

Summary notes on items brought up by Bevil Hart during various meetings and discussions September 12/21, 1979:

- . Employee access to information such as results of asbestos sampling, noise level readings.
- . Conformance with hard hat and safety glasses policy.
- . Forklift truck operator training and rule enforcement.
- . Training program covering respiratory protection (11-point program) and enforcement of standard.
- . Facial hair on employees who use or may need to use respiratory protection equipment.
- . Gas cylinder storage upright and secured and capped when not in use, etc.
- . Obstructions in marked-off aiseways (Shops).
- . Ventilation for welders -- particularly when welding alloys and stainless steel.
- . Lock-out vs. tag-out -- if it comes to a court case, tag-out will lose.
- . Vehicle brake repairs -- precaution against airborne asbestos.
- . Noted employees standing on pipes in overhead rack. Had gotten there via ladder that was not secured.

JLW:esh
9-24-79

PLAINTIFF'S EXHIBIT

MBL-258

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September 13, 1979

Memorandum to OSHA File

ASBESTOS COMPLAINT
SEPTEMBER 12, 1979

About 10:55 a.m. Wednesday, September 12, 1979, Bevil Hart, Industrial Hygienist with the Beaumont OSHA office, arrived at the Refinery Main Gate. He first contacted R. J. Niederstadt by telephone and advised that his visit was the result of a complaint related to asbestos exposure associated with a demolition job.

RJN contacted JLW with instructions to get with Hart and to establish the course of action that was to be followed concerning this visit. JLW met Hart at the Main Gate; however, Hart declined to provide any information concerning the nature of the complaint or to provide a copy of the complaint form until a representative of the Refinery employees' union was present.

From previous information it was concluded that the complaint concerned the contract demolition of the TCC-2 and-3 units. Dan Tigh, Superintendent for Commercial Metals demolition contractor, was summoned to the Main Gate. Arrangements were also made to have Tommy Holland of the OCAW safety committee come to the gate. Hart requested Holland by name. It was later learned that Hart had been in contact with Holland earlier in the morning. The complaint was logged in by OSHA at 8:30 that same morning.

After Hart determined from Tigh that Commercial Metals employees did not belong to a union, he advised that the conditions for the opening conference were satisfied and distributed copies of the complaint form (copy attached). JLW advised that if Hart wanted to take samples we would need to take duplicate samples and that if photographs were required we would prefer to take dual polaroid shots and give one of each to Hart. Hart said that he wanted to use his own camera as he had done before. He was told that refinery management approval

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would have to be obtained (this was done) and that we would take duplicate photographs.

Wescoat, Hart, Holland, and Tigh met Dunham at the demolition site. The demolition contractor was doing miscellaneous work at grade because their crane was out of service to have a shorter boom installed.

Hart placed his sampling device on a stanchion near where the bags containing scrapped asbestos were accumulated. Dunham placed his sampling device at the same location. Hart took about fifteen photos of such things as the barricade tape which partially surrounded the demolition site, the asbestos warning signs, the piles of plastic bags containing scrapped insulation. He also took photos of the remainder of the structure and of insulation on the ground and of some bags that were not tied shut and others that had been punctured. He also took a photograph of a piece of transite lying on the ground, pointing out that it contained asbestos and as such should be handled like other asbestos bearing scrap material.

Hart took a number of small samples of old insulation that he found on the ground or in bags that were not tied. These were accumulated in a single 2-oz. sample bottle. Dunham took similar samples which he also composited in a single small container.

About 11:45 a.m. we decided to break for lunch. Hart asked if we could go to the refinery cafeteria. From previous experience with Hart's behavior around large numbers of hourly roll people I knew it would be preferable to avoid the cafeteria between 12:00 and 12:30. I suggested we go out to lunch. Hart and Holland agreed. Tigh left the group at this point. About 1:45 p.m. we returned from lunch and went back to the demolition site, but the crane was still not in

service. We then went to the TCC-4&5 area, where Hart spoke to eight or ten maintenance employees and Maintenance Foreman A. D. Owen. While in that area, he pointed out a number of chunks of old insulation on the concrete slab ranging in size from about a walnut to four or five times that size. He took pinch samples from several of these chunks of old insulation. He also pointed to several people not wearing safety glasses and in one case (a forklift truck operator) not wearing a hard hat. He also spotted gas cylinders that were not secured or capped. He noted that a forklift truck operator did not sound his horn before backing up. He asked about our forklift truck operator training program. Hart spoke to one insulator who was wearing a respirator around his neck and inquired about our respiratory protection training program. He pointed out that the insulator had improvised a replacement filter for a very old respirator.

Before leaving, Hart asked to look in at the welding shop on the premise that asbestos type insulation may be present on old heating lines, etc. Actually, it appeared that he wanted to go there because this was the location where Holland was temporarily assigned. While in the shop, he inquired about the type of welding that was done and the provisions for exhaust ventilation. He also noted unsecured and uncapped cylinders that were in the marked-off aiseways.

Hart left about 4:30 p.m. and advised that he would be back the next day about 8:00 a.m. to take sample data with the contractor crane back in demolition operation. I advised Hart that I planned to initiate action on some of the items that were pointed out. JLW alerted EDK concerning the items that Hart identified and then contacted the various plant managers at home that the inspection could go any place where asbestos may be a factor and that all possible corrective measures should be taken.

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Attachments

J. L. Wescoat

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September 20, 1979

Memorandum to OSHA File

ASBESTOS COMPLAINT
SEPTEMBER 12, 1979

This represents a continuation of the report dated September 13, 1979, concerning the inspection.

Thursday, September 13, 1979

Hart had indicated that he would arrive around 8:00 a.m. but actually showed up shortly after 11:00 a.m. There was an informal discussion between Hart and Wescoat at the Main Gate guard office. This centered largely around the two topics, demolition activity in general and pressures that were being asserted by OCAW on the local OSHA office. These pressures mainly involved alleged employee and Union requests for industrial hygiene monitoring results, such as asbestos sampling data and noise survey data. Hart left around noon for a luncheon appointment and returned about 1:30 p.m. He asked if we could set up an informal discussion with RJN, which was done. During the meeting with RJN, Bevil Hart, and JLW, RJN emphasized Mobil's position concerning the health of employees, the function of the Union steward in regard to health type items, and our intentions to have the demolition contractor conform to the safety and health requirements that were spelled out in his contract. Following this informal discussion, Tommy Holland was summoned at Hart's request and the formal inspection continued between Hart, Holland and Wescoat in JLW's office. Hart emphasized OSHA's authority to review and copy employee medical records and left a current copy of OSHA Standard 1910.20 plus a copy of the compliance officer's instructions concerning this subject. He asked that this information be relayed to Dr. Stewart first thing Friday morning, so there would be no confusion concerning the inspection of medical records. Hart, Holland and Wescoat took a brief driving tour around the demolition site. Hart departed around 5:00 p.m.

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Friday, September 14, 1979

Copies of material left the day before by Hart were made for Dr. Stewart's review; then a meeting was conducted in RJN's office including Ed Collins, Dr. Stewart and Wescoat. The material was reviewed and a game plan developed in case Hart did go ahead and press for his inspection of medical records.

Hart arrived at 8:43 a.m. but did not at that time press for a review of medical records. Some time was spent first at the Main Gate guard office discussing our asbestos and respiratory protection program. Then Tommy Holland was summoned, and we went to the demolition site, where we picked up Don Tighe, demolition contractor superintendent. The area had been cordoned off with yellow barricade tape, and asbestos warning signs were in evidence along the barricade. The asbestos scrap bags were sealed and tagged for the most part, but Hart did find at least two bags in the large pile of bags that were split and one or two that were not tied up. The bag accumulation area did, however, show a marked improvement over the previous day. Hart picked up a number of pinch samples of insulation at grade. We then climbed the structure, where Hart took pictures of insulation that had fallen off equipment and was lying on the platforms. He also took pictures of such safety items as an unguarded elevator shaft opening. JLW took duplicate photographs in each case. It was noted that the number of contractor employees, including the superintendent Tighe, were not wearing respirators. Some, however, were using respirators. A reel of high pressure hose had been brought to the top platform in preparation for sending water to the top of the structure for use in wetting down the asbestos. The hose had already been connected and water was being brought to the top of the structure while we were there. There were some pieces of white material blowing off the structure which Hart attempted to photograph. Duplicates again were taken; however, there is some question about whether they will show what Hart intended to document. Hart continued to take small pinch samples of

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materials which he agreed to split with us. We returned to the office area, where Hart spoke briefly to RJN on the telephone concerning his observations, with emphasis on material blowing off the structure. Hart left about 11:30 a.m. and returned about 3:15 p.m. In the meantime, JLW contacted EDK concerning the observations. All demolition work was shut down and the contractor was instructed to concentrate on wetting and bagging up insulation on the structure and at grade. When Hart did return, he asked to review our audiometric test/protection program. So, Dave Dunham was contacted and joined Holland, Hart and Wescoat in JLW's office. The discussion centered around our respiratory protection program and our audiometric testing program. Before leaving, Hart asked that we make another driving tour around the demolition site. At that time it was noted that the insulation scrap bags had been removed and that water was running down from the structure. He seemed to be well pleased with the response to the observations earlier in the day. Hart left about 5:00 p.m.

Monday, September 17, 1979

Bevil Hart and Mike Adams, an Industrial Hygienist in training recently assigned to the Beaumont office, arrived at 10:55 a.m. Hart indicated his interest in the respiratory protection program. We provided copies of our procedure in this matter (copies attached). The group split up with Martin, Dunham, Holland and Adams going to the TCC-4/5 area to take personnel samples from employees that may be exposed to asbestos dust from the adjacent demolition site. Hart and Wescoat met with EDK for an informal discussion. Hart repeated that OSHA was being pressured by OCAW concerning the results of monitoring test data, etc. He was told that we have no problem in giving a worker data concerning any exposures he may have in the area in which he works. Hart asked if Leroy Evans, who is an old friend of his, could join us for lunch. The luncheon group consisted of Hart, Holland, Adams, Dunham, Wescoat, and Evans. On returning, Hart, Holland, Adams and Dunham

met with Dr. Stewart concerning the asbestos screening program and audiometric test data. (Holland's earlier reference to his examination and copying of employee medical records was scaled down to his general discussion of the medical asbestos screening program and a discussion of the audiometric test program.) Dr. Stewart advised Hart that insofar as release of medical record information was concerned, he would copy any employee's records and give that information to that employee provided he had a written release from the employee. Dr. Stewart indicated that that employee was at liberty to give that data to whomever he wished. This could include his personal physician, his Union representative, or anybody else. This seemed to satisfy Hart, and Holland did not take issue. Hart pointed out that a new audiometric test required that the audiogram showed the dB drop at all frequencies and that attest and referral and entry into the OSHA 200 form was required anytime there was a 20 dB drop at any frequency. Hart admitted that there was considerable confusion as to what was to be taken as the base line, etc. DBD's notes from this discussion are attached.

Tuesday, September 18, 1979

Hart arrived at 11:00 a.m. Wescoat and Hart went directly to the demolition site, where Hart discussed the OSHA requirements with Don Tighe, including a review of the required poster, the OSHA form 200, etc. We broke for lunch about 12:00 and returned to the contractor's office about 2:30 p.m. Some of the items that were pointed out to the contractor included non-approved dust masks, some individuals not using dust masks, some individuals using dust masks over beards which reduced their effectiveness. Hart advised the contractor superintendent that he should plan to have somebody present at the closing conference who could take responsibility for seeing that measures pointed out during this closing conference would be implemented at other locations where the contractor was working to avoid a repeat or wider violation if the same deficiencies were noted at a later date

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at these other jobs.

Wednesday, September 19, 1979

Hart was supposed to come in the morning; however, he later called to say that he would be in in the afternoon. He did not appear.

JLW:esh
Attachments

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Thursday, September 20, 1979

Hart and Adams arrived at the Main Gate about 11:15 a.m. and contacted JLW. Others were not included, because OSHA's planned activity would involve informal discussion with contractor and would not involve contact with Mobil hourly roll or taking samples. We broke for lunch about 11:45 a.m. and returned at 2:30 p.m. and went directly to the contractor's office at the demolition site.

Hart went over various phases of the asbestos standard with Tighe. Tighe's secretary and Wescoat were present, and various contractor employees would come and go. In some cases, they would join in the conversation. Hart pointed out to Tighe that the necessary degree of precautionary measures was based upon the concentration of airborne asbestos fibers and that this concentration would not be known until the results of the sampling were available. Sample turnaround time is in the order of six weeks.

Hart advised that he planned to return the next day to take some breathing air samples and to conduct interviews. The wrap-up conference would probably be on Monday, September 24.

Friday, September 21, 1979

Hart and Adams arrived about 9:00 a.m. Holland and Dunham were contacted, and we went to the TCC-2/3 area to take samples and conduct interviews. Adams and Dunham sampled contractor employees, and Adams conducted the interviews with the employees sampled.

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Friday, September 21, 1979 (continued)

Wescoat and Hart sampled one Mobil employee. Holland was in attendance. The wind was from north to south. Gas sampling was conducted in the Complex area.

 was selected and sampled for several hours in the morning and afternoon. During the sampling, he carried one OSHA and one Mobil vacuum pump. Wescoat and Holland were present during this particular interviewing. In response to questioning indicated that he had little or no training in the use of respirators or in the hazards of asbestos. He said that he had been monitored for asbestos once a couple of years ago. There was also discussion about wash-up time, separate change lockers, and asbestos tracked home on shoes, etc. We regrouped at the contractor's office, where Hart advised the contractor that a partial closing conference could be set up for Monday, September 24, at 9:30 a.m. Tighe could have someone from the contractor main office attend. The closing would be partial rather than complete, because the sampling results would not be available. Hart advised that he could have the closing conference with Mobil Monday at 10:30 a.m. He did not say whether it would be partial or complete, in Mobil's case,

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Monday, September 24, 1979

Bevil Hart and Mike Adams arrived at the Main Gate about 9:20 a.m. The activities on this date consisted of the following sequence:

1. Personnel breathing zone samplers were placed on two contractor employees and one Mobil employee. As on previous days, an OSHA and a Mobil sample pump with an asbestos type filter were placed on each person monitored. Each person was also interviewed by Bevil Hart.
2. A closing conference was conducted with Mobil. Notes from this conference are attached.
3. A closing conference was conducted with the contractor. Notes from this conference are attached.
4. All sample pumps were retrieved prior to lunch, and sampling was resumed following lunch. Sampling was concluded shortly before 4:00 p.m.
5. OSHA departed about 4:45 p.m.

JLW:esh
9-26-79
Attachments

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Notes on Closing Conference with Mobil

The conference was attended by

E. W. Collins - Mobil

E. D. Keiper "

R. J. Niederstadt "

J. L. Wescoat "

B. Hart - OSHA

T. Holland - OCAW

Hart pointed out that the inspection was initiated on the basis of a complaint concerning an alleged airborne asbestos exposure. This in turn resulted from demolition work at TCC-2/3. A number of samples of insulating material were gathered from the ground and from the structure, and breathing zone samples were taken in the general area. The analysis of these samples would be available to OSHA in about six weeks.

Hart went on to point out that the contractor had not been using respirators and that it would be necessary for OSHA to first determine the concentration of airborne asbestos in order to determine the degree of precautionary measures as specified in the Standard. He mentioned that the contractor had done an inadequate job of wetting down and collecting material which is suspected to contain asbestos.

He went on to point out that contractor personnel protection was inadequate. The contract employees were not wearing respiratory protection when he first arrived and then were using it in an ineffective way. Some contractor employees were using the disposable dust masks over beards, which, according to Hart, precluded the possibility of an effective seal. Hart went on to say that if respiratory equipment is required, the user must be clean shaven, and in cases where full face masks were used, conventional eyeglasses would prevent a satisfactory seal. Missing dentures also prevent a satisfactory seal.

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Notes on Closing Conference with Mobil (continued)

Hart mentioned again that some employees were not using hard hats or safety glasses and that some gas cylinder caps were missing. Hart indicated that he felt that we were making an effective effort to correct the safety items and that he was confident that this would be handled without an OSHA citation.

Hart mentioned about personnel sampling and pointed out that the employee or the employee representative should be advised of the results of such sampling. During the discussion of this subject, it was pointed out that in general this information is available to a person who was sampled, and if anybody was interested in information that he did not have, he should contact his immediate supervisor. Hart went on to say that he was well satisfied with the manner in which the Medical Department was monitoring employees and maintaining records. Hart concluded by saying that he did not see any need at this time to progress his observations via legalistic channels, since Mobil had demonstrated its position on safety in general and the specific items observed during this inspection.

JLW:esh
9-26-79

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Notes on Closing Conference with Dismantling Contractor, Commercial Metals Co.

The conference was attended by

Ira Kerzman - CMC

Don Tighe - CMC

Bevil Hart - OSHA

D. Dunham - Mobil

J. L. Wescoat - Mobil

Kerzman indicated his displeasure at the delay in conducting the conference. It had been scheduled at 9:30 a.m. and actually got started about two and a half hours late.

Hart reviewed briefly the asbestos standard and pointed out that monitoring was the only means of determining whether airborne asbestos fibers are present and if so, then which concentration. The concentration would dictate the degree of precautionary measures required.

Hart pointed out the deficiency in asbestos handling and bagging, plus caution signs and labels. He also pointed out serious deficiencies in housekeeping on the structure and the absence of keeping insulation wetted down to prevent dust release. He pointed out that records were required showing the results of asbestos monitoring and that employees should have access to such records. He also mentioned the requirement for medical examinations.

Hart indicated that the final wrap-up could not be made until sample results were returned, which may take in the order of six weeks. He said that his write-up of the inspection would be based on available information and in this regard it should be considered a partial closing contingent upon "possible" violations.

He went on to explain the mechanism for contesting citations, should they be issued. He did suggest that the contractor obtain the services of a safety/health consultant to avoid similar future problems with OSHA.

JLW: esh (9-26-79)

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