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NO. 7591

SHIRLEY TATE INDIVIDUALLY	I	IN THE DISTRICT COURT
AND AS NEXT FRIEND OF	I	
JOHNATHAN TATE AND AS	I	
EXECUTRIX OF THE ESTATE OF	I	
JAMES FISK TATE; VICKIE TATE	I	46TH JUDICIAL DISTRICT
AND JAMES FISK TATE, JR.	I	
VS. CERTAIN-TEED CORP.,	I	
BESTWALL GYPSUM COMPANY	I	
AND GEORGIA PACIFIC CORP.	I	HARDEMAN COUNTY, TEXAS

NO. 85-1559-C

SHIRLEY TATE INDIVIDUALLY	I	IN THE DISTRICT COURT
AND AS EXECUTRIX OF THE	I	
ESTATE OF JAMES FISK TATE,	I	
AS NEXT FRIEND OF JOHNATHAN	I	
TATE, A MINOR, AND ON BEHALF	I	
OF JAMES FISK TATE, JR. AND	I	
VICKI TATE GIBSON	I	94TH JUDICIAL DISTRICT
VS.	I	
MINNESOTA MINING &	I	
MANUFACTURING CORPORATION	I	
(3M CORPORATION), ET AL	I	NUECES COUNTY, TEXAS

DEPOSITION OF JOHN L. MYERS

JULY 27, 1987

DUPLICATE

FILE COPY

COPY

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PITTSBURGH CORNING CORP., NATIONAL GYPSUM
COMPANY, UNITED STATES GYPSUM CORP.

Deposition and answers of JOHN L. MYERS, who resides in Kings City, California, taken herein by the counsel for the Plaintiffs, before GENE CHATHAM, a Notary Public in and for the State of Texas, on the 27th day of July, A.D. 1987, between the hours of 2:00 p.m. and 6:05 p.m., in the law offices of Latham & Moss, 1660 Texas Commerce Plaza, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for the Plaintiffs and Defendants in the above-numbered and styled cause that all formalities, including issuance of Notice, are waived specifically, and that the oral deposition of JOHN L. MYERS may be taken herein forthwith before JOHN L. MYERS, a Notary Public in and for the State of Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT WAS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition, except objections as to the form of the question or the responsiveness of the answer, which if not made during the deposition, are waived; but if and when said deposition or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall

1 be subject to any and all other legal objections, such
2 objections to be made at the time of the tender, the
3 same as though the witness were on the stand personally
4 testifying.

5 IT WAS FURTHER AGREED that the witness must appear
6 before any Notary Public or official authorized to
7 administer oaths, and at such time the witness has the
8 privilege of reading over said deposition and making any
9 corrections that he finds to be necessary, such
10 corrections to be made in accordance with the Rules of
11 Civil Procedure.

12 IT WAS FURTHER AGREED that if the original deposition
13 is not signed and filed before time of trial or any hearing,
14 a copy of the deposition can be used, the same as if it
15 were the executed original.

16 IT WAS FURTHER AGREED that after said deposition has
17 been returned into court in accordance with these
18 stipulations and agreements, it will be treated by the
19 parties hereto and may be used herein with the same force
20 and effect as though all statutes and rules relating to
21 the taking and returning into court of depositions had
22 been fully complied with.

23

24

25

P R O C E E D I N G S

MR. LATHAM: Would you mark these as exhibits before we begin, please.

(Whereupon, the above-mentioned documents were marked for identification as Exhibit Nos. M-1 through M-37.)

- - - - -

JOHN L. MYERS,
having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth and nothing but the truth, then testified as follows:

E X A M I N A T I O N

BY MR. LATHAM:

Q Would you state your full name, please.

A John L. Myers.

Q And where do you live, Mr. Myers?

A In Kings City, California.

Q How are you employed?

- 1 A I am president of a corporation.
- 2 Q And what is the name of the corporation?
- 3 A KCAC, Incorporated.
- 4 Q Is that part of Union Carbide group?
- 5 A No.
- 6 Q How long have you been president of KCAC, Inc.?
- 7 A Since July 1st of 1985.
- 8 Q And what was your job before that?
- 9 A I was product and production manager.
- 10 Q For the same company?
- 11 A For Union Carbide.
- 12 Q Oh, for Union Carbide. Where?
- 13 A Kings City, California.
- 14 Q How long did you work for Union Carbide?
- 15 A Thirty-four years.
- 16 Q So sometime back in 1951, about?
- 17 A In '51, I started.
- 18 Q And in what capacity did you start?
- 19 A I was an hourly employee.
- 20 Q Did you start in California?
- 21 A No, in Oakridge, Tennessee.
- 22 Q Can you just kind of briefly go through your
- 23 history with the company?
- 24 A Yes.
- 25 Q Starting in 1951 with your job then and how you

1 progressed.

2 A Yes. From 1951 to 1966, I was with the Nuclear
3 Division of Union Carbide in Oakridge, Tennessee
4 and Paducah, Kentucky from '66 to '67. I was called
5 a research engineer with the Union Carbide asbestos
6 business in Niagara Falls, New York from 1970 to --
7 no, from 1967 to 1970, I was technical superintendent
8 of the asbestos operation in Kings City, California.
9 And from 1970 to 1981, I was marketing manager for
10 Union Carbide asbestos products. From 1981 until
11 1985, I was product and production manager for
12 Union Carbide's asbestos mining and milling
13 operation for Union Carbide in Kings City,
14 California.

15 Q What was your last position, product and what?

16 A Product and production manager.

17 Q Okay. From 1967 to 1985, did you work in Kings
18 City?

19 A No. From 1970 to 1981, I was marketing manager in
20 Niagara Falls.

21 Q Niagara Falls. All right.

22 A Yes.

23 Q And what kind of business is KCAC, Inc.?

24 A They operate an asbestos mining and milling
25 operation.

- 1 Q Is that the -- a spin-off of Union Carbide?
- 2 A No.
- 3 Q It is a completely separate mining and milling
4 operation?
- 5 A The same mining and milling operation.
- 6 Q Union Carbide sell that to KCAC --
- 7 A Yes.
- 8 Q -- in 1985?
- 9 A Yes.
- 10 Q And does KCAC, Inc. still mine raw asbestos?
- 11 A Yes.
- 12 Q And what do they -- who do they sell it to and for
13 what?
- 14 A Oh, various customers in the United States and
15 elsewhere for asphalt roofing, asbestos cement
16 products, various applications.
- 17 Q Is that primarily the same business that Union
18 Carbide was in up until 1985?
- 19 A Yes.
- 20 Q At least in Kings City?
- 21 A Yes.
- 22 MR. SHIPLEY: Until when?
- 23 MR. LATHAM: Until 1985.
- 24 MR. SHIPLEY: All right.
- 25 Q (By Mr. Latham) All right. And what is your

- 1 educational background?
- 2 A I have a Bachelor of Science in chemical
- 3 engineering.
- 4 Q When and where did you obtain that?
- 5 A 1951, Purdue University.
- 6 Q Did Union Carbide help you in some way to obtain
- 7 that degree?
- 8 A No.
- 9 Q You said 1981?
- 10 A 1951.
- 11 Q '51, I'm sorry. All right. Anything after that?
- 12 A Formal education?
- 13 Q Yes.
- 14 A No.
- 15 Q Is it fair to say that your first introduction to
- 16 asbestos as a product -- or a mined product -- a
- 17 manufactured product, came in 1966 when you were
- 18 moved to Niagara Falls?
- 19 A Yes.
- 20 Q Had Union Carbide been in the asbestos mining
- 21 business before that date?
- 22 A Yes.
- 23 Q Do you know how long they had been in it?
- 24 A Yes.
- 25 Q How long?

1 A Three years.

2 Q Okay. So since some time around 1963?

3 A Yes.

4 Q Did that come about either through the purchase of

5 the -- or development of the mines in California?

6 A What was the question again?

7 Q Okay. Did their entry into the asbestos mining

8 business start with their mines in California?

9 A Yes.

10 Q Did they acquire those mines as operational mines or

11 did they develop them themselves?

12 A Well, yes, whichever question.

13 Q Okay. To both questions, did they buy the mines?

14 A Yes.

15 Q Okay. Were they --

16 A I'm sorry. They did not buy an operating mine.

17 Q All right. They bought the land and turned it

18 into a mine?

19 A They didn't buy the land, no.

20 Q The rights to mine the land?

21 A Yes.

22 Q Where else does Union Carbide have -- or during --

23 since 1963, where else have they had mines other

24 than California?

25 A In Zambawai.

1 Q All right. And when did they acquire those mines?

2 A I have no idea.

3 Q After 1963?

4 A I don't know.

5 Q And then during the period of time that you are
6 aware of, which I am sure will include the time
7 that you have been there, in what countries has
8 Union Carbide sold raw asbestos?

9 A United States, Canada, Mexico, Brazil, Colombia,
10 Venezuela, Europe. I could name some countries,
11 but I wouldn't be -- it would be in Europe, in
12 general.

13 Q Like England?

14 A Yes, England, France, Germany, Spain, Portugal,
15 in Japan and Taiwan, Korea.

16 Q Have they sold products to -- and I am sure there
17 are others, other countries than you have
18 mentioned --

19 A Yes.

20 Q Have they sold raw asbestos products worldwide to
21 most of the countries you mentioned or all of them
22 since 1966?

23 A Yes, to the best of my knowledge.

24 Q Since 1966, have they -- and if your memory goes
25 back from 1963 from the knowledge you acquired --

1 did they sell asbestos for other products than
2 asphalt roofing and cement?

3 A Yes.

4 Q Can you give us a representative sample of the types
5 of product that they knew were being -- that they
6 were selling asbestos to be used in?

7 A Vinyl asbestos floor tile, rubber tile -- rubber
8 flooring products, ceiling -- accoustical ceiling
9 tile, tape joint compounds, polyester resin,
10 phenolic resin -- let's see. That's all that
11 generally come to mind.

12 Q All right. Any insulation products?

13 A No.

14 Q As far as you know --

15 A Let me say no, other than sound deadener products,
16 but not in any heat or cold frost type insulation.

17 Q Insofar as the sales in the United States were
18 concerned, do you know if any of the products from
19 Zambawai was ever sold in the United States?

20 A Not to my knowledge.

21 Q And I guess it was called Rhodesia back in those
22 days?

23 A Yes.

24 Q So to follow up, is it fair to say that any
25 companies that purchased raw asbestos for

1 incorporation into whatever products they
2 manufactured that were located in the United States,
3 bought from the California mines?
4 A Yes.
5 Q Was it always shipped from California or were
6 there various other shipping points that Union
7 Carbide used?
8 A Yes -- yes.
9 Q Okay. Were there other shipping points that Union
10 Carbide used besides California in the sale of
11 that raw asbestos?
12 A Yes.
13 Q And what were some of the shipping points that they
14 used?
15 A You mean from -- we would ship to a warehouse and
16 then ship out of a warehouse.
17 Q Out of a Union Carbide warehouse, right?
18 A I don't know, if there were any other Union Carbide
19 warehouses, perhaps.
20 Q Did they have a warehouse of some sort in Dallas?
21 A I don't remember any.
22 Q Now, in response to the notice to take this
23 deposition, the notice was sent to Union Carbide for
24 them to select a person who was knowledgeable about
25 the various items of information we wanted, and also

1 contained a list of documents to be produced. And
2 you have brought numerous documents today, haven't
3 you?

4 A I haven't, no.

5 Q All right.

6 MR. SHIPLEY: Actually, he didn't bring
7 them. Union Carbide sent them to me and I
8 brought them.

9 MR. LATHAM: All right. Thank you.

10 Q (By Mr. Latham) Have you had a chance to look at
11 the documents that were produced?

12 A Only as they were in the box.

13 Q Okay. Just for the sake of getting everything
14 organized, we have listed or grouped numerous pages
15 of documents under the title M-1, which is the first
16 initial of your last name, and the number one,
17 indicating it is the first one, and what we have
18 intended to do is to place in here all of the, I
19 guess, invoices or documents of sale of asbestos
20 products to the defendants in the case in Quanaah,
21 which are certainly corporation, and Georgia-Pacific,
22 and I don't know if you have in here Bestwall or
23 Best Drywall Company, but have I described in M-1
24 correctly, it is invoices to either Certain-Teed
25 Corporation or Georgia-Pacific or Best Drywall

1 Company.

2 A In Quanah or --

3 Q Yes.

4 A Because these are Amber, Pennsylvania.

5 Q Yes, because I think they are nationwide.

6 MR. SHIPLEY: Off the record just a
7 minute.

8
9 (Whereupon, an off-the-record
10 discussion was held.)
11

12 MR. LATHAM: Let's go back on the record.

13 A They appear to be invoices, as Mr. Shipley said,
14 for Georgia-Pacific and Certain-Teed to all
15 locations in the United States.

16 Q All right.

17 A Or to various locations in the United States.

18 Q All right. I know you haven't looked at every
19 single invoice, but is it fair to say that the
20 invoices will contain such information as the date
21 the materials are ordered, the dates it was shipped
22 or received, the location from which it was shipped
23 and the location to which it was shipped?

24 A Yes.

25 MR. LATHAM: George, do you know whether

1 these are in some sort of chronological
2 order?

3 MR. SHIPLEY: No, I don't.

4 MR. LATHAM: All right.

5 MR. SHIPLEY: I do know the ones to the
6 Quanah plant are interspersed. They are not
7 geographical. I know that.

8 Q (By Mr. Latham) In just glancing through these,
9 it appears that the earliest date of shipment was
10 in 1964, and the last date of shipment to any of
11 the parties we have mentioned before was in June of
12 1979.

13 MR. SHIPLEY: You are not suggesting
14 that it was shipped to Quanah, though, are
15 you?

16 MR. LATHAM: No, no.

17 MR. SHIPLEY: Which I don't think is
18 right.

19 MR. LATHAM: It shouldn't be right.

20 MR. SHIPLEY: All right.

21 Q (By Mr. Latham) These invoices cover from -- if I
22 look at the bottom one and the top one, it appears
23 they cover a period of time from April of 1964
24 through June of 1979.

25 A Yes, I believe so.

1 Q All right. And it also appears that in 1964, that
2 the company that was making the shipments was called
3 Union Carbide Nuclear Company, a Division of Union
4 Carbide Corporation.

5 A Yes.

6 Q And then later, the later ones in late 1970,
7 indicated that the company was Union Carbide
8 Corporation, Metals Division.

9 A Yes.

10 Q Is that how you got involved in the first place,
11 because you were with the Nuclear Company?

12 A No.

13 Q How did you happen to get involved in asbestos
14 sales from the Nuclear Division?

15 A The person for whom I was working in the Nuclear
16 Division -- it wasn't Nuclear Company, the Nuclear
17 Division in Paducah, Kentucky. I don't know how
18 he got involved, but he got involved with the
19 asbestos business and he requested that I be
20 released from the Nuclear Division to work with him
21 in the asbestos operation.

22 Q Were you involved in some sort of chemical
23 engineering in the -- at the Nuclear Division?

24 A Not academic chemical engineering.

25 Q What was -- I believe you said your job a second ago

1 was -- well, I don't believe you said what it was.
2 In 1966 when you switched, what was your job
3 description with the Nuclear Division?
4 A Before I switched?
5 Q Yes, before you switched.
6 A I forget the title, but I was managing a uranium
7 decontamination operation, or I should say a
8 department.
9 Q Was this for Union Carbide's own employees?
10 A Not employees -- when -- did you mean decontamina-
11 tion?
12 Q Yes.
13 A No. This was equipment decontamination.
14 Q Had that been your experience for several years
15 with the Nuclear Division?
16 A Yes.
17 Q When you became a research engineer for the asbestos
18 side of the business, did you go there because of
19 your decontamination experience?
20 A No.
21 Q Had you ever had any experience with -- or training
22 and knowledge of asbestos prior to your switching
23 over to the asbestos department?
24 A No.
25 Q Did they ever mention it to Purdue when you were at

- 1 school there?
- 2 A Not that I recall.
- 3 Q Did you receive any training from Union Carbide
- 4 in the properties of asbestos when you became a
- 5 research engineer?
- 6 A Not that I remember.
- 7 Q What kind of research did you do as a research
- 8 engineer?
- 9 A Working on new applications or different applications
- 10 for asbestos fibers.
- 11 Q And then later you became, I believe -- that was
- 12 '66 through '67 you were involved in that?
- 13 A I didn't last very long.
- 14 Q That was all in Niagara Falls?
- 15 A Yes.
- 16 Q At that time, did you do any research into the
- 17 hazards of asbestos?
- 18 A No.
- 19 Q Were you aware of any of the hazards of asbestos?
- 20 A Not that I recall.
- 21 Q Had anyone at Union Carbide mentioned to you or
- 22 talked to you about any of the medical literature
- 23 that was available at that time?
- 24 A Not that I remember.
- 25 Q Had you ever heard of Dr. Selikoff?

- 1 A Yes.
- 2 Q How many research engineers were involved in
3 whatever research you were doing in Niagara Falls
4 during '66 and '67?
- 5 A I don't think they would all be enclosed as research
6 engineers, but there were four or five people
7 working on different applications.
- 8 Q Were any of them working on discovering the hazards
9 of or how to avoid the hazards of asbestos at that
10 time, as far as you are aware?
- 11 A Not to my knowledge.
- 12 Q Was that work you were doing preliminary to opening
13 the mines in Kings City, California?
- 14 A No.
- 15 Q Were the mines already opened there by that time?
- 16 A Yes.
- 17 Q And what -- during your research, what form was the
18 asbestos that you worked with while you were there
19 in Niagara Falls?
- 20 A It was raw asbestos fiber.
- 21 Q And in what quantities were you working?
- 22 A Laboratory quantities.
- 23 Q Okay --
- 24 A Grams, pounds.
- 25 Q Were you actually working with the raw product with

1 your hands and --

2 A Yes.

3 Q -- on a daily basis?

4 A Yes.

5 Q And at that time, you weren't aware of any hazards
6 involved in the use or --

7 A Nothing other than a dust, any dust hazards or
8 dusty condition.

9 Q But just from the standpoint it was a dusty
10 condition?

11 A Yes.

12 Q When was the first time that you were aware that
13 there was any hazard of lung disease or cancer from
14 asbestos?

15 A I can't recall a date. I would probably say in the
16 early '70s.

17 Q In 1967 when you went to Kings City, was there any
18 discussion of the hazards of asbestos?

19 A Again, from a standpoint of being a dusty material.

20 Q Nothing about its propensity to cause lung disease
21 or cancer?

22 A I don't remember anything in particular.

23 Q Anything in general that you remember about it then?

24 A No.

25 Q And from '67 through '70, what was your job with --

1 A I was technical superintendent.

2 Q What did that mean? What did you do?

3 A The primary purpose that I went out there was to
4 start up a facility for making treated asbestos
5 product for use in polyester resins.

6 I failed to respond earlier that while I was
7 the research engineer, we did have a pilot plant
8 for producing this product.

9 Q All right. What was --

10 A In Niagara Falls, and therefore, I was sent to the
11 plant to start up the production.

12 Q Kind of an experimental plant in Niagara Falls?

13 A A pilot plant.

14 Q All right. As part of your job then from '67 to
15 '70, were you in charge of developing and working
16 out the kinks or whatever in the plant that was
17 going to produce this treated asbestos product?

18 A Yes. It was not a separate plant.

19 Q They were just going to make that application in the
20 existing plant?

21 A Of the product, yes.

22 Q Did that involve working with raw asbestos?

23 A Yes.

24 Q I mean, you, personally?

25 A Yes.

1 Q And other employees of Union Carbide?

2 A Yes.

3 Q On a daily basis?

4 A Yes.

5 Q And that continued on the whole time that you were
6 technical superintendent from '67 to '70?

7 A Right, yes.

8 Q As far as you know while you were technical
9 superintendent, did anyone at Union Carbide make
10 you aware of any of -- of any hazards of any type
11 of asbestos, as far as its capacity to cause lung
12 disease and/or cancer?

13 A I can't remember anything specific.

14 Q Do you remember anything general?

15 A Mainly, that it was to be controlled like any other
16 dust. Any dust is harmful to your lungs, and we
17 were operating on keeping under certain values from
18 the asbestos fibers.

19 Q Do you know where they obtained the thresholds?

20 A Prior to OSHA promulgation of asbestos rules, ACGIH.

21 Q What does ACGIH stand for?

22 A Association -- American Conference of Government
23 Industrial Hygienists, I think. Something close to
24 that.

25 Q At that time, were they using any other product or

1 mining any other product in California that had
2 some sort of threshold limit like that, besides
3 asbestos?

4 A You mean Union Carbide?

5 Q Yes.

6 A Not to my knowledge.

7 Q All right. And what kind of efforts did Union
8 Carbide use to control the dust between 1967 and 1970
9 when you were the technical superintendent?

10 A I can't really recall, other than the fact that
11 what we have now is ventilation equipment, vacuum
12 negative pressure ventilation systems around
13 certain operations, especially packaging.

14 Q And they had those back in 1967 to '70?

15 A To the best of my knowledge, yes.

16 Q Now, what did you mean about "around packaging"?
17 Describe for me a little bit in less engineering
18 terms, what type of equipment you were using around
19 packaging.

20 A They were called air-flow packers. The asbestos
21 fiber is forced into a bag by air pressure. And
22 any operation like that, the type of equipment in
23 the operation would cause more dust in other parts
24 of the plant.

25 Q What did they do to alleviate that?

1 A Well, the vacuum or negative pressure ventilation
2 systems --

3 Q Can you describe what that means, or how did that
4 work?

5 A In household terms, if you stuck a big vacuum cleaner
6 up around the operation to remove the fibers from
7 the air, from the breathing zone of the packaging
8 operators.

9 Q So like between the packaging operators and the
10 asbestos product would be a vacuum situation so
11 that before the fibers could reach him, they would
12 be sucked out of the space between him and the --

13 A I can't remember whether it was that -- if that
14 would fit the description, but it would be generally
15 that kind of -- that would be the purpose of the
16 system.

17 Q And did you do tests back then on your employees
18 that were in the packaging to determine what level
19 of dust --

20 A Yes.

21 Q -- they were getting?

22 A Yes.

23 Q And how did you do those kinds of tests?

24 A By the impinger method, sample collection.

25 Q All right. Can you describe that for me a little

1 bit, how it worked?

2 A I really can't. That was done by an industrial
3 hygienist, and I would have to read the literature
4 to find out what it was.

5 Q Do you recall if they strapped the collector on the
6 worker, or just placed it between him and the
7 product or what?

8 A I believe they did both.

9 Q Did you use the same type of equipment in the area
10 that you were working in where you and other
11 employees were working with raw asbestos in creating
12 the treated product?

13 A No, that was in 1968, and I believe they had gone to
14 the faith contrast, the current method for
15 sampling and analyzing asbestos fibers.

16 Q What methods were they using to protect the
17 employees in the treated asbestos product section?

18 A Employees were -- respirators were made available
19 to employees. They were required in certain areas
20 based on the dust levels.

21 Q All right. If the dust levels were high enough,
22 the employees could choose not to use a respirator?

23 A Yes. We had a very effective training and
24 education program so that -- we have always
25 experienced a very high rate of usage of

1 respirators.

2 Q And this is in the same period of time, from '67
3 to '70, somewhere in there?

4 A Yes.

5 Q All right.

6 A Probably more training and education in the '70s
7 because of the newer information that was coming
8 out on the hazards of asbestos.

9 Q And then in '70, you switched over to the marketing
10 side of the business?

11 A Yes.

12 Q And I guess that meant that you sought out customers
13 and helped them acquire whatever shipment they
14 wanted?

15 A I managed the department, yes.

16 Q Does that mean that you had direct contact with some
17 of your customers?

18 A Yes.

19 Q During this period of time from 1967 through, I
20 guess, '81, while you were still in the marketing
21 department?

22 A 1970 until 1981.

23 Q Yes, but in '67, you started off as a technical
24 superintendent?

25 A At Kings City.

1 Q All right. Now, I want to follow that through
2 1981.

3 A All right.

4 Q Was Union Carbide shipping raw asbestos to various
5 points in the United States to other manufacturers?

6 A Yes.

7 Q And how were they shipping it? In what form?

8 A In fibrous form and in pellets.

9 Q And in what types of containers?

10 A In paper bags and plastic bags and bulk hopper cars,
11 railroad hopper cars.

12 Q By bulk hopper cars, you mean the raw product was
13 placed unpackaged into a hopper car?

14 A Yes.

15 Q Covered or uncovered?

16 A Covered.

17 Q Did it start with paper bags and then graduate to
18 plastic bags?

19 A Yes.

20 Q For how long did they use paper bags?

21 A From 1963 to 1985.

22 Q And when did they start using plastic bags?

23 A I would say mid to late '70s. I don't have a date
24 for sure.

25 Q And what was the distinction between what product

1 you would send in paper bags and what product you
2 would send in plastic bags?

3 A Paper bags were used for the open fiber product,
4 fibrous product, and plastic bags were -- well,
5 paper were used for both, but some customers wanted
6 pellets in the plastic bags.

7 Q All right. And so the plastic bags were only used
8 for the pellets?

9 A Yes.

10 Q But just -- but the raw asbestos that was still
11 in its granular form or whatever it is, the dust
12 form --

13 A Fibrous form.

14 Q -- fibrous form was always shipped in the paper
15 bags?

16 A In paper bags.

17 Q Was it ever shipped, as far as you know, in gunny
18 sack type materials?

19 A No.

20 Q Now you say sometime in the '70s you became aware,
21 specifically aware of the fact that asbestos could
22 cause lung disease and/or cancer?

23 A Yes.

24 Q And can you recall how you were first made aware of
25 that?

1 A No, I can't recall specifics. I am sure a lot of
2 it was just in general published literature.

3 Q And by that you mean published elsewhere besides
4 by Union Carbide?

5 A Yes.

6 Q And you mean by that, trade magazines and such, or
7 do you mean medical articles or what?

8 A Both.

9 Q All right. How come you began to be aware of
10 medical articles about the dangers of asbestos
11 in the late '70s as opposed to before that?

12 A I said in the '70s.

13 Q In the '70s.

14 A Not just late.

15 Q All right, in the '70s.

16 A I obviously became more aware of it starting in
17 1971 when OSHA was beginning to develop asbestos
18 rules.

19 Q All right, and so you were informed about their
20 asbestos rules either by OSHA or by someone else
21 in the company?

22 A Yes.

23 Q All right. And you were aware of it at that time
24 that there was some specific hazards involved in
25 asbestos exposure?

- 1 A Yes, as far as I remember.
- 2 Q So about in 1971?
- 3 A Yes.
- 4 Q All right. And what specific hazards were you first
5 aware of?
- 6 A I can't remember.
- 7 Q You don't remember whether it was asbestos or cancer
8 or --
- 9 A I would assume like everyone else's knowledge, it
10 was first asbestosis and then lung cancer.
- 11 Q During the time that you were working for the --
12 in the asbestos side of the business at Union
13 Carbide, did you belong to or attend any industry
14 meetings, association meetings, that were involved
15 in the asbestos industry?
- 16 A Yes.
- 17 Q All right. And what were some of the groups that
18 you belonged to?
- 19 A The Asbestos Information Association of North
20 America. I didn't belong -- did you say "belong
21 to"?
- 22 Q Yes.
- 23 A I didn't belong to it, personally. It was a
24 company membership.
- 25 Q That is what I mean, an editorial you.

1 A Yes.

2 Q All right. The Asbestos Information --

3 A Asbestos Information Association of North America.

4 Q All right. Any other companies that you are aware

5 of that Union Carbide belonged to that involved

6 the asbestos industry?

7 A You mean any other association?

8 Q Yes, any other associations.

9 A No. Well -- no -- not -- no.

10 Q There was an association back in those days called

11 what, the Industrial Hygiene Association. Are you

12 familiar with that?

13 A Industrial Hygiene Foundation.

14 Q Do you know if Union Carbide was involved in that in

15 any way?

16 A I think they were.

17 Q When was the first time that you were aware that

18 they may be involved with the Industrial Hygiene

19 Foundation?

20 A Probably in the '80s, early '80s.

21 Q All right. Did you ever attend a meeting of the

22 Asbestos Information Association of North America?

23 A Yes.

24 Q And when was the first meeting you attended of that

25 group?

1 A I can't recall. It would probably be the late
2 '70s, '79, '73.

3 Q In the late '60s, mid to late '60s, did you ever
4 attend any informational institute, receive any
5 papers from any informational institute or any
6 industry literature that indicated that there was
7 some hazards with the use of asbestos as related
8 to lung disease and cancer?

9 A Not that I can recall specifically.

10 Q Neither from the industry nor from Union Carbide?

11 A Not that I recall.

12 Q Who at your plant -- and I am talking about the
13 Kings City plant -- would have received information
14 from Georgia-Pacific concerning the use and hazards
15 of asbestos as soon as they begin to put that
16 information out?

17 A Not anyone that I know of.

18 MR. SHIPLEY: From Georgia-Pacific?

19 MR. LATHAM: I'm sorry, from Union
20 Carbide. I'm sorry. I got mixed up.

21 A I assume it would be the plant manager.

22 Q (By Mr. Latham) Who was it during that period of
23 time?

24 A What period?

25 Q The early -- the mid and late '60s.

- 1 A John Riddle.
- 2 Q And then after that, who took his place?
- 3 A Floyd Larrison.
- 4 Q And when did he take over?
- 5 A I don't -- let me see, I would guess -- I am just
6 estimating or guessing it would be 1971.
- 7 Q All right. After Mr. Larrison, who?
- 8 A Earl Shortridge.
- 9 Q And up -- when did he take over?
- 10 A Probably 1974 or 1975.
- 11 Q Okay, and after him?
- 12 A William Deatley.
- 13 Q All right, and when did he take over?
- 14 A Probably in 1978.
- 15 Q All right, and after him?
- 16 A Myself.
- 17 Q Where is Mr. Riddle today?
- 18 A I understand he is in the bay area of California,
19 or San Francisco Bay area.
- 20 Q Mr. Larrison?
- 21 A He is retired. I don't know where he is.
- 22 Q All right. Mr. Shortridge?
- 23 A He is in Colorado.
- 24 Q And Mr. Deatley?
- 25 A I think in Connecticut.

1 Q Are all of them retired?

2 A No.

3 Q All right. Which ones aren't retired?

4 A Which ones aren't retired? I don't think John

5 Riddle is retired. Mr. Shortridge and Deatley are

6 not retired.

7 Q All right. Does Mr. Riddle work for Union Carbide

8 still?

9 A No.

10 Q Do you know for whom he works?

11 A I think, again, Bechtel Corporation.

12 Q And what about Mr. Shortridge; do you know for

13 whom he works?

14 A He works for Umetco, a subsidiary of Union Carbide.

15 Q All right. Mr. Deatley?

16 A He is still with Union -- the corporation. I don't

17 know whether he is with a subsidiary or not.

18 Q All right.

19 A They stopped communicating with me on July 1st of

20 1985.

21 Q Is the company that you worked for a stock -- is it

22 a corporation with stock?

23 A Well, I am not sure. It is privately owned. I

24 think shares are owned by the owners -- or by the

25 buyers of the business.

1 Q And the buyers of the business were not principals
2 in Union Carbide, as far as you know?
3 A No.
4 Q It was an arm's-length transaction for the sale?
5 A What do you mean by "arm's-length"?
6 Q Well, somebody who wanted to buy the company came
7 in and with no relationship to Union Carbide, and
8 they bargained the sale --
9 A Yes.
10 Q -- at arm's length?
11 A Yes.
12 Q And as plant manager, did you immediately become
13 president of the new company?
14 A Yes.
15 Q Do you own stock in the new company?
16 A No.
17 Q Did Union Carbide have -- well, first of all, were
18 the mines in California part of a division of Union
19 Carbide or a wholly-owned subsidiary? What was the
20 structure of the mining operation?
21 A I believe it started off in the Nuclear Division.
22 Q All right.
23 A And then changed to the Metals Division.
24 Q All right.
25 A And then changed to the Chemicals and Plastic

1 Division, and then back to the Metals Division.

2 Q Were any other divisions or subsidiaries of Union
3 Carbide involved in either mining or production or
4 sale of asbestos or asbestos products during the
5 time that you were with the company?

6 A Other than those divisions I mentioned?

7 Q Right.

8 A Not to my knowledge. Not that I remember.

9 Q Was the Zimbawai mines owned by part of a different
10 division or the same division?

11 A Different division.

12 Q All right.

13 A I think -- yes.

14 Q And what division were they a part of?

15 A Oh, I would only be guessing, Union Carbide Africa
16 or South Africa.

17 Q All right. Which would have been a subsidiary or --
18 of Union Carbide?

19 A Yes.

20 Q The parent company?

21 A Yes.

22 Q Was there a subsidiary in Great Britain, the United
23 Kingdom?

24 A Yes.

25 Q Could you remember the name of it? Maybe Union

1 Carbide UK, something like that?

2 A I think Union Carbide Limited UK or something like
3 that.

4 Q And do you know if Union Carbide UK Limited was
5 involved in the receipt of or the sale of or the
6 production of any asbestos products?

7 A They -- I think they were before I was involved,
8 but I don't recall that I had any direct dealings
9 after I became involved with the asbestos business.

10 Q Did the mines in California, as far as you know,
11 ship asbestos, raw asbestos products to the United
12 Kingdom?

13 A Yes. I stated that earlier.

14 Q And that was prior to -- and when I say "United
15 Kingdom," I mean Union Carbide United Kingdom.

16 A I can't say whether Union Carbide had a distributor
17 in Great Britain or they used the subsidiary.

18 Q Did you ever attend a meeting with or correspond
19 with anyone in the United Kingdom with Union Carbide
20 concerning the sale or use of asbestos?

21 A I probably did. I can't recall anything specific.

22 Q Did you ever hear of a fellow by the name of I. C.
23 Sayers?

24 A Yes.

25 Q Who was he?

- 1 A He was with Union Carbide UK.
- 2 Q Were you ever told in 1966, 1967 or 1968, 1969, 1970,
3 about any reports prepared by Mr. Sayers dealing
4 with the hazards of asbestos products?
- 5 A Not that I recall.
- 6 Q Have you heard about them since then?
- 7 A Yes.
- 8 Q When was the first time you heard about them?
- 9 A Probably 1984, 1985.
- 10 Q And how did you hear about them for the first time?
- 11 A During a litigation situation.
- 12 Q Was it while you were testifying?
- 13 A Yes, I guess it was. In fact, it was later -- it
14 was probably eighty -- '85 or '86.
- 15 Q And was it the type of thing where someone presented
16 it to you for the first time under litigation
17 circumstances?
- 18 A Yes.
- 19 Q And up to that point, Union Carbide had never told
20 you about that?
- 21 A Not that I can remember.
- 22 Q Did Union Carbide know that you were going to
23 testify in that litigation situation in 1985 or '86
24 before you went to testify?
- 25 A Yes, I assume they did, yes.

1 Q Did they provide you materials to refresh your
2 memory or documents about transactions that would
3 help you before you went to testify?

4 A Not that I recall.

5 Q And before you went to testify, Union Carbide did
6 not mention to you Mr. Sayers' reports that were
7 published in 1966 or '67, something like that?

8 A As I said before, I don't recall.

9 Q How many times did you -- did you ever testify
10 before 1985?

11 A No.

12 Q In a case involving claims of asbestosis,
13 mesothelioma, or some other asbestos-related
14 disease?

15 A No.

16 Q Was it the first time that you testified that you
17 discovered about Dr. Sayers' report, or Mr. Sayers'
18 report?

19 A Yes.

20 Q And was it Union Carbide's lawyer that showed it to
21 you or was it the lawyer for one of the people that
22 was injured?

23 A It was the plaintiffs' lawyer.

24 Q So the first time you ever saw the results of
25 Mr. Sayers' study was when a lawyer for someone who

1 was -- who had an asbestos-related disease showed
2 it to you?

3 A You may be talking about something different than
4 I will be answering to. I am not familiar with any
5 study that I made.

6 Q You are familiar with the reports that he wrote?

7 A With a report, yes.

8 Q Well, is that the same report that says there is
9 a growing feeling that the quoted "threshold
10 limit value" is no longer tenable?

11 A I couldn't answer without you showing me the report.

12 Q All right. Do you recall the language in the report
13 that said something like, "On the basis of present
14 evidence, we are not entitled, under any
15 circumstances, to state that our material is not a
16 health hazard. What is more, it is believed that a
17 potential customer would use our material
18 dangerously and that he is unaware of the toxicity
19 question. Then it must surely be our duty to
20 caution him and point out means whereby he can hold
21 the asbestos air flow concentration to a minimum."

22 Do you recall that?

23 A I don't recall that, no.

24 Q In any event, if that language was contained in a
25 report, you never saw that or heard about it until

1 1985?

2 A That report?

3 Q Yes.

4 A No.

5 Q You never --

6 A Not that I recall.

7 Q And whatever report that you were shown from

8 Mr. Sayers was shown to you by a plaintiff's

9 lawyer and not Union Carbide?

10 A To the best that I remember. I did not see it

11 before that.

12 Q Do you recall that Mr. Sayers' report --

13 MR. SHIPLEY: Why don't you show him the

14 report?

15 MR. LATHAM: I don't have a copy of the

16 report. I am paraphrasing from it.

17 MR. SHIPLEY: You are not quoting it?

18 MR. LATHAM: I am quoting part of it. I

19 don't have the whole report, just part of it.

20 Q (By Mr. Latham) Do you recall that the report that

21 you saw described a 1965 mesothelioma study done

22 by Newhouse and Thompson in England?

23 A No.

24 Q You don't recall that?

25 A No.

1 Q When was the first time Union Carbide put any warning
2 labels on any of their sacks, paper sacks of
3 containing asbestos?

4 A 1968.

5 Q All right. And what did the warning labels say,
6 as best you can recall?

7 A Something like it was very similar to the label
8 that OSHA prescribed in '72. It was caution,
9 something else, and "Do not breathe dust."

10 Q If I were to tell you it was not until 1971 that
11 they contained warnings, would you disagree with
12 that? Am I wrong about the date?

13 A I would disagree with you, yes.

14 Q You specifically remember it was 1968?

15 A Yes.

16 Q All right. Were you aware that back in the '60s
17 or so, in the late '60s, that potential customers
18 had written letters questioning the use of asbestos
19 and wondering about its safety to Union Carbide?
20 Had you ever been told that?

21 A I don't remember that I knew that, no.

22 Q Do you remember ever seeing any letter from any
23 potential customer questioning the safety of the
24 product or its dangers as it involved lung disease?

25 A In any time frame?

1 Q In any time frame.

2 A I don't remember specific letters. I am sure the
3 questions were raised.

4 Q All right.

5 A Either by us or by the customer.

6 Q Do you know if while you were at -- in California
7 with Union Carbide, whether or not they belonged
8 to the National Safety Council?

9 A If the corporation belonged?

10 Q Yes.

11 A I assume they did. I don't have any specific
12 knowledge that they did.

13 Q Do you know if prior to the purchase of the mines in
14 California, Union Carbide had done any studies
15 on the safety of asbestos or its harmfulness?

16 A Not that I am aware of.

17 Q Have you ever heard of Mr. Peale?

18 A Yes.

19 Q Who is he?

20 A I am not sure whether he is an industrial
21 hygienist or was involved with environmental safety.

22 Q For whom?

23 A For Union Carbide.

24 Q Were you ever made aware that he had done a study
25 in 1962 on exposure to insulation products

1 containing asbestos?

2 A Yes.

3 Q And when were you aware of that?

4 A Probably 1980, I don't know, late '70s or '80s.

5 Q And how were you made aware of that?

6 A I can't remember for sure. It came up in one of

7 the -- again, one of the litigation situations.

8 Q Again, was it called to your attention the first

9 time by a plaintiff's lawyer?

10 A No.

11 Q Was it called to your attention the first time by

12 Union Carbide?

13 A No, it wasn't called to my attention. I just

14 became aware of it.

15 Q During the entire time you were in California from

16 1966 through 1980, were you made aware by Union

17 Carbide of that study by Mr. --

18 A 1967 is when I went there.

19 Q 1967?

20 A Yes. No, not that I recall.

21 Q You started in the asbestos business with Union

22 Carbide in 1967?

23 A In 1966 in Niagara Falls.

24 Q All right. From 1966 until 1979 or '80 when you

25 first heard about that report, did they ever mention

1 to you the Peale study?

2 A Not that I recall. We had nothing to do with
3 insulation products.

4 Q Have you ever heard about the 7th Saranac Symposium?

5 A No.

6 Q Which was conducted --

7 A Let me say I heard about it on a prior deposition,
8 but I still don't know what it is.

9 Q Did anyone with Union Carbide ever mention that
10 symposium to you?

11 A Not that I recall.

12 Q Did anyone with Union Carbide ever tell you that
13 they had ever attended the meeting for asbestos
14 and its relationship to cancer were discussed in
15 the 1950's?

16 A You will have to repeat that. I lost track.

17 Q Did anyone with Union Carbide ever tell you that
18 they had attended a conference that discussed the
19 relationship between asbestos and cancer in the
20 1950s?

21 A No.

22 Q As far as you knew, up until the late '70s, or I
23 guess maybe the -- whenever -- again, when was the
24 first time that you were aware that there was some
25 relationship between asbestos and cancer?

- 1 A I can't specifically say cancer, but if you want to
2 talk about --
- 3 Q Lung disease?
- 4 A If you want to talk about diseases, probably the
5 early '70s.
- 6 Q What about cancers? Do you recall when that would
7 have been, after that?
- 8 A As I said, the same response as earlier. Like
9 everyone else has found out, I think first, the
10 concern was asbestosis and then lung cancer
11 associated with chrysotile asbestos.
- 12 Q What about mesothelioma? When was the first time
13 you were ever aware of any association between
14 asbestos and mesothelioma or lung cancer?
- 15 A I would guess in the middle '70s.
- 16 Q Did you get that information from Union Carbide
17 or from somewhere else?
- 18 A Probably both.
- 19 Q When were you first aware of Dr. Selikoff's 1964
20 study?
- 21 A I can't recall a date. I would say early '70s.
- 22 Q And how were you informed about that?
- 23 A I can only assume that the report was routed to me
24 for reading.
- 25 Q And what do you recall about Dr. Selikoff's report?

1 A This is the one on insulation workers?

2 Q Uh-huh, yes.

3 A The main thing I recall is that his feeling at that
4 time and I think still is, in nonsmoking asbestos
5 workers, there was little incident -- little
6 increased incidents of disease.

7 Q You are talking about nonsmoking insulation workers,
8 or nonsmoking raw asbestos workers?

9 MR. SHIPLEY: We were talking about
10 insulation workers. That's the one you asked
11 him about.

12 A Nonworking -- nonsmoking asbestos workers.

13 Q Are you talking about --

14 A Probably some of those, too.

15 Q Are you talking about insulation workers or people
16 working with raw asbestos?

17 A Insulation workers.

18 Q All right.

19 A That is what his report was about, as I recall it.

20 Q All right. And even though his report was issued
21 in 1964, you are not aware of it until the '70s?

22 MR. SHIPLEY: I will object. It assumes
23 facts not in evidence. It states things that
24 are contrary to facts.

25 Q (By Mr. Latham) Whenever his report was issued, you

1 were not aware of it until the '70s?

2 A That is as I remember, the early --

3 Q All right.

4 A -- the early '70s.

5 Q Was that the first time that you were aware that

6 there was any relationship between asbestos and lung

7 disease, or had you been aware of it before that?

8 A I can't recall.

9 Q Above the plant manager, who was the next person

10 in the line of authority; not the name of the

11 person, but the position.

12 A I don't recall. I think it would probably have been

13 a vice-president, most of the time, a division

14 vice-president.

15 Q And would it have been like the Metals and -- Mining

16 and Metals Division, vice-president, that would

17 have been the next person up the line, as far as

18 you know?

19 A When it was under that division, yes.

20 Q And when it was under the Nuclear Company, it would

21 have been that vice-president?

22 A I don't know.

23 Q And where would that vice-president have been

24 located?

25 A In New York City.

1 Q In the home office of Union Carbide --
2 A Or Danbury, Connecticut.
3 Q And I take it from that that he would probably be
4 responsible for more than just the one set of mines
5 out in California, or the one plant out in
6 California?
7 A Yes.
8 Q From time to time, did plants in California get
9 correspondence from New York advising them of various
10 methods of operation, how to handle the product,
11 how to sell it, that sort of thing?
12 A Again, I can assume in the early days you are
13 talking about why?
14 Q Yes.
15 A I would assume that that is the way it would go.
16 Q There was information back and forth between --
17 A Yes.
18 Q Who was the head safety person for Union Carbide,
19 and not his name, but his position?
20 A I don't recall. I don't know it.
21 Q Who was the head safety person in California?
22 A At the plant?
23 Q Yes.
24 A I don't know -- well, we had a safety and health --
25 called him safety engineer, I think, or safety and

1 and health engineer.

2 Q All right. And what did he answer to?

3 A To the plant manager.

4 Q Did the company -- the home office send out safety
5 information from time to time?

6 A Yes.

7 Q All during the period of time that you were in
8 California?

9 A To the best of my knowledge, yes.

10 Q And also while you were in Niagara --

11 A Yes.

12 Q -- did they require safety meetings --

13 A Yes.

14 Q -- of the people employed at various plants?

15 A Yes.

16 Q Did they require people who were involved with the
17 plants in the executive positions, such as plant
18 manager, to attend safety meetings held by the
19 company?

20 A Yes.

21 Q And how often were those held and where?

22 A It has usually been a practice to have a formal
23 safety meeting once a month with each crew or group
24 of employees.

25 Q Now let me --

1 A In addition to that, there would be tailgate safety
2 sessions, and the regular things done by industry.

3 Q Were the managers ever called together for safety
4 meetings?

5 A What managers?

6 Q Well, for instance, the plant manager in California,
7 would he ever be called to the home office or some
8 other place where managers of various divisions
9 could meet and various plants could meet and
10 discuss safety concerns?

11 A Yes.

12 Q How often were those types of meetings held?

13 A Normally, once a quarter.

14 Q So about every three months?

15 A Yes.

16 Q And did they usually occur in one place or all around
17 the country?

18 A Mostly rotation.

19 Q And who would be in charge of those meetings?

20 A The person who was responsible for the -- to whom
21 the plant managers reported.

22 Q Like the vice-president of that division?

23 A If he was a vice-president, yes. He had that
24 title.

25 Q Was there some home office safety department that

1 would assist in either getting out the information
2 for the meetings, or in making whatever
3 presentations were --

4 A There was a division safety department that would
5 handle that.

6 Q And would that be located also in New York City or --

7 A No, he was in Grand Junction, Colorado.

8 Q And who would attend these meetings besides the plant
9 managers?

10 A Well, usually some other officers -- or not
11 officers, necessarily, but the division -- oh, yes,
12 the division president would often be there, staff
13 people from the division -- from headquarters
14 division.

15 Q So it would be people from New York there?

16 A Yes.

17 Q From what we call the home office, I guess?

18 A Yes.

19 Q Would people below plant manager go, too?

20 A Usually the -- well, let me see. No, I would say
21 it is usually the plant manager. Maybe in his
22 absence someone would go for him, or if there was a
23 specific safety topic, the safety people would go
24 from each location.

25 Q Is it fair to say based on that, that the only

1 meetings such as that that you attended was after
2 you became a plant manager?

3 A No. I attended them as the marketing manager.

4 Q All right.

5 A Or at least some of them.

6 Q Would they hand out information for you to bring
7 back home with you?

8 A Sometimes.

9 Q Things to pass out to the workers and pass out to
10 various people at the plant?

11 A I think each plant manager would use his own
12 judgment on what was passed on.

13 Q When was the first time that Union Carbide put a
14 warning on their packages of asbestos that warned of
15 lung disease?

16 A I think I stated earlier that a warning was put on
17 in 1968.

18 Q But did that warn of lung disease?

19 A No.

20 Q What did it warn of?

21 A Just -- it warned a person not to breathe the
22 asbestos dust.

23 Q All right. When was the first warning put on that
24 warned of lung disease?

25 A There wasn't any that I know of.

1 Q Up through 1985?

2 A No.

3 Q All right. Were there ever any warnings put on any
4 of the packages that warned of death?

5 A The OSHA prescribed warning was used from 1972 to
6 1985.

7 Q All right.

8 A And there was no mention of death in the Union
9 Carbide warning used from '68 until '72.

10 Q And none in the OSHA --

11 A No.

12 Q -- warning?

13 A No.

14 Q And never any mention of lung disease?

15 A No.

16 Q All right.

17 A Other than you would associate it with -- that you
18 are not supposed to breathe it, that it would cause
19 lung damage.

20 Q Basically, all of the warnings ever did was to
21 tell people to be careful not to -- in breathing it
22 or not to breathe it?

23 A Not to breathe it.

24 Q Okay. What about your company now? Do you put
25 warnings on your asbestos products?

1 A We use the OSHA prescribed warning.

2 Q Does it mention lung disease or death?

3 A I think it does. I can't really recall. I think
4 it mentioned -- I can't recall how it reads,
5 exactly.

6 Q Is it true of what you know about Union Carbide
7 that all they ever did, as far as warnings on
8 their products, was what was required by the
9 government?

10 A On the products themselves?

11 Q Whatever product they sold.

12 A From 1972, they put on what was required by OSHA.

13 Q I don't mean just relating to asbestos. Was it
14 true on all other products, too?

15 A I wouldn't have any knowledge of that.

16 Q Is it true that as far as the establishment of
17 government standards, that Union Carbide, while
18 you were there, opposed every government standard
19 that was ever proposed?

20 A No.

21 Q Opposed any government standard that was ever
22 produced?

23 A No.

24 Q Did they oppose any government standard that you
25 are aware of?

1 A I don't know what you mean by "opposed."

2 Q In 1977, did they oppose the OSHA standards that
3 were being proposed at that time?

4 A In what manner do you mean by being opposed?

5 Q Be against them, try to recommend against publishing
6 them.

7 A No.

8 Q They never asked you to be against any proposed
9 OSHA regulations or anything?

10 A I think you will have to -- we testified to various
11 hearings in OSHA. It is not that we were opposed
12 to regulations. We always tried to get regulations
13 issued that were --

14 Q Did you testify in an OSHA regulations hearing
15 in 1977 or thereabouts?

16 A Not that I recall.

17 Q All right.

18 A If you have got something there that says
19 differently, but I don't recall.

20 Q Do you know who the National Association of Defense
21 Council is?

22 A I know there is a group, yes.

23 Q And in 1977, they petitioned the Consumer Products
24 Safety Commission to ban asbestos in joint
25 compounds and other types of products?

1 A I don't think it was "joint compound." That
2 wasn't the wording on it.

3 Q Drywall, spackling and joint compounds.

4 A I can't remember that was the exact wording, but,
5 yes.

6 MR. SHIPLEY: Why don't you show him what
7 you are reading. It might save some time.

8 MR. LATHAM: I am reading from kind of an
9 encyclopedia.

10 MR. SHIPLEY: What is it?

11 MR. LATHAM: It is the "Asbestos and
12 Legal Aspect" by Dr. Castleman.

13 Q (By Mr. Latham) On August 15, 1975, Dr. Arthur
14 Rowe and co-workers at the Mount Sinai School of
15 Medicine published a report in the science,
16 on the high levels of airborne asbestos exposure
17 entailed by mixing, sanding and sweeping up after
18 applying drywall spackling and joint compounds.
19 The Natural Resources Defense Council then
20 petitioned the Consumer Products Safety Commission
21 to ban asbestos in such products. Throughout 1977,
22 Union Carbide led the opposition to the ban. Is
23 that true, as far as you know?

24 A We presented our own testimony on air sampling
25 results.

1 MR. SHIPLEY: And Dr. Castleman was wrong
2 again.

3 Q (By Mr. Latham) Did Union Carbide, through you, or
4 did you participate in the filing of any objections
5 with the Consumer Products Safety Commission?

6 A We submitted testimony, if that is the same thing.

7 Q All right. Does that mean in writing, you submitted
8 it?

9 A Yes, and I think orally.

10 Q And was the testimony in favor of or opposed to the
11 ban?

12 A It was opposed to the ban.

13 Q Did you participate in preparing the testimony?

14 A I probably participated to some extent, yes.
15 Probably more editorially. I didn't write the
16 testimony.

17 Q All right. But you participated -- they gave you --

18 A I was aware of the testimony.

19 Q Did they give you a draft copy and ask you for your
20 comments or suggestions about it?

21 A Probably.

22 Q And when they did that, did they advise you --

23 A Who do you mean by "they"?

24 Q Union Carbide. Was it Union Carbide that gave you
25 the copy of the testimony and asked you to -- or

1 the proposed testimony, and ask you to comment on
2 it?

3 A Well, it was not Union Carbide. It was my
4 department.

5 Q All right.

6 A The marketing department.

7 Q For Union Carbide?

8 A I was working for Union Carbide.

9 Q It was Union Carbide's marketing department that
10 wanted to file the testimony?

11 A It was the asbestos group, marketing department.

12 Q All right. In preparing your testimony, did they
13 mention or tell you about the Sayers' report?

14 A Not that I recall.

15 Q All right.

16 A I don't recall the Sayers' report having anything
17 to do with the spackling compound.

18 Q Did they tell you about or -- or were you aware of
19 the Selikoff report?

20 MR. SHIPLEY: Which one?

21 Q (By Mr. Latham) The 1964 Selikoff report.

22 A In 1977?

23 Q Yes.

24 A I am -- I assume I was, yes.

25 Q Were you aware of the Saranac Symposium?

1 A I have already answered no.

2 Q And they didn't make you aware of that, Union
3 Carbide didn't?

4 A I have never been aware of it.

5 Q Did Union Carbide make you aware of any other
6 association reports or foundation reports or
7 institutes in which they had sent members that
8 discussed cancer, mesothelioma or lung disease in
9 asbestos prior to you preparing your comments or
10 testimony in 1977?

11 A I would assume that I had read several things about
12 asbestos and health by that time.

13 Q By that time, what had you read concerning asbestos
14 and health, the best you can recall? And if you
15 can't tell me specific things, give me
16 classifications of things that you had read.

17 A Oh, I would say primarily on chrysotile asbestos,
18 the difference between the chrysotile and the
19 amphibole, the safe -- or the threshold limit
20 values that were considered safe at various times.

21 Q Let me interrupt you right here and we will go on
22 with the rest of that question, but where did you
23 ever -- where did Union Carbide or you ever obtain
24 your threshold limits? From what sources? Did you
25 develop them yourselves or did you --

1 A I think I started earlier from the ACGIH --
2 Q All right.
3 A -- until the OSHA rules were promulgated.
4 Q So whatever -- whatever was promulgated by these
5 groups were the threshold limits that you all
6 discussed and used?
7 A That or lower, yes.
8 Q All right. What else?
9 A Well, I would guess just various studies of various
10 doctors and scientific personnel --
11 Q Do you remember --
12 A -- on general asbestos and health.
13 Q Do you remember any of the doctors specifically, or
14 the studies, specifically?
15 A Dr. Selikoff, Langer, McDonald -- and my mind is a
16 blank as far as other names, but the typical
17 asbestos scientists or doctors.
18 Q Had you sought those out yourself or had the company
19 provided them to you?
20 A Both.
21 Q But never the Sayers' report?
22 A Not that I recall.
23 Q Okay.
24 A I could have read it. I could very easily have read
25 it, but I don't recall that I did.

1 Q During all of this time that you were out in
2 California, who was the insurance carrier for
3 Union Carbide's employees out there, as far as
4 health insurance was concerned?

5 A Blue Cross, I think. I am not sure. I remember
6 Blue Cross as one name. They probably changed
7 back and forth depending on low bids.

8 Q Who was the liability insurance carrier?

9 A I don't have any idea.

10 Q Who was the workers' compensation?

11 A I have no idea.

12 Q Was Metropolitan Life Insurance Company ever
13 involved in any of the insurance that any of the
14 Union Carbide plants where you worked, as far as you
15 know, either life insurance or health insurance?

16 A I think they had the dental insurance at one point.

17 Q Okay.

18 A And they may have had other kinds, but I don't know.

19 Q All right. Now you have provided --

20 MR. SHIPLEY: Are you going to move into
21 another area?

22 MR. LATHAM: Yes. Do you want to take a
23 break?

24 MR. SHIPLEY: Yes.

25 MR. LATHAM: All right. Let's take a

1 break.

2

3

(Short recess taken.)

4

5 Q (By Mr. Latham) Mr. Myers, let's go through some of
6 these exhibits. Exhibit M-2 appears to be some
7 interoffice correspondence, and can you kind of
8 look through that and basically tell us generally
9 what that is?

10 A These are call reports by salesmen on --

11 MR. SHIPLEY: Let me ask you something.
12 These weren't stapled together originally,
13 were they?

14 MR. LATHAM: No. We stapled them
15 together because they all appeared to be the
16 same thing.

17 MR. SHIPLEY: All right.

18 A These are reports of the salesmen's calls on
19 Georgia-Pacific in Georgia.

20 Q (By Mr. Latham) And just generally, this just
21 shows --

22 MR. SHIPLEY: Which one? Are you just
23 talking in general?

24 MR. LATHAM: Yes.

25 Q (By Mr. Latham) They show a list of names up in the

1 right-hand corner. Is that all of the people that --
2 to whom a copy was routed for this information?

3 A It is in the left-hand corner.

4 Q It is in the left-hand corner. I'm sorry.

5 A I would have to look at it to see.

6 Q (Handed back to the witness by counsel.)

7 A Yes. That would be the distribution of these call
8 reports after they were typed.

9 Q Kind of up in the right-hand corner is the name of
10 the man who prepared the report; is that correct?

11 A Yes.

12 Q All right. And it also contains the date of the
13 report?

14 A Yes.

15 Q All right. M-3 is an article at that time
16 entitled "Asbestos and Health," and from the
17 Asbestos Information Association of North America.
18 Is there any way that you can look at that and
19 identify it as to date?

20 A No. The only way would be -- this association is
21 no longer located in New York City, and we could
22 tie it down somewhat by that.

23 Q And was this produced today because at some point
24 in time you either read or had access to that, or
25 was it just something that was in the Union Carbide

1 files, or do you know?

2 A Repeat the question.

3 MR. SHIPLEY: It was produced because it
4 was called for by your request.

5 Q (By Mr. Latham) Had you ever read that article
6 or do you recall it?

7 A Yes, I think so.

8 Q All right. M-4 is a similar type of article by the
9 Asbestos Information Association, apparently
10 entitled "Asbestos and Health Questions and
11 Answers."

12 Is there anything on there that you can see
13 that identifies it as to date?

14 A No. Again, the association might have some --
15 there are some numbers at the bottom of the last
16 page which the association may have some record of --
17 that that indicates a date, but I don't see any
18 date.

19 Q All right. Do you recall ever having seen that
20 particular article before?

21 A Yes.

22 Q M-5 is a copy of another article entitled "Protecting
23 the Asbestos Worker," also by the Asbestos
24 Information Association of North America.

25 Offhand, do you see any way -- anything that

1 shows up on the article that would indicate its
2 date?

3 A No.

4 Q Do you recall ever having seen that article?

5 A Yes, uh-huh.

6 Q Do you recall the period of time in which you saw
7 it?

8 A No.

9 Q Was there a particular period of time in which you
10 were exposed to numerous articles about asbestos
11 and whether it is hazardous or not?

12 A I would say starting in 1970 when I became
13 marketing manager.

14 Q All right.

15 A Part of my job was to inform customers of
16 information like this. Did I answer the question --
17 no, I didn't see a date on it.

18 Q Yes, I think you answered it.

19 A All right.

20 Q M-6 is another article or group of articles, and we
21 did not staple these together, but I think it contains
22 more than one thing. "Recommended Work Practices
23 Molding and Fabrication of Asbestos-Containing
24 Plastic Products." And it contains OSHA standards
25 and other things. Have you ever seen those before

1 today?

2 A Yes, I have seen the document, but I haven't read
3 it.

4 MR. SHIPLEY: M-7 ought to be part of
5 M-6.

6 MR. LATHAM: That's right.

7 MR. SHIPLEY: It came unstapled since I
8 got it in the mail.

9 You can tell by the sequential number
10 that it is part of M-6.

11 MR. LATHAM: It is part of M-6?

12 MR. SHIPLEY: Yes.

13 Q (By Mr. Latham) All right. In the back of M-6 are
14 some schematic drawings, it looks like, having to
15 do with Page 776, has to do with typical vacuum
16 system, 777, typical methods of dust disposal,
17 and 779 is a materials list. 780 is a dust trap
18 vacuum system, and 781 is an asbestos fiber bag
19 opening station.

20 Let me ask you to look at what is M-7, that
21 is actually 781 of M-6. Does that have any -- or
22 can you use that to explain to us or describe to us
23 the type of system that you had at your California
24 plant for handling dust in the sacking of raw
25 asbestos?

1 A We don't have a bag opening station.

2 Q All right.

3 A We have a bag filling station.

4 Q All right.

5 A No, it doesn't look like that.

6 Q What about any of these other drawings that we have?

7 A The typical vacuum system would be similar to what
8 we would have to create a negative pressure on a
9 pipe throughout the mill so that we could clean up
10 spills like you would with a vacuum cleaner.

11 Q As opposed to sweeping it up or something like that?

12 A Or scooping -- you could scoop it up wet with a
13 shovel, but if it's dry, you would use a vacuum
14 cleaner.

15 MR. SHIPLEY: You are talking about what
16 you would do?

17 A Well, we have one or two of these types of systems
18 for plant clean-up. This is not what we would have
19 in the bagging operation.

20 Q And how long has Union Carbide had a system like
21 that for a plant clean-up in their California plant?

22 A I don't know whether it was installed in -- one was
23 installed in '63 or not.

24 Q Was it --

25 A I know there was concern about dust generation or

1 we wouldn't have had the air monitoring program,
2 but I can't say -- I would assume there was one
3 there from '63 on, but I don't know that there was.

4 Q The equipment that you had, whether it contained
5 that or not in 1963, I assume was put there because
6 someone at Union Carbide felt that it was necessary
7 to protect the workers from dust that was in the
8 air?

9 A Yes.

10 Q Which included the bacuum system that you talk
11 about that relieved the dust from the face of the
12 worker who was at the bagging position. This
13 vacuum system for plant clean-up was all done to
14 avoid dust because Union Carbide thought that was
15 important and necessary for the protection of the
16 workers?

17 A Yes.

18

19 (Whereupon, an off-the-record
20 discussion was held.)

21

22 Q All right. M-3 is an article "What Asbestos Is, How
23 and Where It Is Used." And again, if you will look
24 through it with me, I don't see any way to date that
25 article, do you?

1 A Not with the sheets that are here.

2 Q And had you at some point in time seen this
3 article?

4 A Yes.

5 Q It contains, among other things, a discussion of,
6 I guess, three different types of asbestos
7 chrysotile?

8 A You can pronounce it -- I use chrysotheal.

9 Q Chrysotheal?

10 A Crocidolite.

11 Q What is the number one?

12 A Amphibole.

13 Q Crocidolite --

14 A Yes.

15 Q -- and amphibole?

16 A Amphibole.

17 Q All right. What kind of mine do you have in
18 California?

19 A Chrysotheal.

20 Q And which kind of mine is in Zimbawai?

21 A Chrysotheal. I can't swear it was mined there. You
22 asked if Union Carbide owned a mine there, but I
23 don't know if it was ever produced.

24 MR. SHIPLEY: Are you talking about
25 Zimbawai?

1 THE WITNESS: Yes.

2 Q (By Mr. Latham) Do you know for sure in
3 California?

4 A No, I can't say for sure it was ever produced
5 anything. Carbide owned and maybe still does own a
6 chrysotheal mine in Zimbawai.

7 MR. SHIPLEY: All right.

8 A But I don't know if it ever produced any fiber.

9 Q (By Mr. Latham) 9 next, M-9 is an article entitled
10 "Asbestos and Health" from the Asbestos Information
11 Association of North America.

12 Correct me if I am wrong, but there doesn't
13 appear to be any way to date the publication in that
14 article.

15 A There is no date on it. They have moved to
16 Washington. I think that is probably an update
17 of the previous "Asbestos and Health" article.

18 MR. SHIPLEY: This might help. It looks
19 like there is something in here from 1972.

20 MR. LATHAM: So it had to be after '72.

21 MR. SHIPLEY: From the Young Conference.

22 THE WITNESS: Yes, it would be after '72.

23 MR. LATHAM: All right.

24 MR. SHIPLEY: What number is that?

25 THE WITNESS: Nine.

1 Q (By Mr. Latham) All right. 10 and 11 are also
2 articles put out by the Asbestos Information
3 Association of North America; is that correct?
4 A Yes.
5 Q And Union Carbide was a member of that Asbestos
6 Information Association of North America?
7 A Yes.
8 Q Do you know who all else was members of that?
9 A Fifty to a hundred companies. I couldn't give you
10 all of the names.
11 Q All of them either manufacture, mine, produce or
12 use as a raw product, asbestos?
13 A Yes, and there were some associate members that
14 might not be under those descriptions.
15 Q M-12 is an article entitled "Asbestos and Your
16 Health." Do you know who produced that? I
17 couldn't find any indication.
18 A I am pretty sure this was produced by the QAMA.
19 Why there it is.
20 Q What is that?
21 A Quebec Asbestos Information Service.
22 Q Is that the same type of organization as the
23 American -- or the Asbestos Information Association
24 of North America?
25 A I don't know whether they were that -- whether they

1 were similar or not.

2 Q All right. Then 13 and 14 are also articles put
3 out by the Asbestos Information Association, and I
4 assume -- first let me ask you that question.

5 MR. SHIPLEY: I'm sorry, what was the
6 question?

7 MR. LATHAM: Those were also put out by
8 the Asbestos Information Association?

9 A Yes. I think this is the same as an earlier one.

10 Q (By Mr. Latham) I assume the purpose of the
11 Asbestos Information Association is to put out
12 information on asbestos?

13 A 'Asbestos and Health and How to Use Asbestos Safely.'

14 Q All right.

15 A Are the charter of the association.

16 Q The next article is M-15 and it is called "Calidria
17 Asbestos" -- is that how you pronounce that?

18 A Yes.

19 Q And that is put out by Union Carbide?

20 A Yes.

21 Q All right.

22 A October, 1968.

23 Q And to whom was this given or distributed?

24 A It would be sent to tape joint producers, tape
25 joint compound producers such as Georgia-Pacific.

1 Q And whoever else was running the Acme plant in
2 1968 if it wasn't Georgia-Pacific?

3 A It logically would have been sent to any producers
4 of tape joint compound.

5 Q All right.

6 MR. SHIPLEY: Are you talking about M-15?

7 MR. LATHAM: M-15, yes.

8 MR. SHIPLEY: All right.

9 Q (By Mr. Latham) You said it was produced in
10 October of 1968?

11 A That is the date on the document.

12 Q Had you seen this at or near the time that it was
13 put out by Union Carbide?

14 A Not that I recall. I was not involved with
15 marketing at that time.

16 Q The reason I asked that is because on about Page 4
17 of the article, it mentions that there had been
18 reported increased incidents of cancerous tumors,
19 especially of lungs associated with asbestosis.
20 I thought you testified, as marketing director out
21 there in California, you didn't know about that
22 until the '70s?

23 A I wasn't marketing manager until 1970.

24 Q But it wasn't until after in the '70s sometime that
25 you were aware of that?

1 A The early '70s.

2 Q All right. So there were a couple of years, or at
3 least two after this was published that you were
4 made aware that there was some association
5 between --

6 A I didn't say that, no.

7 Q All right.

8 A In fact, I think from reviewing this with you, it
9 is probably 1970 would be when I began -- because
10 I was responsible for sending out this kind of
11 information to customers.

12 Q All right. Up until that point, until you became
13 responsible, you hadn't been told anything about
14 the report in '68 that said that --

15 A Not that I recall.

16 MR. SHIPLEY: I will object to you calling
17 it a report. It is not a report.

18 A It is a sales literature.

19 Q (By Mr. Latham) Sales literature?

20 A Yes.

21 Q But they hadn't informed you of that several years
22 ago it was reported there was an increase in the
23 incidence of cancerous tumors in the lungs associated
24 with asbestos. You didn't know that?

25 A As I said before, I can't recall specifically that

1 I had read about that before --

2 Q All right.

3 A -- or anything like that before.

4 Q M-16 is a -- looks like some more sales literature
5 produced by Union Carbide, and I can't seem to find
6 a date on there. Let's see if you can --

7 A No, I don't see any date on this.

8 Q Okay. Also, sales information published by Union
9 Carbide.

10 A Well, let's see, not really sales information. It
11 looks like a report of tests or -- using pelletized
12 asbestos versus open fiber.

13 Q I want to go back just a second to M-15, which was
14 published by Union Carbide in 1968, in October, and
15 I believe in answer to earlier questions, you said
16 that it wasn't until the '70s that you knew that
17 asbestos was related to lung disease, cancer, or
18 mesothelioma. That you didn't know about it in
19 '63 up through the '70s. Is that what you testified
20 to earlier?

21 A No, I said I didn't remember, or wasn't -- I didn't
22 remember that I knew --

23 Q Okay.

24 A -- earlier than that.

25 Q All right. You don't recall now that you knew

1 earlier than that?

2 A No.

3 Q Is that what you mean?

4 A Yes.

5 Q In '68, whoever wrote this for George -- or for
6 Union Carbide, it says it has been known for many
7 years that some persons working with asbestos produc-
8 tion were prone to develop a disabling lung disease --

9 MR. SHIPLEY: May I see it a minute,
10 please?

11 Q (By Mr. Latham) -- under toxicological properties.
12 Did anyone in Union Carbide tell you in 1963, '64,
13 '65, '66, '67, that it had been known for many years
14 that people developed lung disease from asbestosis?

15 A Not that I recall, specifically.

16 Q All right.

17 MR. SHIPLEY: I think it may not be clear
18 from your question, but that was talking about
19 asbestosis.

20 MR. LATHAM: Yes.

21 Q (By Mr. Latham) You recognize asbestosis as a lung
22 disease?

23 A Yes.

24 Q All right. M-17 appears to contain some of the
25 material that is in M-15, and maybe additional, but

1 also appears to be -- maybe a conglomeration of
2 sales information by -- produced by Union Carbide,
3 and I imagine maybe at different times.

4 A Well, this is obviously Page 2 of something, 2, 3,
5 4 and 5 -- this is a different product and
6 application.

7 Q Okay. We may have made a mistake in stapling it
8 together and putting it all there, but whatever is
9 in M-17 was produced by Union Carbide?

10 A No. The last sheet was an article out of a
11 publication called Western Plastic. The rest of it
12 was information produced by Union Carbide.

13 Q All right. M-18 appears also to be some marketing
14 information put out by Union Carbide; is that
15 correct?

16 A Yes.

17 Q M-19 and 20, the same thing, marketing information
18 put out by Union Carbide?

19 A I think M-19 is similar -- yes, put out by Union
20 Carbide.

21 Q All right. And 20, also?

22 A Yes.

23 Q M-21 and M-22 appear to be some kind of
24 specifications for the use of Union Carbide products;
25 is that correct?

- 1 A Formulations, yes.
- 2 Q All right.
- 3 A Or you can call it specifications. 22 is just a
4 product characteristic of one of our products --
5 one of Union Carbide's products.
- 6 Q 23, 24 and 25 are documents put out by Union Carbide,
7 marketing information?
- 8 A 23 and 24 are marketing information.
- 9 Q All right.
- 10 A 25 is a report of a sales -- a salesman's report
11 of calls.
- 12 Q All right. And logically, does this belong in the
13 same sequence as M-2?
- 14 A Yes.
- 15 Q Or whatever the numbers -- yes. All right. Put
16 those together for the time being and maybe we can
17 get them all together. All right.
- 18 26 and 27 are more articles by the Asbestos
19 Information Association?
- 20 A Yes.
- 21 Q All of these articles were in Union Carbide's file
22 and at some time or another were available to whoever
23 had access to the files?
- 24 A Yes.
- 25 Q M-28 appears also to be a report of call, with an

1 article from Adhesive Age attached to it. Do you
2 know if that belonged on there or not?

3 A Yes, it belongs there and it is a report of call.

4 Q Okay. So it logically also belongs in 2?

5 A Yes.

6 Q All right. And M-29 is some more marketing
7 information produced by Union Carbide?

8 A Yes.

9 Q M-30 is a letter from Mr. Rhodes. Do you know
10 Mr. Rhodes?

11 A Dr. Rhodes, yes.

12 Q Technology manager to the head of the corporate
13 purchasing of Georgia-Pacific, discussing Consumer
14 Product Safety Commission's proposed ban.

15 MR. SHIPLEY: On consumer taping,
16 spackling and joint ceiling compounds.

17 MR. LATHAM: Yes.

18 A Yes.

19 Q (By Mr. Latham) And M-31 appears to be two letters;
20 one, a letter to Georgia-Pacific from Mr. Rhodes, or
21 Dr. Rhodes, and a letter to Mr. Byrne from Georgia-
22 Pacific, both in May of 1977. Is that right?

23 A Yes.

24 Q There is a handwritten note on the top of the first
25 one. Do you know who wrote that?

1 A Yes, I wrote that.

2 Q What does it say?

3 A "May 11, 1977, RFQ Fusaro advised that CPSC --" it
4 should be CPSC -- "has power to order, buy back
5 by producers. This is GP's fear. JLM"

6 Q Do you recall what conversation it was that you had
7 that inspired that notation?

8 A I would need to read the letters first to find out.
9 Well, my note just really covers the -- oh, I see
10 now. Mr. Fusaro was in the Union Carbide legal
11 department and he advised me that the Consumer
12 Product Safety Commission has the power to order,
13 buy back by producers, which means the CPSC could
14 order Georgia-Pacific to remove asbestos-containing
15 products.

16 Q Buy them back --

17 A Buy them back from people they had supplied them to.

18 Q And someone at Georgia-Pacific expressed concern
19 about that to you?

20 A Let's see -- let me see the wording again. I assume
21 they had, or perhaps it had come through Dr. Rhodes
22 or the salesperson.

23 Q Do you recall why the Consumer Product Safety
24 Commission was wanting to ban certain asbestos
25 products, such as tape, spackling, joint and ceiling

1 compound?

2 MR. SHIPLEY: The Consumer Product --

3 Q (By Mr. Latham) Do you know why they wanted to
4 buy that?

5 A I think they were doing that based on Dr. Selikoff's
6 report -- not Dr. Selikoff, but the Mount Sinai
7 report.

8 Q Well, was it your idea that the purpose behind it
9 was for safety people that came in contact with
10 certain asbestos products --

11 A For safety people.

12 Q -- for the safety of people who came in contact with
13 certain asbestos products?

14 A It was to reduce the airborne fibers, yes. If you
15 eliminate a product which has asbestos in it, I
16 would reduce airborne fibers.

17 Q Would your understanding, having dealt with mined
18 products and finished products, that there would be
19 more airborne fibers coming from a consumer use of
20 joint ceiling compound or more airborne fibers
21 involved in the mixture of the ceiling compound
22 using raw asbestos fiber?

23 A Depends on entirely how it was handled, just like
24 any other dusty product that could be handled
25 safely.

1 Q Assuming it wasn't handled at all, just a
2 consumer dealing with joint compound on one hand
3 and a worker who is mixing the joint compound on the
4 other, using raw asbestos products in the mixture.

5 MR. SHIPLEY: Then you are handling the
6 product.

7 A It depends on how carefully they handled it.

8 Q (By Mr. Latham) In the ceiling compound, there is
9 not -- it is not only made up of asbestos, is it?

10 A Ceiling compound?

11 Q Or the joint compound. On the joint compound, it
12 is not solely made up of asbestos?

13 A No.

14 Q Asbestos is just a small fraction?

15 A I don't remember what fraction it is.

16 Q But it is a percentage, less than whole?

17 A Yes.

18 Q And it has other things in it?

19 A Yes.

20 Q In fact, after you mix that, the asbestos, in what
21 form does it take? Is it sort of a liquid type
22 form?

23 A No, it is like mud.

24 Q Okay. Like mud?

25 A In fact, that is what they call it, yes.

1 Q All right. Raw asbestos, as it is shipped in sacks
2 like a powder --

3 A Yes.

4 Q -- and it is -- contains one hundred percent
5 asbestos fibers?

6 A Yes.

7 Q And my question to you is isn't it -- isn't a person
8 that -- who is dealing with the raw asbestos in any
9 quantity at all, more likely to get involved with
10 airborne fibers of asbestos than a person using the
11 joint compound?

12 A Using the ready-mix mud or joint compound should
13 have no exposure.

14 Q All right.

15 A Because it is wet with water.

16 Q All right. So then you agree with my statement
17 that the person dealing with -- the employee who is
18 handling raw asbestos with a scoop and dumping it
19 into a bin, or sweeping it up out of a plant where
20 it is lying around, would get more airborne fibers,
21 is likely to get more airborne fibers than the usage
22 of the joint compound?

23 A If anybody handled it in this way, sure.

24 Q All right. And that -- but that when told that this
25 product was going to be banned or is proposed to be

1 banned because of worry about consumer safety and
2 health -- I am talking about the joint compound,
3 what Georgia-Pacific expressed to you was fear
4 they were going to have to buy back all of those
5 products?

6 A They expressed it to someone, yes.

7 Q Did they express to you fear for their employees
8 that were dealing with raw asbestos, handling it
9 day after day after day?

10 A They didn't express anything like that to me. They
11 wouldn't have any reason to.

12 Q Okay. You all were the folks that were selling at
13 least some of their asbestos, weren't you?

14 A Yes.

15 Q M-32 is -- contains three documents, I think, maybe
16 four. One is a letter to Georgia-Pacific from you
17 about the Consumer Product Safety Commission
18 proposal to ban taping, spackling and joint ceiling
19 compound.

20 A Consumer use of those.

21 Q What?

22 A The consumer use of those.

23 Q Yes.

24 A A big difference between --

25 Q Okay.

1 A As you know, between consumers using it and
2 professionals using it.

3 Q Okay, and a letter to Mr. -- from Mr. A. S. Hart,
4 the chairman of the Consumer Product Safety
5 Commission. And a letter from Mr. Mereness with
6 the Asbestos Information Institute also to
7 Mr. Byington with the Consumer Product Safety
8 Commission.

9 A What was the question -- is the question just are
10 these the letters you described?

11 Q Yes.

12 A Yes.

13 Q Okay. The subject of all of these letters in M-32
14 was the proposed ban?

15 A Yes, proposed ban on the consumer use of those
16 various compounds.

17 Q M-33 is a series of documents, and they may be
18 redundant. It kind of looks like maybe some of them
19 may be -- it may be two sets that have to do with
20 what is called an asbestos bag opener. Is that --

21 A Yes.

22 Q And apparently the company that manufactured that
23 was Certain-Teed Machinery?

24 A No. It says, "Patent Applied For" -- their name is
25 on the sheet.

1 Q Can you describe for us, basically, what that is?

2 A If you will let me look at it.

3 Q Yes, okay.

4 A I can just read it. "Certain-Teed Model 440 asbestos
5 bag opener is completely automated and environment-
6 ally isolated as a test bag opening machine."

7 Q If you will look through that, can you tell me if
8 what that is is the specifications and marketing
9 information on a machine apparently manufactured
10 or designed by Certain-Teed Machinery that will
11 allow for the opening of bags of asbestos without
12 exposure to the air of the fibers?

13 A It sounds like if it was operating properly and was
14 being operated properly, it would do that, yes.

15 Q Does that have a date on it anyplace or any way that
16 you can date that?

17

18 (Whereupon, an off-the-record
19 discussion was held.)
20

21 A I don't see any date on it at all.

22 Q Will you agree with me that unless there is some
23 minor technological changes in there, that there are
24 about three pages of the document and everything else
25 is repeat?

1 A It appears that way without sorting it.

2 Q From looking at this machine, do you agree that the
3 purpose of it is to allow the opening of bags and
4 emptying of bags of raw asbestos without exposing
5 any employees to the dust?

6 A That is what it says on the face of it.

7 Q And does it appear to be applicable to raw asbestos
8 as it is packaged by -- in paper sacks by companies
9 such as Union Carbide?

10 A It is called an asbestos bag opener, and I assume it
11 means a bag of asbestos, not a bag made out of
12 asbestos.

13 Q All right. And do you have any idea -- had you
14 ever seen that before today, by the way?

15 A No.

16 Q So you don't have any idea when this information
17 was received by Union Carbide?

18 A No.

19 Q Do you know if Union Carbide, while you were
20 marketing the asbestos products, ever forwarded any
21 information like this to any of its customers?

22 A Yes, we did discuss the use of bag openers with
23 customers, yes.

24 Q Do you recall ever discussing it with Georgia-
25 Pacific or Best Drywall Company, or anyone related

1 to the Acme plant in Quanah?

2 A Not specifically, and I probably wouldn't have been
3 talking to them directly.

4 Q Were there other sales people who talked with them
5 directly that arranged for the transfer and sale of
6 asbestos products?

7 A Yes.

8 Q 34, 35, 36 and 37 also appear to be call reports
9 and probably belong with Exhibit M-2.

10 A Yes, they are.

11 Q Did you ever visit the Acme plant?

12 A Not that I can remember.

13 Q Do you ever remember being in Quanah, Texas?

14 A Oh, is that -- is there an Acme, Texas and a
15 Quanah, Texas?

16 Q I think that there is a sign out there at the plant
17 that says Acme, Texas that is just outside of
18 Quanah.

19 A I am sure that I have never visited there.

20 Q Did you ever visit any plant belonging to either
21 Georgia-Pacific, Certain-Teed, or Best Drywall
22 Company?

23 A Yes, I believe I did.

24 Q And the follow-up of my question was where Union
25 Carbide's asbestos products were being used?

1 A Where they were being used?

2 Q Did you visit a plant where they were being used?

3 A Oh, yes, yes.

4 Q And which plants did you visit that you can recall

5 where --

6 A The only one I recall visiting out of those ones

7 you mentioned were Georgia-Pacific in Akron, New

8 York. I think it was Akron.

9 Q Do you remember when you visited there?

10 A No. Within five years.

11 Q Or what your job was when you did visit there?

12 A Oh, marketing manager.

13 Q It was during that time when you were marketing

14 manager?

15 A Yes.

16 Q In California?

17 A Yes.

18 Q Do you remember what the purpose of your visit was?

19 A I think it was probably just a sales call for PR

20 purposes.

21 Q Okay.

22 A It was close to my office in Niagara Falls. I didn't

23 have to travel to Quanah, Texas.

24 Q And did you go through and get the cook's tour of

25 the plant?

1 A I can't really recall.

2 Q Did they have a joint system there?

3 A What do you mean?

4 Q A system that -- a plant that made joint compound?

5 A Yes.

6

7 (Whereupon, an off-the-record
8 discussion was held.)
9

10 Q And do you think you visited the joint -- the place
11 where they made the joint compound?

12 A Yes.

13 Q Went physically into the plant?

14 A I can't remember whether I was into the plant or
15 visiting with the manager.

16 Q Do you recall whether you saw the method by which
17 they moved the asbestos from the warehouse where it
18 was stored to the plant and then placed it in the
19 mixing machines?

20 A I don't remember, no.

21 Q Do you remember seeing any of their air control or
22 dust control systems?

23 A No.

24 Q Do you recall ever discussing with anyone at Georgia-
25 Pacific, Best Drywall or Certain-Teed, dust control

1 systems?

2 A I don't recall, no.

3 Q Who was the plant manager at Akron, by the way?

4 A I have no idea.

5 Q Do you remember who you met with at Akron?

6 A No.

7 Q Because they were good customers, you dropped by to
8 say hello?

9 A Yes, with the salesman, I am sure.

10 Q Do you know if Union Carbide ever assisted Georgia-
11 Pacific, Certain-Teed, or Best Drywall Company in
12 making air studies at their plant?

13 A I don't know whether we assisted them, no.

14 Q Did you ever make air studies at the plant?

15 A Yes.

16 Q And --

17 MR. SHIPLEY: Do you mean him,
18 individually?

19 MR. LATHAM: No, Union Carbide.

20 Q (By Mr. Latham) At which plant did Union Carbide
21 make air studies for Georgia-Pacific?

22 A I am pretty sure we did one at Akron, New York. I
23 can't recall if we did any -- I think they had a
24 plant in Marietta, Georgia. I don't have any more
25 knowledge than that.

1 Q If I tell you they did have a plant at Marietta,
2 would that help you?

3 A It wouldn't help me, no.

4 Q Do you recall why you did the air studies?

5 At whose request?

6 A We made a practice of offering air monitoring
7 studies to any customer to determine their compliance
8 with TLV's, so it would have always been at the
9 customer's request.

10 Q Did you offer it by way of your salesmen telling
11 them that it was available? Did you offer it by
12 way of some sort of information that you provided
13 them in written form, or how did you all offer it?

14 A Through the salesmen.

15 Q All right.

16 A Who may have put it in a written form.

17 Q And when did you start doing that? When did you --

18 A As I recall, our first one was in 1971.

19 Q And how did you initiate it? Did the company make
20 the decision, you call all of your salesmen and tell
21 them it was available as a customer service?

22 A I don't know how it was physically communicated.

23 Q All right.

24 A It was communicated.

25 Q All right. Do you recall when the test was done,

1 either in Akron or Marietta, Georgia?

2 A No.

3 Q Some time after '71?

4 A Yes.

5 Q Or '71 or after?

6 A Yes.

7 Q All right.

8 A And before they quit using it, whatever that date is.

9 Q And what kind of monitoring device or devices was
10 used in making the test?

11 A The ones prescribed by NIAOSH. It was phase
12 contrast. I forget the people at NIAOSH, Bayer or
13 Zumwalde, or something like that. .

14 Q Does that involve taking a sample and testing it
15 somewhere else?

16 A You collect fibers on a cellulose disk and dissolve
17 the disk away and count the fibers.

18 Q And you take that someplace else, like a laboratory
19 or something?

20 A Yes.

21 Q Did Union Carbide have a laboratory that could do
22 that?

23 A Yes. We had a building -- yes, we had a
24 laboratory.

25 Q And where was that laboratory located?

1 A In Niagara Falls, New York.

2 Q Did it do other types of laboratory work besides
3 that?

4 A Yes.

5 Q Like check contamination of nuclear things and stuff
6 like that?

7 A No.

8 MR. SHIPLEY: Can we take a real short
9 break?

10 MR. LATHAM: Yes.

11

12 (Short recess taken.)

13

14 Q Okay. After the testing was done in -- you
15 remember for sure it was done in Akron and you think
16 it may have been done also in Marietta?

17 A Yes.

18 Q Did -- was a report made of the test?

19 A Yes.

20 Q And was it -- a copy of the report or the original
21 report sent to Georgia-Pacific?

22 A That would be the normal procedure, yes.

23 Q Okay, and would a copy be maintained by your
24 company?

25 A Yes.

1 Q And where would it be maintained?

2 A They were all maintained in Niagara Falls.

3 Q At the laboratory?

4 A Yes.

5 Q Have you seen a copy of that report?

6 A Yes.

7 Q Can you recall whether or not at the time the tests
8 were made, the plant passed, as far as the standards
9 that were in effect at that time?

10 A As I recall, all the -- we have seldom had any
11 plant, customer plant tests that would be outside of
12 the threshold limit value for asbestos.

13 Q And what was the procedure in case it was outside
14 the threshold limit?

15 A Our procedure?

16 Q Yes.

17 A All we did was send them the report.

18 Q All right.

19 A We would usually note that in a cover letter.

20 Q Were you ever told or were you aware of the types
21 of dust control equipment being used at any of the
22 Georgia-Pacific plants?

23 A No, not that I recall.

24 Q Do you recall whether or not your company, through
25 your marketing information, advised your customers

1 products?

2 A I would say we did that indirectly by our customer
3 mailings on the "Asbestos and Health and Safe Use
4 of Asbestos Procedures."

5 MR. SHIPLEY: Just to clarify, that is the
6 sale literature that he talked to you about?

7 A No. We haven't talked about general mailings. We
8 made general mailings to customers of record.

9 Q When did you begin to make general mailings?

10 A I know I have seen one date in 1970 to a specific
11 customer. I think we probably began in 1972 or so to
12 make general mailings on an annual basis.

13 This would include, primarily, the Asbestos
14 Information Association documents or similar
15 information.

16 Q When did Union Carbide begin to require respirators
17 or similar devices for their employees at their plant
18 in California?

19 A To the best of my remembrance or knowledge, this
20 probably would have been started in 1963 in specific
21 areas where it was expected that the dust levels
22 might be in excess of the TLV's -- recommended TLV's.

23 Q And can you describe for me what areas those would
24 have been?

25 A Nothing more than I have already testified or told

1 you, the packaging area.

2 Q The packaging area. Is that the area where just --

3 A Where the asbestos is put into a package.

4 Q Through some sort of machine that funnels it into
5 the package?

6 A Yes.

7 Q Any other areas besides the packaging area where
8 you would have required respirators?

9 A Probably in the vehicle loading, which would be in
10 an enclosed area.

11 Q What do you mean -- what vehicles are we talking
12 about?

13 A Trucks or railroad cars or boxcars.

14 Q All right. Loading them with sacks?

15 A With pallets of asbestos.

16 Q All right. And you are talking about asbestos that
17 was in the paper bags?

18 A The paper bags, yes.

19 Q And by pallets, so that a jury will understand,
20 I guess that a pallet is a wooden platform that
21 has got openings so that a forklift can lift it up?

22 A Yes.

23 Q And you stacked so many sacks of bags -- or bags
24 on it?

25 A Paper bags.

1 Q Paper bags. And then the bags on the pallet are
2 loaded onto whatever transportation system you are
3 going to use, either railroad car or truck, so that
4 they can be unloaded in the same way when they get
5 to the destination?

6 A Yes.

7 Q And it was the people who drove the forklift and
8 stacked the pallets with the sacks that were
9 required to wear respirators starting in about 1963?

10 A I would assume. I wasn't there, but I would assume
11 that they did that. We have made that a practice
12 because of the dust measurements that we make.

13 Q All right.

14 A As I said earlier, we encouraged and had a very high
15 percentage of respirator use by all employees.

16 Q And I guess you encouraged it by way of safety
17 meetings, safety information?

18 A As stated earlier, yes.

19 Q Now, did Union Carbide or did you as the marketing
20 director or the head of the technical side, envision
21 that when the pallets were received by your customer,
22 that a reverse process was going to be gone through
23 where the pallets would have to be taken out of the
24 railroad car or the truck and put someplace for
25 storage, and then eventually unstacked by hand?

1 A Well, they definitely would have to go in and
2 unload with a forklift.

3 Q All right.

4 A Or take each bag off separately and carry it.

5 Q All right.

6 A I would assume that they would use forklifts to
7 unload.

8 Q To get it into a central storage place of some sort?

9 A Yes.

10 Q And then from there, the bags would have to be
11 lifted by hand and taken to wherever they are going
12 to be opened, I guess?

13 A Unless the plant had a machine of some type to do
14 that.

15 Q And would you imagine that the requirement for
16 respirators would be just as important for employees
17 who were unloading the bags as they were for employees
18 who were loading the bags?

19 A Well, it all depends. I would assume -- or I
20 shouldn't assume -- but the customer would be making
21 dust counts, also, to see if he felt like
22 respirators should be worn during that particular
23 practice.

24 Q And by assuming, that means that you neither told nor
25 mentioned to your customers that in the unloading

1 procedures, that dust counts were apt to be high
2 and their employees should wear respirators, based
3 on your own experience?

4 A I don't recall telling anyone that myself.

5 Q And do you recall seeing any information where
6 anyone else with Union Carbide told anyone about
7 that?

8 A Not unless you found it in some of the call reports.

9 Q Now, in the bagging procedure, not the loading and
10 unloading, but the bagging procedure where the bags
11 were actually loaded, was another area that you all
12 discovered had high concentrations of dust, or they
13 were likely to occur?

14 A I would say more likely to occur.

15 Q All right.

16 A And I don't think you can just use the word "high."
17 The levels there may have been in excess of the
18 threshold limit values.

19 MR. SHIPLEY: Do you know whether they
20 were?

21 THE WITNESS: I am sure on occasion they
22 were, yes.

23 Q (By Mr. Latham) And is that because there is some
24 point in the packaging process where the raw
25 asbestos fibers were exposed to the air, the

1 atmosphere?

2 A Only if a bag burst.

3 Q Okay. Did you ever have a procedure at your plant
4 where an employee was exposed to raw asbestos
5 without a respirator -- well, first of all, where an
6 employee was exposed to raw asbestos as a routine
7 matter, where you didn't have to rely on a bag to
8 break or something like that? Where they were
9 physically handling the raw asbestos either with
10 scoops or some other method of physically handling
11 the raw asbestos?

12 A We would handle the raw asbestos ore, that would
13 be no problem of walking over the ore pile.
14 And in the laboratory, they would be using raw
15 asbestos to make the quality control tests.

16 Q All right.

17 A And most of our asbestos is wet, so if you had to
18 clean up a broken bag spill, you would have to be
19 handling raw asbestos.

20 Q And in handling raw asbestos where the employees
21 would be handling it in open areas, is that the
22 type of situation where you would require
23 respirators?

24 A Not in all cases. That would depend on whether it
25 is airborne or not. It doesn't just jump out of a

1 bag and become airborne. It has a specific gravity
2 of 2.45. It is relatively heavy.

3 Q Let me ask you to assume that in a particular plant,
4 an employee was required to carry a bag of asbestos,
5 a sack.

6 A I would prefer the word "bag."

7 Q All right.

8 A It would be more likely to be paper.

9 Q All right, a bag. Splitting the bag open with a
10 knife or some other sharp object. And with a scoop,
11 scoop out measures of asbestos and raise it up and
12 empty it into a mixer, a dry mixer.

13 MR. SHIPLEY: What is the question?

14 MR. LATHAM: I am asking him to assume
15 these things.

16 MR. SHIPLEY: It is an assumption?

17 MR. LATHAM: Yes.

18 Q (By Mr. Latham) In your experience, was that worker
19 likely to be exposed to more than the minimum
20 thresholds of asbestos dust?

21 A Not necessarily. If he really mishandled it, and
22 you are saying he is going to, say, shakes the scoop
23 around. I don't know that anybody uses a scoop to
24 remove asbestos from a bag.

25 Q You don't think it is a proper procedure to use?

1 A If there is ventilation equipment, I think that
2 would be fine.

3 Q What kind of ventilation equipment would you need?

4 A The same that I have described previously.

5 Q A sucking kind of thing that vacuums it away?

6 A Right.

7 Q All right. But if it --

8 A It depends on whether it was wet or dry.

9 Q You all ship it dry?

10 A Yes.

11 Q And I am assuming that it is dry.

12 A It can be wetted in the bag before it is taken
13 out of the bag.

14 Q And not wetted in the bag before it is taken out?

15 A Either way.

16 Q Would you imagine that from time to time the
17 employee, if not properly warned, would overfill
18 the scoop, would shake some of the dust off of it
19 into his face as he was emptying it into the hopper?

20 MR. SHIPLEY: I am going to object to the
21 form of the question. It calls for speculation
22 and hypotheses and opinions, and I don't know
23 that this witness is qualified to talk about
24 it.

25 Q (By Mr. Latham) If you were going to clean asbestos

1 dust off of the machinery and equipment, I
2 believe you said that you -- your firm used -- that
3 Union Carbide used a vacuum system?
4 A Or water.
5 Q Or water. Have you ever seen anyone use a blower
6 system where they took an air hose with compressed
7 air and squirted it around where the asbestos was
8 so that they could blow it off machinery and that
9 sort of thing?
10 A No.
11 Q Would that -- do you think that would be apt to
12 fill the air with asbestos fibers?
13 A I don't know whether it would fill the air. There
14 would certainly be some if there was enough there.
15 Q All right.
16 A I am sure you are aware it takes exposure to high
17 quantities for long periods of time, if you did
18 this once a day.
19 Q That I am aware of what now, that it takes high
20 quantities of asbestos long periods of time to do
21 what?
22 A To cause lung disease.
23 Q And where did you get that information?
24 A From almost all of the scientific literature.
25 Q You wouldn't agree that some of the scientific

1 material says that a single exposure can eventually
2 result in lung disease?

3 A No.

4 Q You have never seen any information like that?

5 A I have seen the claims, yes.

6 Q But you don't buy that?

7 A No. You mean one-fiber-can-kill theory?

8 Q Single-exposure theory.

9 A No.

10

11 (Whereupon, an off-the-record
12 discussion was held.)

13

14 Q You think it takes a long exposure over many years
15 to do that?

16 A I am speaking for chrysotile asbestos.

17 Q Besides the warnings that you put on the bags, did
18 you ever warn any of your purchasers that asbestos
19 had been known to cause asbestosis, which was a
20 permanently disabling lung disease, that asbestos
21 does --

22 A Those are your words.

23 Q You don't think that asbestosis is a permanently
24 disabling lung disease?

25 A I am not a scientist or a doctor.

1 Q Did you ever warn any of your clients or your
2 customers that asbestos dust could cause asbestosis
3 or lung disease?

4 MR. SHIPLEY: Are you limiting it to
5 what was on the bag or are you talking about
6 the exhibits?

7 Q (By Mr. Latham) Besides the bag?

8 A Yes.

9 Q How did you do that and when did you start?

10 A Just what we have discussed previously, the mailings
11 that were sent to customers.

12 Q Starting in 1970 --

13 A I am guessing it was '70, '71, '72.

14 Q All right.

15 A And some of the literature that talks about
16 asbestos and diseases.

17 MR. SHIPLEY: Are those the exhibits that
18 we have gone through here today?

19 A Yes.

20 Q (By Mr. Latham) You are talking about the
21 information from the Asbestos Information
22 Association?

23 A Yes.

24 MR. SHIPLEY: What about M-15? That was
25 dated in 1968.

1 THE WITNESS: That was passed out, too,
2 but we didn't start -- he asked about warning
3 customers. I think he meant in general, but
4 this was done in '68.

5 Q (By Mr. Latham) All right. To your customers?

6 A That was for tape joint customers, tape joint
7 manufacturers.

8 Q But they didn't pass it out to you?

9 A I wasn't in marketing in 1968.

10 Q What were you doing in 1968?

11 A I was technical superintendent, in the plant from
12 1967 to 1970.

13 Q And what was your job as technical superintendent?

14 A Supervising the laboratory and starting up the
15 new equipment to make the modified products.

16 Q You were setting up a portion of the plant to take
17 raw asbestos and turn it into some sort of product?

18 A Well, that's -- yes.

19 Q And had employees under you who were helping you do
20 that?

21 A Yes.

22 Q And people under you who were going to be exposed to
23 varying degrees of asbestos?

24 A Varying degrees, yes, usually very low.

25 Q And yet you never received this information in 1963?

1 A I wasn't involved with marketing to the tape joint
2 people.

3 Q Were you involved in the supervision and safety of
4 employees?

5 A No.

6 Q All right.

7 A I have said that I don't recall seeing it previously.

8 Q All right. In the 1968 document that we looked at,
9 was it sent to every asbestos customer or consumer
10 at that time that was consuming from you all,
11 the manufacturer --

12 A It was prepared for tape joint compound manufac-
13 turers.

14 Q All right.

15 A And I assume it was sent to them.

16 Q And if that being true that -- and if Georgia-Pacific
17 was a tape joint compound manufacturer, they would
18 have gotten a copy of this?

19 A I don't know whether they were a customer in '68
20 without looking at the sales records.

21 Q Certain-Teed, Bestwall, if they were customers,
22 they would have gotten a copy of this?

23 A Yes.

24 Q Other than the information that you provided today,
25 was there any other information given to your

1 customers -- by that I mean Union Carbide's
2 customers -- concerning the safety -- the safe use
3 of asbestos and the hazards in the use of asbestos
4 while you were in the asbestos portion of the
5 industry?

6 A I am sure that there are other documents sent. I
7 know that we did send copies of the regulations
8 or regulatory changes as they were made, and there
9 have been other articles written and published that
10 perhaps would have been sent.

11 Q All right.

12 A But the main concern was the AIA published
13 information on it.

14 Q Who decided what information to send to the
15 customer?

16 A Well, when I was marketing manager, it would be a
17 joint effort between myself and the sales personnel
18 under me.

19 Q Did you receive any --

20 A Which we thought was appropriate for particular
21 end users.

22 Q You didn't receive any help or direction from above
23 about how to do that or when you ought to do that
24 or anything?

25 A I would have -- I would get permission, normally, of

1 what we were going to write and what we were going
2 to send from my boss.

3 Q Well, is it true that all of these documents that
4 we talked about from the AIA, if they were sent to
5 the customers, were sent because it was your original
6 idea to do it and -- but before you did it, you had
7 to get permission to do it?

8 A I can't really recall whether I thought it up or not.
9 It was -- this was a very small, close-knit group
10 in the asbestos business and it was very easy to do
11 things in a -- I hate to say in a committee way, but
12 many things were handled that way. It was
13 discussed what would be necessary and what would be
14 the best advice for the customer and the best
15 information.

16 Q But the committee started at your level with you head
17 of the committee?

18 A No, I don't want to make it sound like it was a
19 formal committee. It was a discussion of my peers
20 and my supervisors, perhaps the medical department.

21 Q All right.

22 A Perhaps the legal department.

23 Q All right.

24 A Just a joint effort to inform the customers.

25 Q All right. Well then, I misunderstood. I

1 thought originally you said it was you and your
2 salesmen that got together and decided to do this,
3 and then sought permission from up above.

4 A I was trying to explain that sometimes you would
5 involve other people in it.

6 Q Well then, did it initiate, to send out this
7 information, the general mailings as we have called
8 them, at the legal department, the medical
9 department, the sales department, your department
10 or where?

11 A I can't really say where they originated.

12 Q You said there was a medical department?

13 A Union Carbide has a medical department, yes.

14 Q And what does that consist of, doctors?

15 A Oh, yes, doctors.

16 Q And where is it located?

17 A Today it is in Danbury, Connecticut.

18 Q And then, where was it located?

19 A Danbury, Connecticut and New York, the home office.

20 Q All right.

21 A That was the corporate medical department.

22 Q Okay. Were there full time doctors on staff with
23 the department?

24 A Yes.

25 Q And can you give me an idea of how many?

1 A No.

2 Q Did you ever receive any medical information from
3 the medical department concerning the hazards of
4 asbestos?

5 A Yes.

6 Q What did you receive from them?

7 A I can't recall any specific information.

8 Q Did you receive documentation that came from them
9 and initiated by them, or were they just passed on,
10 for example, that they got someplace else?

11 A It was probably both. I think that originated with
12 the medical department on M-15.

13 Q Okay. Do you know if besides the Sayers' report,
14 if Union Carbide ever did any of its own studies
15 concerning the -- its employees and the effects of
16 asbestos exposure on them?

17 A Not to my knowledge.

18 Q Do you know if they did a program where employees
19 involved in the mining and manufacturing of asbestos
20 were routinely X-rayed with a chest X-ray?

21 A What was the question again?

22 Q Was there ever a program set up where employees of
23 the mining and manufacturing division that produced
24 asbestos, where they were routinely X-rayed?

25 A Yes.

1 Q Had chest X-rays?
2 A Yes.
3 Q And when was that begun?
4 A 1963.
5 Q And how long did it continue?
6 A It is still in practice.
7 Q All right. And how often are your employees
8 X-rayed?
9 A Annually.
10 Q How many employees would that be?
11 A We currently -- well, KCAC has 40.
12 Q You are continuing on with the KCAC employees, but
13 it originated with Union Carbide?
14 A Yes.
15 Q Union Carbide employees?
16 A Yes.
17 Q And where are the records of X-rays maintained?
18 A In the medical clinic in Kings City.
19 Q Any employees ever develop asbestosis?
20 A No.
21 Q Not a single one?
22 A No.
23 MR. SHIPLEY: Is what he said correct?
24 We have got a double negative going. Did
25 any of them ever develop asbestosis?

1 A No.

2 Q (By Mr. Latham) Did any of them ever develop
3 mesothelioma?

4 A No.

5 Q Or any other form of cancer that has been related
6 to asbestos exposure?

7 A No.

8 Q While you were there, were there ever any claims
9 made by anyone, an employee or not, that they had --
10 against Union Carbide, that they had contracted
11 asbestos -- asbestosis from Union Carbide --

12 A No.

13 Q -- manufactured products while you were there? That
14 never happened?

15 A No.

16 Q Did anyone ever make a claim while you were there
17 that mesothelioma -- that they developed mesothelioma
18 from a Union Carbide product?

19 A No.

20 Q Or any other form of cancer related to asbestos
21 exposure?

22 A No. I think we have already answered those.

23 Q I don't know when you did answer it.

24 A Just thirty seconds ago.

25 Q Okay. Well, thirty seconds ago, we were talking about

1 employees.

2 A I'm sorry, what --

3 Q Now I am talking about anyone.

4 A Maybe you better -- maybe I better retract that.

5 No employee has ever filed any compensation claim
6 or any kind of claim against Union Carbide -- Union
7 Carbide's asbestos mining and milling operation for
8 any asbestos-related disease.

9 Q All right. Now, has anyone at all while you were
10 there, did anyone at all ever claim that they
11 contracted asbestosis from a Union Carbide product?

12 A Yes.

13 Q And when did -- when was the first claim that you
14 are aware of, when was it made?

15 A I don't know.

16 Q In the '60s, '70s?

17 A I don't know. The law department would have to
18 answer that.

19 Q Were you ever contacted by the home office concerning
20 such a claim?

21 A Yes.

22 Q And when was the first time you were ever contacted
23 concerning such a claim?

24 A I don't recall. The late '70s, probably.

25 Q The same thing is true, the same thing is true about

1 mesothelioma?

2 A Yes.

3 Q And the answer is "Yes, there have been"?

4 A Yes, there have been.

5 Q That they would be maintained in the home office?

6 A There is litigation.

7 Q All right.

8 A I don't know where the records are maintained.

9 Q But the legal department would be aware of them?

10 A I hope they would.

11 Q And how many times have you testified in either

12 asbestosis cases, mesothelioma cases or some other

13 type of cancer-related -- that is claimed to be

14 related to asbestos?

15 A Once.

16 Q All right, and where was that?

17 A In Arkansas.

18 Q Was that Little Rock?

19 A Yes.

20 Q And that was, I think, what, 1985, did you say,

21 around there?

22 A It was either '85 or '86.

23 Q Did you serve as a witness for Union Carbide or a

24 witness for the plaintiff who called you to testify?

25 A I think it was Union Carbide.

1 MR. SHIPLEY: Was it a deposition or --

2 THE WITNESS: No, it was a trial, it was a
3 jury trial. It would be Union Carbide.

4 Q (By Mr. Latham) Do you remember who the lawyer was
5 that represented Union Carbide?

6 A No.

7 Q Do you remember who the lawyer was that represented
8 the plaintiff?

9 A No.

10 Q Okay. Have you ever testified by deposition --

11 A Yes.

12 Q -- before today?

13 A Yes.

14 Q Okay. When was that?

15 A I think the first one was 1981.

16 Q Involving a case -- a case involving asbestosis,
17 on some claim of injury involving asbestos?

18 A Some claim.

19 Q Do you remember where you testified?

20 A In Columbia, South Carolina.

21 Q Was Union Carbide a party to that suit?

22 A Yes.

23 Q And when was the next time?

24 A 1984, I think.

25 Q And where was that?

1 A That was Houston.

2 Q Also a case in which Union Carbide was a party?

3 A No, wait a minute -- '34, I think, was Los Angeles.

4 I'm sorry.

5 Q Okay, Houston.

6 A Union Carbide was, as far as I know, named in that

7 suit.

8 Q And what Houston --

9 A Houston, I think, was '86.

10 Q All right.

11 A And as I understand, Union Carbide was not named in

12 that suit.

13 Q All right. In 19 -- in that suit that you testified

14 in 1935, had you also had your deposition taken

15 before you testified?

16 A Oh, in Little Rock -- no.

17 Q All right.

18 A Please don't hold me to those dates because --

19 Q All right.

20 A There should be a record somewhere.

21 Q During the years that you were at -- in California --

22 and I don't know if you became marketing director --

23 just start when you were marketing director, how

24 much gross sales of asbestos would you all have each

25 year?

- 1 A I think it would range about seven million dollars --
2 well, it wasn't that high when I started. I would
3 say starting at three and up to seven, max, would
4 cover the period.
- 5 Q Do you recall what you charged for asbestos? Did
6 you charge by the pound or the ton?
- 7 A It was quite a range. It wouldn't make any difference.
8 Some of the pricing was on dollars per ton and some
9 was cents per pound.
- 10 Q Can you just give us -- I guess we can find out from
11 the -- the invoices of that?
- 12 A Yes.
- 13 Q Did you receive, or just tell us what education you
14 received concerning asbestos when you made the
15 switch from the nuclear side of the business to the
16 asbestos side of the business?
- 17 A What education?
- 18 Q Yes.
- 19 A About asbestos?
- 20 Q Yes.
- 21 A As I have said before, I don't recall anything
22 formal.
- 23 Q Do you recall anything informal?
- 24 A No, I don't recall any.
- 25 Q During the whole time that you were with the

1 asbestos side of the business, what kind of
2 education did you receive besides on-the-job
3 education, or at seminars, institutes, that sort of
4 thing?

5 A Well, I went to a Communispond to learn how to
6 speak.

7 Q All right.

8 A I went to a financial seminar to learn how to read a
9 balance sheet. I attended several of the AIA NA
10 meetings discussing asbestos.

11 Q Did you ever run into any Georgia-Pacific folks
12 there?

13 A Not that I recall, no.

14 Q What else?

15 A That is about it.

16 Q Did you ever go to "60 Minutes, How to Deal with
17 Dan Rather When He Shows Up at Your Office With a
18 Microphone"?

19 A That was part of the Communispond course.

20

21 (Whereupon, an off-the-record
22 discussion was held.)

23

24 Q Let me go over one other thing that I may not have
25 covered enough with you. In the Kings City plant,

1 you use respirators primarily -- I mean, required
2 respirators primarily in interior areas, the loading
3 and unloading areas, the packaging areas?

4 A Those were examples.

5 MR. SHIPLEY: Objection, repetitious.

6 Q (By Mr. Latham) In both of those areas in
7 addition to -- or in the packaging area, in addition
8 to the respirator, you also had a vacuum system that
9 vacuumed the particles out of the area to reduce
10 the level; is that right?

11 MR. SHIPLEY: Objection, repetitious.

12 You can answer the question.

13 A The system has been changed over the years to
14 improve the dust removal efficiency. I can't
15 describe to you the system other than it is not --
16 it is not a big hose or lots of hoses stuck around
17 in different areas to suck asbestos. It's an
18 engineered system to reduce the amount of fibers
19 that might escape from the bag while it is being
20 filled.

21 Q Who designed the system, do you know?

22 A It would be our -- it would be the Union Carbide
23 engineering department.

24 Q Now, I guess that somebody could say that a big
25 exhaust fan in the roof of a building could be a

1 system because it would be sucking some air out
2 all the time?

3 A Yes.

4 Q Is that what you are talking about "a system," or
5 could you describe your system for air removal or
6 dust removal in a different way?

7 MR. SHIPLEY: Objection, repetitious.

8 You have asked it several times.

9 A I can't describe it much better than I have. The
10 bag is in a compartment and the operator handles
11 the bag with -- through rubber sleeves. That
12 compartment is exhausted through dust collector
13 systems to the atmosphere. You just create a
14 vacuum in the area around the immediate packaging
15 operation.

16 Q All right. Then that is what I didn't understand.

17 A All right.

18 Q Your employee is sitting outside some enclosed
19 system and reaching through with sleeves?

20 A Yes.

21 Q And the area that he is reaching into, a vacuum has
22 been created to lift the asbestos dust out?

23 A As well as the entire toom in which he is located
24 is also under a negative pressure.

25 Q All right. Is he looking through some kind of

1 enclosed -- or glass or plastic?

2 A Parts of it. Parts of it are open, too, because
3 you have an air flow away from him into the system.

4 Q But his face is protected by glass or something?

5 A Not necessarily, no.

6 Q All right. Then what is the need for the gloves?

7 A In case of a bag bursting. That is the main reason.

8 Q All right.

9 A The dust levels that we monitor are usually well
10 less than the TLV's.

11 Q All right.

12 A But sometimes during the day, you might have a foul-
13 up in a system. You have to be prepared for an
14 equipment failure or bag bursting.

15 Q All right. There was something that protected him,
16 between him and the bag, that he had to reach his
17 hands through; is that right?

18 A Well, as I say, there was some openings that he could
19 see through.

20 Q All right.

21 A Not necessarily glass or plastic.

22 Q All right.

23 A Because there was a negative pressure there. The
24 dust can't come out. It has to go in.

25 Q The negative pressures brought the air in through

1 the holes into the system and out?

2 A Yes.

3 Q Okay. So that if there was dust inside the system,
4 it couldn't come out because the air was coming in?

5 A Right.

6 Q Okay.

7 A Now maybe we are getting someplace.

8 Q All right. And then in addition to that, there was
9 also some protection in the event dust could get
10 out somehow that exhausted it away from the
11 employee?

12 A No, there wasn't anything other than the entire room
13 is under a lower pressure than outside.

14 Q All right. So that if the dust would tend to go
15 away from him --

16 A Yes.

17 Q All right. And then in addition to that, the things
18 we have already mentioned, you had the vacuum system
19 that vacuumed up any spills or things?

20 A Yes.

21 Q All right.

22 A Vacuum or washed down.

23 Q All right.

24 A Expensive wash-down facilities.

25 Q Would that same employee who was reaching through

1 the sleeves also have a respirator on?

2 A Yes.

3 Q All right.

4 A Anyone in that general area is required to wear a
5 respirator if they are there to work, rather than
6 just to walk through.

7 Q And has that been true ever since 1964 or five or six
8 when you first got there?

9 A Well, as I said, I assume there has been some
10 semblance of that, but I was not there for the
11 first three years.

12 Q All right.

13 A And was not really -- I can't remember for sure,
14 but the system has been improved over the years.

15 Q When you first got there, was there a system like
16 this?

17 A I could not swear to that.

18 Q All right.

19 A I assume that there was something similar.

20 Q All right.

21 A There was not a total enclosure that was under
22 negative pressure. I can't remember when that was
23 added.

24 Q All right.

25 A But it was later. But the immediate protection

1 around the bagging operation has been there.

2 Q And that has been available in the '60s and '70s?

3 A To the best of my knowledge.

4 Q Did you study that sort of thing before you set up
5 this system there to see what --

6 A I did not set up the system.

7 Q Okay. Someone else studied it and set up the
8 system?

9 A It was done by the engineering group.

10 Q All right. Okay. Do you all have plans of those
11 someplace, of the system?

12 A I assume there are still plans, yes.

13

14 (Whereupon, an off-the-record
15 discussion was held.)

16

17 Q Would you agree with me that if a manufacturer of
18 any product knows that it is dangerous, that he has
19 a duty to pass that knowledge on to his customers
20 so that they will have the same knowledge that he
21 does?

22

23 MR. SHIPLEY: Objection, calls for
24 speculation, calls for a legal conclusion,
25 and it also calls for an improper response from
this witness. I object to the form of the

1 question. You can answer it.

2 A Okay. Would you repeat it?

3 Q (By Mr. Latham) Would you agree with me that a
4 manufacturer of any product who is aware that there
5 are dangers related to that product, has a duty to
6 pass his information on to the people who are buying
7 it and using it, so that they will know the same
8 as he does?

9 MR. SHIPLEY: Same objection.

10 A I would agree that would be a good practice, yes.

11 Q (By Mr. Latham) Do you know what exposure limits
12 you all did experience in the railroad cars and the
13 trucks?

14 A No, I don't.

15 Q Okay. Have you ever heard of Dr. Wagner?

16 A I am sure there are a lot of Wagners. Which one?

17 Q Okay. Dr. Wagner that did a study on asbestos.

18 A NIOSH, Joe Waggoner?

19 MR. SHIPLEY: The testifier.

20 A I know him by name.

21 Q (By Mr. Latham) Have you ever read any reports by
22 him?

23 A Yes, I am sure I have.

24 Q Okay.

25 MR. LATHAM: That's all the questions we

1 have.

2 MR. WELCH: I don't think I have any,
3 Deacon. I don't have any.

4 MR. HEDGES: I don't have any.

5

6 - - - - -

7

8 E X A M I N A T I O N

9

10 BY MR. SHIPLEY:

11

12 Q I just want to ask you, the copies -- the exhibit
13 that we have gone through that we have referred to
14 as sales literature, or AIA documents, are those
15 true and correct copies of the documents that --
16 the type of documents that you would send to the
17 people that you were selling the products to?

18 A Well, some of them are sales type and some of them
19 are AIA.

20 Q All right.

21 A We wouldn't -- the sales literature would not be
22 something we would send on an annual or periodic
23 basis.

24 Q All right. But is he --

25 A If we wanted to try to get a customer, we would hit
him with the sales literature.

1 Q The question was are they true and correct sales
2 documents, true and correct copies?

3 A Yes.

4 Q How would you, by looking at an invoice, determine
5 whether a customer was buying it for tape joints
6 or not? Is there any way you could discern that
7 from an invoice?

8 A No. Except, for example, in this case, SG210 was
9 used almost exclusively in tape joint compound.

10 Q All right.

11 A Not necessarily -- I would have to say no, you could
12 not tell.

13 Q Okay. Is SG210 a type of asbestos you all sold?

14 A Yes.

15 Q And a higher percentage of it was used for tape
16 joint compound?

17 A Yes.

18 MR. SHIPLEY: There are several other
19 questions, but we will reserve them until the
20 time of trial.

21 MR. LATHAM: I just have one question.

22

23

24

25

R E - E X A M I N A T I O N

BY MR. LATHAM:

Q The documents that you provided that are by the
AIA --

A Yes.

Q -- do you know whether or not each and every one
of those documents actually went to your
customers?

A I would have to say yes, to the best of my
knowledge.

Q Okay.

A It was certainly our intent to accomplish that.

Q All right.

A As I mentioned earlier, several of those are updated
versions of one document. Through the years, they
would have probably received all of them.

MR. LATHAM: That's all the questions I
have.

(Whereupon, at the hour of 6:05 p.m.,
the deposition was concluded.)

JOHN L. MYERS

1 THE STATE OF X

2 COUNTY OF X

3 Subscribed and sworn to before me by the said
4 witness, JOHN L. MYERS, on this the ____ day of
5 _____, A.D. 1937.

6

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Notary Public, The State of Texas

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UCAREF00012251

1 THE STATE OF I

2 COUNTY OF I

3 I, _____, a Notary

4 Public in and for the State of _____, do

5 hereby certify that JOHN L. MYERS, the witness herein-

6 before named, appeared before me and subscribed and

7 swore to the above and foregoing deposition; and, I

8 further certify that all changes, corrections or

9 interlineations appearing in pencil or ink were made by

10 the said witness for the reason stated prior to signing

11 said deposition.

12 GIVEN UNDER MY OFFICIAL HAND AND SEAL OF

13 OFFICE, this, the _____ day of _____,

14 A.D. 1987.

15

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Notary Public, The State of _____

1 THE STATE OF TEXAS I
2 COUNTY OF NUECES I

3 I, GENE CHATHAM, a Notary Public in and for the
4 State of Texas, do hereby certify that the facts stated
5 by me in the caption hereto are true; that the foregoing
6 deposition of JOHN L. MYERS, the witness hereinbefore
7 named, was at the time named, taken by me in stenograph,
8 the said witness having been by me first duly cautioned
9 and sworn upon his oath to tell the truth, the whole
10 truth and nothing but the truth, and later transcribed
11 from stenograph to typewriting by Barbara Herod.

12 I further certify that the above and foregoing
13 deposition as set forth in typewriting is a full, true
14 and correct transcript of the proceedings had at the time
15 of taking said deposition.

16 WITNESS MY HAND, this, the _____ day of July,
17 A.D. 1987.

18
19
20 _____
21 GENE CHATHAM
Notary Public, The State of Texas

22 COSTS:

23 (Due and Owing by the Plaintiffs)
24
25