirement</b> [1] 228:5                                                                                                                                                      |
| <b>recommend</b> [1] 269:9                                                                                                                                                                                                 | <b>regard</b> [2] 224:5 238:11                                                                                                                                                                                                                                                                                                                                                                                                     | <b>render</b> [1] 270:21                                                                                                                                 | <b>research</b> [5] 204:22<br>280:16 284:14 301:2,8                                                                                                                                                                                                                                                   | <b>retrospect</b> [5] 255:1<br>428:14,23 429:16 431:10                                                                                                                           |
|                                                                                                                                                                                                                            | <b>regarding</b> [16] 215:4<br>249:5 271:5 284:21<br>297:18 318:24 345:5<br>350:4 363:16,17 366:18<br>367:21 386:21 396:14<br>398:3 442:24                                                                                                                                                                                                                                                                                         | <b>renewed</b> [1] 408:24                                                                                                                                | <b>researcher</b> [2] 280:10<br>282:21                                                                                                                                                                                                                                                                | <b>reveal</b> [1] 284:8                                                                                                                                                          |
|                                                                                                                                                                                                                            | <b>regardless</b> [8] 212:15<br>253:7,14 336:19 348:13<br>382:24 423:25 424:6                                                                                                                                                                                                                                                                                                                                                      | <b>repair</b> [2] 289:19 396:17                                                                                                                          | <b>reserve</b> [1] 440:10                                                                                                                                                                                                                                                                             | <b>review</b> [4] 198:17 202:8<br>217:8 265:8                                                                                                                                    |
|                                                                                                                                                                                                                            | <b>regenerators</b> [1] 356:7                                                                                                                                                                                                                                                                                                                                                                                                      | <b>repeat</b> [1] 419:8                                                                                                                                  | <b>resistance</b> [1] 379:13                                                                                                                                                                                                                                                                          | <b>reviewed</b> [7] 206:12<br>254:21 255:18 265:15<br>318:13 344:14 437:17                                                                                                       |
|                                                                                                                                                                                                                            | <b>Register</b> [1] 306:6                                                                                                                                                                                                                                                                                                                                                                                                          | <b>repeated</b> [3] 370:3,7,14                                                                                                                           | <b>respect</b> [14] 216:18 225:5<br>225:10,20 281:17 291:5                                                                                                                                                                                                                                            | <b>reviewing</b> [2] 199:13<br>370:10                                                                                                                                            |
|                                                                                                                                                                                                                            | <b>regs</b> [1] 312:25                                                                                                                                                                                                                                                                                                                                                                                                             | <b>repeatedly</b> [1] 298:20                                                                                                                             |                                                                                                                                                                                                                                                                                                       | <b>Richard</b> [1] 251:18                                                                                                                                                        |
|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>rephrase</b> [2] 321:10<br>428:20                                                                                                                     |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                  |
|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>replace</b> [2] 358:20,24                                                                                                                             |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                  |
|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>replaced</b> [2] 303:16<br>358:25                                                                                                                     |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                  |
|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>report</b> [19] 202:18 203:14<br>203:17 225:25 226:9                                                                                                  |                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                  |

|                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| systems [7] 217:21 218:1<br>218:7,9 219:6 220:11<br>289:18                                                                                                          | 334:16,20 358:19 426:14<br>430:14 441:7                                                                                                                                                                                                                                                                                                                                | 238:7,13 246:25 247:14<br>327:23 354:25 355:3<br>370:19                                                                                                                                                              | travel [1] 201:1                                                                                                                                                                                                     | 242:22 252:18 287:16,23<br>288:10 305:22 309:12<br>313:15 319:6,15 328:20<br>340:6 355:20 356:4 360:1<br>360:6 370:2 372:19<br>392:15 397:3                                                                               |
| <b>-T-</b>                                                                                                                                                          | testing [1] 310:10                                                                                                                                                                                                                                                                                                                                                     | tied [1] 201:21                                                                                                                                                                                                      | treat [3] 330:3,11 440:6                                                                                                                                                                                             | undergoing [1] 394:15                                                                                                                                                                                                     |
| T [3] 226:16 436:21 439:3                                                                                                                                           | tests [4] 306:25 396:19<br>397:19,24                                                                                                                                                                                                                                                                                                                                   | tighter [1] 396:9                                                                                                                                                                                                    | treated [2] 220:6 423:20                                                                                                                                                                                             | undermanned [2] 362:7<br>362:24                                                                                                                                                                                           |
| table [1] 322:12                                                                                                                                                    | Texas [17] 196:1,10<br>197:4,8,16 200:16,21,22<br>261:7,7,13,25 267:8<br>320:3,6 435:12,12                                                                                                                                                                                                                                                                             | tiles [1] 235:25                                                                                                                                                                                                     | treatment [4] 222:15<br>394:7,10 417:21                                                                                                                                                                              | underneath [1] 399:9                                                                                                                                                                                                      |
| takes [2] 319:16 326:4                                                                                                                                              | textiles [1] 234:22                                                                                                                                                                                                                                                                                                                                                    | times [13] 205:16 239:23<br>276:23 297:2,7 322:25<br>323:18 326:20 333:7<br>342:1 372:21 424:23<br>426:17                                                                                                            | tremolite [3] 360:25<br>361:15 364:2                                                                                                                                                                                 | undersigned [1] 196:22                                                                                                                                                                                                    |
| taking [4] 196:21 239:7<br>262:2 441:6                                                                                                                              | Thank [3] 236:20 415:22<br>440:9                                                                                                                                                                                                                                                                                                                                       | tired [2] 426:6 434:6                                                                                                                                                                                                | trial [2] 435:24 440:11                                                                                                                                                                                              | understand [20] 198:11<br>231:1 242:9,14 243:9<br>244:5 260:9 340:4,9<br>342:2 360:23 362:25<br>387:19,21 394:13 406:4<br>410:7 421:20 429:16<br>436:4                                                                    |
| talks [10] 223:12 268:10<br>318:8 325:19 331:11<br>366:6 388:5 393:11<br>406:12 414:22                                                                              | themselves [2] 286:4<br>361:25                                                                                                                                                                                                                                                                                                                                         | TLV [3] 231:6 260:12<br>276:7                                                                                                                                                                                        | trigger [1] 210:18                                                                                                                                                                                                   | understandably [1]<br>404:15                                                                                                                                                                                              |
| tank [1] 343:13                                                                                                                                                     | theoretical [2] 243:23<br>257:9                                                                                                                                                                                                                                                                                                                                        | TLV's [7] 208:12 256:22<br>256:23,24 257:20 261:16<br>276:14                                                                                                                                                         | triggered [1] 311:13                                                                                                                                                                                                 | understands [1] 421:22                                                                                                                                                                                                    |
| tape [8] 234:24 272:16<br>344:23 345:1 415:23,25<br>416:3,3                                                                                                         | thereabouts [1] 227:24                                                                                                                                                                                                                                                                                                                                                 | today [31] 200:13 204:6<br>230:5 242:1,7,25 243:13<br>243:19,25 244:2 245:25<br>280:5 282:11 287:1<br>318:13 326:9 331:16<br>335:9 339:9 417:13,15<br>417:18 418:14,15,20,24<br>419:3 423:11 432:17<br>434:19 437:15 | trips [1] 381:6                                                                                                                                                                                                      | understood [3] 230:25<br>248:8 360:24                                                                                                                                                                                     |
| TB [1] 288:8                                                                                                                                                        | thereafter [1] 255:16                                                                                                                                                                                                                                                                                                                                                  | today's [1] 222:12                                                                                                                                                                                                   | trucks [1] 439:6                                                                                                                                                                                                     | undertaking [1] 211:14                                                                                                                                                                                                    |
| TBB [2] 399:23 403:1                                                                                                                                                | therefore [3] 312:22<br>430:7 432:4                                                                                                                                                                                                                                                                                                                                    | together [5] 199:9 354:7<br>409:21 419:7 423:14                                                                                                                                                                      | true [13] 205:4 210:19<br>220:23 249:13 251:6<br>276:18 311:3 320:5 325:1<br>331:23 366:5 415:17<br>428:3                                                                                                            | Undoubtedly [1] 346:25                                                                                                                                                                                                    |
| team [2] 408:4 409:4                                                                                                                                                | thereof [1] 340:2                                                                                                                                                                                                                                                                                                                                                      | Tom [6] 212:13,20<br>358:15 369:25 433:7,15                                                                                                                                                                          | truly [2] 324:10 434:7                                                                                                                                                                                               | unfortunate [2] 211:6<br>211:13                                                                                                                                                                                           |
| tear [6] 303:5,7 307:24<br>426:15 427:13 428:7                                                                                                                      | Thereupon [45] 207:14<br>226:13 233:8 237:6<br>259:10 262:20 265:18<br>271:3 285:6 288:17<br>289:23 290:15 293:20<br>298:3 304:20 306:16<br>316:7 317:4 319:10<br>320:12 321:21 330:7<br>331:9 345:9 350:2 352:18<br>362:18 366:21 368:2<br>369:19 371:12 372:17<br>373:14 378:22 384:6<br>386:19 388:14 389:7<br>392:1 396:23 398:7<br>399:20 412:19 414:16<br>440:13 | too [8] 213:11 247:9<br>305:10 349:6,22 357:10<br>425:10,12                                                                                                                                                          | truth [3] 441:6,6,6                                                                                                                                                                                                  | unibestos [3] 343:17,19<br>344:2                                                                                                                                                                                          |
| tearing [1] 323:4                                                                                                                                                   | thermal [4] 234:2 235:11<br>355:16 356:7                                                                                                                                                                                                                                                                                                                               | took [12] 198:15 218:25<br>229:2 253:8 257:6 272:20<br>279:9 306:19 312:7 347:1<br>382:25 417:11                                                                                                                     | try [8] 246:4 282:19<br>283:16 286:15 339:4<br>365:1 393:24 423:24                                                                                                                                                   | union [3] 288:10 296:21<br>296:22                                                                                                                                                                                         |
| tech [1] 204:21                                                                                                                                                     | thin [1] 213:11                                                                                                                                                                                                                                                                                                                                                        | top [1] 399:4                                                                                                                                                                                                        | trying [12] 200:2 244:3,4<br>280:24 350:23 366:11<br>390:13 391:23 394:6<br>429:6 433:1 434:4                                                                                                                        | unions [1] 284:22                                                                                                                                                                                                         |
| technical [1] 351:16                                                                                                                                                | thinks [2] 273:25 292:15                                                                                                                                                                                                                                                                                                                                               | Tosca [1] 406:19                                                                                                                                                                                                     | tubing [1] 234:24                                                                                                                                                                                                    | United [3] 256:6,14<br>382:4                                                                                                                                                                                              |
| technically [2] 377:3,21                                                                                                                                            | third [4] 226:20 227:13<br>273:1 352:5                                                                                                                                                                                                                                                                                                                                 | total [3] 200:12 203:16<br>362:12                                                                                                                                                                                    | Tuesday [1] 306:6                                                                                                                                                                                                    | unless [9] 210:17 242:6<br>242:18,20 243:3,17,25<br>299:20 390:14                                                                                                                                                         |
| telling [23] 201:9 277:7<br>278:3,16 309:22,25 310:1<br>330:12 332:4 336:21<br>342:16 358:24 417:25<br>418:22,25 419:1,11,22<br>420:18 424:23 425:6<br>433:6 434:24 | Thomas [6] 196:18,20<br>197:6 198:3 242:6 441:5                                                                                                                                                                                                                                                                                                                        | totally [2] 342:22 359:2                                                                                                                                                                                             | twice [1] 433:22                                                                                                                                                                                                     | unlikeli [1] 255:10                                                                                                                                                                                                       |
| temperatures [2]<br>343:20 353:1                                                                                                                                    | thorough [1] 437:23                                                                                                                                                                                                                                                                                                                                                    | toxic [4] 231:16 251:4<br>252:18 406:13                                                                                                                                                                              | two [26] 208:23 233:16<br>233:16 244:22 245:2,9<br>246:21 254:9,12 258:23<br>294:23 348:2 358:17<br>368:4 375:20 376:2 401:9<br>404:9,20 406:18,25<br>417:18 422:23 428:22<br>429:4 439:6                            | unnecessary [4] 211:14<br>367:22 368:18 369:8                                                                                                                                                                             |
| ten [18] 235:18 279:15<br>294:13,16,17 295:7,14<br>295:16 296:8,12 323:18<br>330:25 333:7 342:1 407:9<br>426:1,2 434:1                                              | Thorpe [5] 436:21 439:3<br>439:9,24 440:3                                                                                                                                                                                                                                                                                                                              | toxicity [2] 380:3 396:10                                                                                                                                                                                            | type [30] 225:21 235:19<br>248:5 258:12 273:2<br>279:20 280:22 281:17,18<br>281:23 282:8,23 284:12<br>294:10,18,23,25 325:7<br>336:3 354:6 361:19 370:2<br>372:9 386:6 395:1 398:10<br>411:12 426:23 427:3<br>439:20 | unreasonably [1]<br>323:24                                                                                                                                                                                                |
| tends [1] 303:25                                                                                                                                                    | thought [11] 212:4<br>263:15 290:9 324:13<br>348:1 405:17 407:25<br>423:4 433:3 435:3 439:14                                                                                                                                                                                                                                                                           | toxicologist [3] 437:5,6<br>437:12                                                                                                                                                                                   | typed [4] 240:18,25<br>250:9 370:4                                                                                                                                                                                   | unsafe [2] 214:4 373:25                                                                                                                                                                                                   |
| Tennessee [3] 362:15<br>362:24 372:14                                                                                                                               | thoughts [1] 283:22                                                                                                                                                                                                                                                                                                                                                    | toxicology [2] 437:7,9                                                                                                                                                                                               | types [11] 233:21 279:19<br>283:18 311:8 324:19,25<br>327:13 364:6 388:10,17<br>425:7                                                                                                                                | unused [1] 352:23                                                                                                                                                                                                         |
| tenure [1] 437:3                                                                                                                                                    | thousands [1] 384:21                                                                                                                                                                                                                                                                                                                                                   | Trade [1] 247:7                                                                                                                                                                                                      | typical [1] 233:12                                                                                                                                                                                                   | unusual [1] 263:10                                                                                                                                                                                                        |
| term [2] 255:4 409:23                                                                                                                                               | three [8] 199:15 274:14<br>275:10 352:1 376:4<br>377:11 401:9 404:10                                                                                                                                                                                                                                                                                                   | trained [1] 313:25                                                                                                                                                                                                   | <b>-U-</b>                                                                                                                                                                                                           | unventilated [2] 212:15<br>268:12                                                                                                                                                                                         |
| terminal [1] 418:17                                                                                                                                                 | threshold [9] 231:14,25<br>232:10 256:9,18 257:13<br>261:10 276:11 282:16                                                                                                                                                                                                                                                                                              | training [15] 318:24<br>319:17 329:2 406:13,19<br>410:12,18 411:5,8,12,15<br>412:22 419:5,6,8                                                                                                                        | U.S [1] 320:9                                                                                                                                                                                                        | unwarranted [1] 330:3                                                                                                                                                                                                     |
| terms [11] 211:1 244:6,7<br>267:8 307:7 363:7 373:7<br>382:4 401:3 407:5,5                                                                                          | through [11] 206:6<br>235:18 249:18 289:14<br>290:20 298:20 312:24<br>313:1 374:12 411:2 422:7                                                                                                                                                                                                                                                                         | transcribed [1] 441:8                                                                                                                                                                                                | ubiquitous [2] 238:15<br>381:4                                                                                                                                                                                       | up [29] 200:4,9 215:18<br>217:12 233:22 234:3<br>240:2 244:18 250:8 288:8<br>289:14 291:25 311:11<br>312:7 328:18 329:2 333:7<br>343:20 359:12 360:5<br>363:18 378:6 385:17<br>391:11 411:9 413:24<br>423:11 429:5 439:12 |
| terrible [5] 291:4,20<br>292:4,17,22                                                                                                                                | throughout [9] 208:17                                                                                                                                                                                                                                                                                                                                                  | transition [2] 421:15<br>422:4                                                                                                                                                                                       | ultimately [4] 297:9<br>395:2 414:25 417:22                                                                                                                                                                          | updating [3] 363:2,7,11                                                                                                                                                                                                   |
| test [2] 312:15 355:10                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                        | translate [1] 326:2                                                                                                                                                                                                  | unchallenged [1]<br>389:25                                                                                                                                                                                           | upgrade [1] 362:11                                                                                                                                                                                                        |
| testified [6] 199:7 402:18<br>406:2 427:12,17 430:16                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                        | transmit [2] 429:25<br>432:5                                                                                                                                                                                         | under [26] 198:11 202:1<br>203:4 223:1 236:6 240:24                                                                                                                                                                  | upgrading [3] 373:7,17<br>374:4                                                                                                                                                                                           |
| testify [14] 200:17 203:23<br>239:20 240:12 276:13<br>387:19,21 435:23 436:7<br>436:8,10,13,14 441:6                                                                |                                                                                                                                                                                                                                                                                                                                                                        | Transportation [1]<br>238:20                                                                                                                                                                                         |                                                                                                                                                                                                                      | upper [1] 244:19                                                                                                                                                                                                          |
| testifying [2] 201:14<br>202:1                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                      |                                                                                                                                                                                                                      | usage [2] 235:5 368:18                                                                                                                                                                                                    |
| testimony [21] 198:19<br>199:2 201:17 202:4,15<br>202:22 203:4 229:19<br>251:16 253:2 254:20<br>276:9 278:5 279:1 308:23                                            |                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                      |                                                                                                                                                                                                                      | used [56] 212:3 216:2<br>232:22 233:13,23 234:4<br>234:6,22 235:4,12 236:6                                                                                                                                                |

|                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                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------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 237:13,22 238:6,17 239:2<br>240:25 247:13,14 248:6<br>248:14 249:19 256:15<br>289:1,2 302:25 317:15<br>317:19 338:19 345:18<br>352:21 353:14,20 354:11<br>354:18,24,25 355:3,6,10<br>356:6 361:6 368:12 369:2<br>371:16 379:1,3 381:1<br>382:14 385:6 387:20,24<br>388:1,16,18 429:24 | <b>vice</b> [2] 405:1 411:9<br><b>vicinity</b> [2] 311:14 406:6<br><b>Victoria</b> [1] 197:16<br><b>Videographer</b> [16]<br>197:18 198:1 228:16,21<br>272:11,14 316:4 317:2<br>344:25 375:22,24 376:7<br>376:10 415:24 416:2<br>425:21<br><b>videotape</b> [1] 272:12<br><b>view</b> [2] 284:22 341:15<br><b>violate</b> [2] 216:3 346:19<br><b>violated</b> [2] 309:17<br>348:19<br><b>violating</b> [2] 351:21<br>418:12<br><b>violation</b> [18] 216:12<br>308:16 310:15 315:7,16<br>315:17,22 316:2 320:18<br>321:3 323:13 347:16,24<br>348:15 351:12 404:9<br>427:25 428:10<br><b>violations</b> [12] 345:5,16<br>351:5,7,14 369:17 370:3<br>370:7,14,18,18,23<br><b>violative</b> [1] 346:19<br><b>virtue</b> [1] 203:8<br><b>visibility</b> [1] 377:20<br><b>visible</b> [25] 211:8,19<br>212:9,19 213:6,18,24<br>214:9 216:15 218:2 239:9<br>305:13,19 307:16,23<br>308:14,20 309:15 311:25<br>312:23 344:8,15 347:5<br>347:18,19<br><b>visit</b> [1] 369:1<br><b>visual</b> [1] 347:1<br><b>visually</b> [1] 211:4<br><b>Volume</b> [1] 196:19<br><b>voluntary</b> [1] 286:3<br><b>vs</b> [2] 196:6,15 | 342:23 347:25 348:5<br>354:14 357:4 358:18<br>365:14 367:12 370:21<br>371:1 374:10 375:20,23<br>376:3 382:6 386:8 387:12<br>390:25 391:9,17 392:9<br>392:24 396:2 397:13<br>402:4,17 403:11 404:20<br>404:23 405:10 406:7<br>407:7 409:8,22 410:19<br>412:10 421:10,17,20,25<br>422:23 423:4 425:13,18<br>425:24 426:4,11 427:7<br>429:4 430:12 432:23<br>433:18,23 434:3,5,13<br>435:14 436:3 440:10<br><b>WALKERS</b> [1] 375:17<br><b>wall</b> [2] 236:1 384:10<br><b>wallboard</b> [1] 303:1<br><b>Walsh</b> [1] 256:17<br><b>Walsh-Healy</b> [4] 256:1<br>256:3,8,23<br><b>wants</b> [2] 292:14 390:15<br><b>Warick</b> [1] 214:19<br><b>warned</b> [2] 302:12 328:5<br><b>warning</b> [1] 328:11<br><b>warnings</b> [1] 427:19<br><b>warranted</b> [2] 291:24<br>292:18<br><b>Warren</b> [1] 197:18<br><b>Warrick</b> [3] 362:25<br>369:18 370:7<br><b>water</b> [11] 238:17 239:2<br>239:8 240:2,8 241:13<br>244:15 245:22 246:8<br>306:24 359:11<br><b>Waters</b> [147] 197:3,3<br>198:8 199:22 201:23<br>202:9,25 203:2 206:25<br>207:2 208:8 209:9 212:5<br>216:7 219:11,14 222:20<br>224:16 225:4 227:13<br>228:13,18,24 236:10,13<br>236:18 239:21 241:8,17<br>242:11,19 243:1,7,16,22<br>244:8,11 245:15 246:3<br>247:3 248:10 250:18<br>251:21 252:7 254:11,15<br>255:23 257:25 258:8,14<br>263:4 264:14 267:2<br>269:24 272:10,17 276:6<br>277:20 279:13,24 282:3<br>282:12,18 284:16 286:20<br>287:13 288:3 289:4 292:7<br>293:5 294:25 295:11,21<br>296:4 297:14 299:19<br>306:2 312:9 313:22 314:8<br>314:22 315:13 316:3<br>317:6 324:3,7 326:24<br>333:17,24 334:5 335:14<br>335:19 336:13 337:16,18<br>339:1 340:18 341:1,19<br>342:7 344:22 345:2 348:3<br>355:2 358:21 366:14<br>367:19 374:12 375:18<br>376:1,6,13 391:10 392:22<br>397:7 403:12 405:14<br>408:2 413:19 414:4<br>415:23 416:5 418:3<br>421:22 422:2 423:2 | 425:16,19 426:2,7,12<br>430:1,17,25 431:7 433:1<br>433:21,25 434:4,9,16<br>436:1,17 438:8,23 440:1<br>442:2<br><b>Wayne</b> [2] 376:15,16<br><b>ways</b> [1] 341:13<br><b>wear</b> [13] 221:2 274:19<br>275:14 277:11 286:4<br>290:6 325:11 336:6 339:9<br>341:16 367:11 413:9<br>430:10<br><b>wearing</b> [14] 250:3<br>320:19 333:2 334:22<br>336:3 338:1,6,9,24<br>339:18,20 340:17 341:16<br>367:2<br><b>Wednesday</b> [1] 196:18<br><b>weighted</b> [5] 308:18<br>309:1,4 310:2 334:9<br><b>Well-known</b> [1] 280:13<br><b>Westinghouse</b> [3]<br>360:18 376:16 377:9<br><b>wet</b> [3] 324:2 334:5,6<br><b>wetted</b> [1] 323:16<br><b>wetting</b> [1] 428:8<br><b>Whatley</b> [5] 196:2,3<br>315:18 355:25 435:22<br><b>whatsoever</b> [2] 229:13<br>370:9<br><b>whereas</b> [2] 260:12<br>419:2<br><b>WHEREOF</b> [1] 441:13<br><b>wherever</b> [5] 369:12<br>374:21 379:8 382:13,22<br><b>whole</b> [7] 213:16 223:12<br>249:17 259:2 399:23<br>400:2 441:6<br><b>wide</b> [2] 371:21 379:3<br><b>winded</b> [1] 424:15<br><b>wish</b> [2] 241:22 425:19<br><b>wished</b> [1] 200:20<br><b>within</b> [1] 379:14<br><b>without</b> [26] 210:3,11,11<br>210:16 211:8 213:7,19<br>214:19 216:2 242:22<br>267:21 291:4 301:23<br>302:17 308:15 315:20<br>324:22 330:3 351:5<br>356:10 390:12 417:11<br>428:8,8,9 441:10<br><b>witness</b> [11] 196:20 198:4<br>242:12 292:13 335:20<br>391:1 427:9 431:5 436:17<br>441:8,13<br><b>witnessed</b> [1] 346:5<br><b>wolf</b> [1] 425:12<br><b>Woodward</b> [1] 306:13<br><b>word</b> [7] 240:18 282:7<br>338:19,21,22 370:3 410:7<br><b>words</b> [5] 279:15 322:20<br>338:14,16 409:11<br><b>wore</b> [1] 338:19<br><b>workable</b> [1] 359:3<br><b>worked</b> [8] 200:6 201:4<br>270:2 273:14 296:22 | 353:14 378:20 423:19<br><b>worker</b> [7] 213:18<br>309:15 319:6 328:25<br>330:12 422:8 432:21<br><b>workers</b> [85] 202:19<br>208:20 209:15 210:9,16<br>212:12 213:7,24 214:7<br>222:14 224:6 226:4 227:4<br>267:20 268:8 273:7,22<br>275:14,22 277:1,8,10<br>278:16,24 283:19 287:25<br>290:25 294:9,12,16,21<br>295:14,19 296:8,11,14<br>296:22 297:1 301:9 302:7<br>302:14,19 303:12 304:8<br>308:14 311:15 324:18<br>327:4 328:5 336:7,22<br>341:25 353:23 361:24<br>366:2 379:10 381:13<br>382:5,21,22 385:4 386:4<br>398:5 413:6,15 416:7,16<br>416:25 417:6,14,15 420:1<br>420:10 421:6 424:12,19<br>425:6 428:15,25 429:2<br>430:9 431:20 432:18<br>433:13 434:24<br><b>workers'</b> [2] 206:15<br>226:20<br><b>workplace</b> [14] 269:7<br>301:10 363:20 365:2,3<br>366:3 378:12 380:1,3<br>413:8 416:13 417:16<br>419:12 421:7<br><b>works</b> [10] 265:14 271:18<br>287:7 293:14 297:8<br>321:17 354:4 366:10<br>401:16 423:18<br><b>world</b> [3] 340:8 380:23<br>438:15<br><b>worldwide</b> [1] 280:15<br><b>worms</b> [1] 400:3<br><b>worn</b> [7] 343:2 356:9,25<br>357:3,7,10,10<br><b>worry</b> [3] 334:17,19<br>418:11<br><b>worse</b> [1] 293:1<br><b>worth</b> [3] 376:2 381:18<br>432:21<br><b>writes</b> [3] 281:11,11<br>406:11<br><b>writing</b> [3] 268:6 377:9<br>393:8<br><b>written</b> [8] 222:2,3,8<br>245:11 254:9,10,19<br>341:12<br><b>wrong</b> [4] 334:24 342:6<br>418:19 425:3<br><b>wrote</b> [7] 266:20 268:20<br>284:11 291:19 292:19,20<br>361:22 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**-X-**

**X** [3] 245:11 250:9 399:1  
**X'd** [1] 245:4  
**X's** [1] 245:8  
**x-ray** [2] 269:11 394:21  
**x-rays** [4] 269:10,10,19  
269:21

**Xerox** [1] 300:4

---

**-Y-**

---

**yarn** [1] 234:24**year** [13] 212:6,7 241:22

241:23 346:15 377:24

385:18,24 404:11,19

405:7 419:8,9

**yearly** [2] 269:10,19**years** [32] 213:13 218:25

246:25 270:11 274:14,16

275:10,12 277:9,15

278:13 284:7 291:25

358:17 368:21 377:12

391:24 392:5 393:13,19

395:11 396:12 402:15

407:10,22 408:18 418:16

422:20 423:1,12 431:18

435:1

**yelling** [1] 425:12**yet** [3] 318:20 368:18

397:10

**York** [2] 236:25 384:15**younger** [1] 264:24**yourself** [9] 233:17

290:17 304:14 306:12

345:4 367:21 371:7

373:11 404:7

**yourselves** [1] 439:12

---

**-Z-**

---

**Zang** [1] 197:4**zipping** [1] 374:12**zone** [1] 344:16