

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-3458-09

JOYCE BRADLEY, : VIDEOTAPE
Plaintiff, :
vs. : DEPOSITION UPON
: ORAL EXAMINATION
: OF
3M COMPANY, et als., : LLOYD C. AMBLER
Defendants. : VOLUME 1

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-1628-09

GARY R. CHAVAN and JULIE H. :
CHAVAN, Husband and wife, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-3465-09

PATRICIA DUGGAN and JOHN J. :
DUGGAN, Husband and wife, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-3463-09

PAUL HINSENKAMP, :
Plaintiff, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-2994-09

JAMES JOHNSON and MARY JOHNSON, :
Husband and wife, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-81-08

PATRICIA A. SNYDER, :
Plaintiff, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-3454-09

ROCCO ANGELO FORTE and JANICE :
FORTE, Husband and wife, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-8360-06

MICHAEL C. GERDING, as Executor of:
the Estate of Augustus C. Gerding, :
Plaintiff, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-5838-06

CHARLES F. GLOCK and IRENE GLOCK, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-312-08

GLADYS THOMAS, Individually and :
as Executrix of the Estate of :
JOHN A. THOMAS, SR., :
Plaintiff, :

vs. :

3M COMPANY, et als., :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-9455-06

CHARLES H. WECKER and ANN WECKER, :
Husband and wife, :
Plaintiffs, :

vs. :

3M COMPANY, et als., :
Defendants. :

TRANSCRIPT of testimony as taken by and
before Sean M. Fallon, a Certified Court Reporter
and Notary Public of the State of New Jersey, at the
offices of COHEN, PLACITELLA & ROTH, P.C., Two
Commerce Square, 2001 Market Street, Suite 2900,
Philadelphia, Pennsylvania, on Thursday, August 27,
2009, commencing at 10:03 o'clock in the forenoon.

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Page 21 1 MALOOF, LEBOWITZ, CONNAHAN & OLESKE, P.C 2 BY: DENNIS J. LOFFREDO, ESQ. 3 127 Main Street 4 Chatham, New Jersey 07928 5 (973) 635-9200 6 Attorneys for Defendants, Oldcastle Precast, 7 Inc. and Kerr Concrete Pipe Co. 8 (Via conference call) 9 10 11 ALSO PRESENT: 12 13 Gerard J. Genna, Videographer 14 New Jersey Certified Legal Videography 15 16 17 18 19 20 21 22 23 24 25	Page 23 1 Ambler 14 Draft Booklet, For Handling and 224 2 Applying Asbestos-Cement 3 Ambler 15 Document 232 4 Ambler 16 Letter, December 10, 1969 242 5 Ambler 17 1970 version, Recommended Practices 256 6 For Fabricating and Handling 7 Asbestos-Cement Products 8 Ambler 18 Minutes, Seventh Meeting of the 258 9 Health and Safety Council, ACPA 10 May 19, 1970 11 Ambler 19 Installation Guide 264 12 Ambler 20 Recommended Work Practices For 277 13 Asbestos-Cement Pipe 14 REQUESTS FOR PRODUCTION 15 PAGE LINE 16 60 10 17 62 7 18 143 6 19 DIRECTIONS TO NOT ANSWER 20 PAGE LINE 21 41 17 22 23 24 25
Page 22 1 INDEX 2 WITNESS PAGE 3 LLOYD AMBLER 4 By Mr. Placitella 24 5 6 EXHIBITS 7 NUMBER DESCRIPTION PAGE 8 Ambler 1 Notice of Deposition, Carner case 24 9 Ambler 2 Notice of Deposition 24 10 Ambler 3 Notice of Deposition 24 11 Ambler 4 CertainTeed Air Duct Brochure 71 12 Ambler 5 Letter July 28, 2009, 77 13 Edell to Placitella 14 Ambler 6 Answers to Interrogatories 92 15 Ambler 7 Minutes, Asbestos Textile 145 16 Institute's Air Hygiene and 17 Manufacturing Committee, 18 June 8, 1961 19 Ambler 8 Deposition Transcript 151 20 Ambler 9 Document dated November 16, 1964 153 21 Ambler 10 Memo, November 3rd, 1964 188 22 Ambler 11 Minutes, Oct. 10, 1967, 201 23 Occupational Health and Safety 24 Committee of the National 25 Insulation Manufacturers Association Ambler 12 Document 203 Ambler 13 Minutes, Nov. 14, 1968, Health 219 and Safety Council of the Asbestos-Cement Products Association	Page 24 1 (Exhibits Ambler 1, Ambler 2 and 2 Ambler 3 are marked for identification.) 3 THE VIDEOGRAPHER: Today's deposition 4 will be video recorded. The microphones are live 5 and the camera will continue to run throughout the 6 entire deposition as long as the deposition is 7 continuing on the record. 8 We are now on the record in the 9 matter of the named plaintiffs versus 3M Companies, 10 et al. Today's date is August 27, 2009. The time 11 is approximately 10:05 a.m. There are various 12 docket numbers for this case. 13 This is the video-recorded deposition 14 of Lloyd Ambler being held at Cohen, Placitella & 15 Roth in Philadelphia. I'm the camera operator, 16 Gerard Genna, from New Jersey Certified Legal 17 Videography. The court reporter is Sean Fallon from 18 Brody Deposition Services. Appearances will be 19 noted in the transcript. 20 Please administer the oath. 21 LLOYD AMBLER, after having been first 22 duly sworn, is examined and testifies as follows: 23 EXAMINATION 24 BY MR. PLACITELLA: 25 Q. Good morning, Mr. Ambler. How are

6 (Pages 21 to 24)

Page 25 1 you? 2 A. I'm fine. How are you? 3 Q. Good. 4 I know you've had your deposition 5 taken before. Correct? 6 A. Yes. 7 Q. And my research indicated somewhere 8 between 30 and 40 times. Is that accurate? 9 A. No. It's closer to 70 or 80 times. 10 Q. Seventy or 80. So, if I only read 40 11 transcripts, I have another 40 to go? 12 A. I -- 13 Q. Okay. 14 So, is it fair to say, then, you are 15 familiar with the rules of a deposition and I don't 16 need to go over them with you? 17 A. Yes. 18 Q. You are -- currently reside where? 19 A. Furlong, Pennsylvania. 20 Q. How long have you resided there? 21 A. Approximately 35 years. 22 Q. And your current age is what? 23 A. Sixty-nine. 24 Q. Your education is as a civil 25 engineer?	Page 27 1 I'll ask you to take a look at P-1. 2 P-1 is the Deposition Notice in the Kenneth Carner 3 case. 4 Do you see that? 5 A. Yes. 6 Q. And it asks for the person the most 7 knowledge concerning various topics. 8 Do you see that? 9 A. Yes. 10 Q. And there are 15 different topics. 11 Have you seen this Notice before today? 12 A. No, I have not. 13 Q. Can you tell me -- let me ask -- 14 maybe I can cut it short this way. 15 Mr. Edell, is my understanding 16 correct that Mr. Ambler is being produced as the 17 person with the most knowledge on behalf of 18 CertainTeed with respect to each and every one of 19 those paragraphs -- requested paragraphs? 20 MR. EDELL: He is being produced as 21 the corporate representative with respect to the 22 enumerated paragraphs, correct. 23 MR. PLACITELLA: Okay. 24 BY MR. PLACITELLA: 25 Q. And paragraph -- could you go to
Page 26 1 A. Yes. 2 Q. And you are a former employee of the 3 CertainTeed Corporation, correct? 4 A. Yes. 5 Q. There is a burning question among 6 plaintiffs' lawyers around the country that no one 7 has ever asked you, and that is, does the name 8 "Ambler" have any relation to the town where 9 CertainTeed had its factory? 10 A. It depends on who you speak with. 11 There could be a distant relation. I mean, the town 12 was named after a specific young lady back in -- I 13 don't know when -- back in the early 1900s. 14 Q. Is that an ancestor of yours? 15 A. Depends who you speak to. 16 Q. Does that mean within your family, 17 sir? 18 A. Yes. 19 Q. Somebody may or may not own up to it? 20 A. Yes. 21 Q. You've been produced today for a 22 deposition in response to a number of Notices, so we 23 have a lot of material to cover, so what I've had 24 marked as P-1, 2 and 3 are the Deposition Notices 25 themselves.	Page 28 1 Exhibit Number 2, please. Exhibit Number 2 is a 2 Deposition Notice taken in the Bradley, Chavan, 3 Duggan, Forte, Gerding, Glock, Hinsenkamp, Johnson, 4 Snyder, Thomas and Wecker cases. 5 Do you see that? 6 A. Yes. 7 Q. And the -- this Deposition Notice 8 asks CertainTeed to produce a representative with 9 the most knowledge concerning CertainTeed's 10 historical knowledge of the dangers of asbestos and 11 what CertainTeed did in response to protect 12 consumers from exposure to asbestos while working 13 with or around CertainTeed asbestos-containing 14 products. 15 Do you see that? 16 A. Yes. 17 Q. Is that you, sir? 18 A. They put me up to answer those 19 questions, yes, sir. 20 MR. EDELL: With specific reference 21 to asbestos-cement pipe. 22 MR. PLACITELLA: Well, the Notice is 23 not limited to asbestos-cement pipe. 24 MR. EDELL: That's correct. 25 MR. PLACITELLA: So there is another

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Page 29 1 witness for the -- any other product that -- 2 MR. EDELL: Should, at the end of the 3 deposition, you believe that another witness is 4 necessary, we'd be happy to discuss that with you. 5 I don't think it's going to be necessary. 6 MR. PLACITELLA: I'm not sure how to 7 proceed on those grounds. Is he the person with the 8 most knowledge concerning asbestos-cement products 9 in general? 10 MR. EDELL: I would say, not 11 asbestos-cement siding. 12 MR. PLACITELLA: Well, that's an 13 issue in some of these cases, and this is the first 14 time I was told -- 15 MR. EDELL: It may be, and we may 16 have to produce another witness. Mr. Blakenger, as 17 I understand it, has been produced to your office, I 18 believe, on that issue. 19 MR. PLACITELLA: Different product. 20 MR. EDELL: Siding. 21 MR. PLACITELLA: Well, we'll get to 22 it. It's a different product; it's not siding. And 23 there is also -- also involved the sale of asbestos 24 fiber. Is he knowledgeable about sales of asbestos 25 fiber in the Johns-Manville claim?	Page 31 1 MR. EDELL: As to asbestos fiber, I 2 believe so; with respect to pipe, I know so; and, 3 with respect to siding, I know that he is not. 4 MR. PLACITELLA: Okay. 5 BY MR. PLACITELLA: 6 Q. Mr. Ambler, Notice Number 3 in front 7 of you asks that you bring with you today eight 8 different categories of documents. 9 Can you look at Notice Number 3 and 10 tell me whether you've brought those documents with 11 you? 12 MR. EDELL: He -- just to cut things 13 short a little bit, he has not brought any documents 14 with him today. The documents that we may -- we've 15 indicated to you that the documents responsive to 16 the document requests are available for your 17 inspection at the document repository and you have 18 not chosen -- you've chosen not to avail yourself of 19 our offer to look at those documents. 20 MR. PLACITELLA: For the record, I've 21 been told, in response to this particular Notice, 22 that I should come to the repository before the 23 deposition and look at them? 24 MR. EDELL: I believe so. 25 MR. PLACITELLA: I don't think so.
Page 30 1 MR. EDELL: There -- he has 2 information regarding that subject, but there is no 3 one who has that particular knowledge other than 4 that which is reflected in documents. 5 MR. PLACITELLA: So, then, he would 6 be the person with the most knowledge? 7 MR. EDELL: No, not necessarily, but 8 he does have knowledge. 9 MR. PLACITELLA: Well, who would be 10 the person you would produce with knowledge -- 11 MR. EDELL: He's here to testify on 12 behalf of the corporation regarding that subject. 13 MR. PLACITELLA: So, then, he would 14 be the person responsive to this Notice about the 15 most knowledge as it relates to the sale of asbestos 16 fiber? That's what I'm trying to get at. 17 MR. EDELL: Yes. 18 MR. PLACITELLA: Okay. 19 The next Notice captioned in the same 20 case is -- asks for the representative of 21 CertainTeed with the most knowledge of the sale of 22 asbestos fiber, asbestos-containing pipe, and 23 asbestos-containing siding in the States of New 24 Jersey and Pennsylvania. 25 Is he responsive to this Notice?	Page 32 1 MR. EDELL: I believe so. 2 MR. PLACITELLA: We'll get there. I 3 don't think so. 4 BY MR. PLACITELLA: 5 Q. Okay. 6 Mr. Ambler, what have you done today 7 to investigate what was requested, in terms of 8 subject matter in this deposition -- these 9 Deposition Notices? 10 MR. EDELL: Objection to the form of 11 the question. Insofar as his response, I direct him 12 to respond only to information that is not 13 privileged. 14 MR. PLACITELLA: Of course. 15 MR. EDELL: Of course to you and me, 16 but he may not know that. 17 MR. PLACITELLA: He's been deposed 80 18 times, I'm sure he's heard it once or twice. 19 MR. EDELL: No. I might forget, too. 20 BY MR. PLACITELLA: 21 Q. Other than conversations with your 22 counsel, sir, tell me -- can you tell me what you've 23 done to prepare yourself and investigate the matters 24 responsive to these Deposition Notices that are in 25 front of you?

Page 33 1 A. The only thing I've done, I've 2 reviewed Mr. Carner's deposition, plus the one 3 co-worker; and I also reviewed Mr. Gerding's sons' 4 depositions and the two co-workers. 5 Q. So, as it relates to the Bradley 6 case, you've reviewed nothing? 7 A. That's correct, yes. 8 Q. And, as it relates to the Chavan 9 case, you've reviewed nothing? 10 MR. EDELL: Just so we are clear, 11 Chris, this is -- again, we are talking about 12 documents that are not and were not privileged? 13 MR. PLACITELLA: I don't know what -- 14 MR. EDELL: Well, documents that are 15 shown to the witness in preparation for the 16 deposition are subject to the attorney work product 17 privilege, as you well know. 18 MR. PLACITELLA: No, I don't well 19 know that, but we'll get to that. 20 MR. EDELL: I can give you Spark 21 versus Peel, which is a Third Circuit opinion -- 22 MR. PLACITELLA: This is a State 23 case, isn't it? 24 MR. EDELL: It's a Federal Third 25 Circuit case.	Page 35 1 Q. And nothing else? 2 A. Nothing else. 3 Q. And what did you do to prepare 4 yourself for this deposition other than having 5 conversations with your counsel? 6 A. Just reviewing those depositions and 7 having conversations with the lawyers. 8 Q. So that we are clear, the only 9 documents you reviewed in preparation for today's 10 deposition were depositions of a couple of 11 plaintiffs and co-workers? 12 MR. EDELL: Just so we are clear, in 13 terms of the definition of review, I want to make 14 sure that the witness understands that includes his 15 discussions with us of any documents that -- that we 16 produced and discussed with him in anticipation of 17 the deposition. 18 MR. PLACITELLA: Frankly, I don't 19 understand what that means. I asked him 20 specifically what he looked at. 21 MR. EDELL: I'm just telling you -- 22 MR. PLACITELLA: He said he only 23 looked at three things. He only looked at 24 transcripts. If he looked at other things -- 25 MR. EDELL: I just don't want you to
Page 34 1 MR. PLACITELLA: That's okay. Is it 2 a New Jersey case? 3 MR. EDELL: Yes, it is. 4 MR. PLACITELLA: In New Jersey State 5 court? 6 MR. EDELL: No. 7 MR. PLACITELLA: I didn't think so, 8 so you can have it back. 9 BY MR. PLACITELLA: 10 Q. So, sir, can you tell me, as it 11 relates to the Chavan case, what did you review? 12 MR. EDELL: And, again, I'm going to 13 direct the witness not to identify any documents 14 that were given to him in preparation for the 15 deposition by any of his counsel. 16 BY MR. PLACITELLA: 17 Q. Sir, did you review CertainTeed 18 corporate records or documents in preparation for 19 today's deposition? 20 A. No, I did not. 21 Q. Did you review any -- tell me what 22 you did review. 23 A. Just what I just said, sir. I 24 reviewed the depositions concerning the Carner case 25 and also depositions concerning the Gerding case.	Page 36 1 be misled, Chris. That's all. 2 BY MR. PLACITELLA: 3 Q. Did you look at anything besides 4 transcripts? 5 A. I had a -- I had a meeting with three 6 attorneys -- or two attorneys and a paralegal, and 7 they had some documents that were exhibits from 8 other cases and I looked at those, yes. 9 Q. So you looked at exhibits that were 10 in other depositions you have given? 11 A. I can't say that they were included 12 in the depositions I gave. I can't -- I can't 13 recall that. I just looked at documents that they 14 had. 15 Q. Were they documents that were -- that 16 you had seen before? 17 A. Most of them I had, yes. 18 Q. And you saw those in the context of 19 depositions? 20 A. Yes. I didn't see any of them when I 21 was an employee of CertainTeed. 22 Q. So the documents that you saw in 23 preparation for this deposition were documents that 24 you had seen in connection with other depositions 25 that you have given, correct?

9 (Pages 33 to 36)

1 A. For the most part that's correct,
 2 yes.
 3 MR. PLACITELLA: And your position
 4 still is that I'm not entitled to know those
 5 documents, Mr. Edell?
 6 MR. EDELL: Yes.
 7 MR. PLACITELLA: Okay. Well, we'll
 8 let the judge decide.
 9 MR. EDELL: Absolutely.
 10 BY MR. PLACITELLA:
 11 Q. Did you speak to any witnesses as
 12 part of your investigation?
 13 A. No. The only conversations I had
 14 were with the attorneys.
 15 Q. Did you look at any documents related
 16 to any plaintiffs other than the transcripts that
 17 you've mentioned?
 18 A. No. That's the only thing.
 19 Q. Did you speak to any current or
 20 former employees of CertainTeed?
 21 A. Concerning these cases?
 22 Q. In preparation for today's
 23 deposition.
 24 A. No, I did not.
 25 Q. Did you ask to see any documents in

1 preparation for today's deposition?
 2 A. Specifically, no, I did not.
 3 Q. Do you have an understanding of the
 4 areas that you are here to testify about?
 5 A. I believe I do.
 6 Q. And what is that?
 7 A. Answer any questions you have to the
 8 best of my knowledge.
 9 Q. On what subject matters?
 10 A. Concerning CertainTeed and
 11 asbestos-cement pipe and anything in particular to
 12 these two cases.
 13 Q. Well, you understand, sir, you are
 14 being deposed not in two cases; but in one, two,
 15 three, four, five, six, seven, eight, nine -- nine
 16 cases; not two, correct?
 17 A. It is my understanding that I am
 18 here, sir, to answer any questions you have
 19 concerning asbestos-cement pipe, and the only thing
 20 I reviewed for this deposition were those two cases.
 21 Q. So, in the other seven cases you
 22 reviewed nothing?
 23 MR. EDELL: Objection to the form of
 24 the question.
 25 THE WITNESS: Specifically those

1 other cases, I've reviewed nothing other than what
 2 I've already told you.
 3 BY MR. PLACITELLA:
 4 Q. How long -- how many occasions did
 5 you meet with counsel in preparation for this
 6 deposition?
 7 A. Face-to-face I met with them last
 8 Friday and for an hour or so this morning, and I may
 9 have had some -- oh, I had one telephone
 10 conversation with them, also.
 11 Q. What was the total amount of time you
 12 spent preparing?
 13 A. As far as talking with them or
 14 reading --
 15 Q. Right.
 16 A. -- or reading the depositions, also?
 17 Q. Meeting with them.
 18 A. Seven hours, I guess. Somewhere in
 19 there.
 20 Q. Do you believe you made a good faith
 21 effort to investigate all information available to
 22 CertainTeed concerning the subject matter of these
 23 depositions?
 24 A. Well, I didn't have the Notice, sir,
 25 so I did what I thought I would have to do to be

1 here this morning. I don't -- I did not have these
 2 Notices.
 3 Q. Do you believe you made a good faith
 4 effort to investigate all information available to
 5 CertainTeed concerning the subject matter of these
 6 depositions?
 7 A. I only reviewed what I told you, sir,
 8 and I made a good faith effort to review what I told
 9 you.
 10 Q. My question to you is not that. My
 11 question is, do you believe you've made a good faith
 12 effort to investigate all information available to
 13 CertainTeed concerning the subject matter that you
 14 are designated for?
 15 MR. EDELL: This is the last time.
 16 THE WITNESS: Yes. I mean, I only
 17 reviewed what I reviewed and -- I mean, I don't know
 18 how else to answer your question.
 19 BY MR. PLACITELLA:
 20 Q. I'm not asking you what you reviewed.
 21 I'm asking you whether you made a good faith effort
 22 to investigate all the information that was
 23 available to the company in order to come here and
 24 testify as a representative?
 25 A. I didn't -- the good faith effort I

Page 41 1 made was that I reviewed what I reviewed, sir. 2 Q. So your only good faith effort, sir, 3 in preparing for this deposition was to read the 4 transcripts of two plaintiffs and a couple of 5 co-workers -- 6 MR. EDELL: Objection to the form of 7 the question. 8 BY MR. PLACITELLA: 9 Q. -- is that what you are saying? 10 MR. EDELL: That's not what he said. 11 THE WITNESS: No. I also had 12 conversations with the attorneys and I looked at 13 documents that they had. 14 BY MR. PLACITELLA: 15 Q. And what documents did you look at, 16 sir? 17 MR. EDELL: He's directed not to 18 answer that question. 19 BY MR. PLACITELLA: 20 Q. Sir, you began working for 21 CertainTeed somewhere around 1967? 22 A. That's correct, yes. 23 Q. And -- excuse me. 24 MR. EDELL: We will not tolerate 25 that, Mr. Placitella.	Page 43 1 about what was known to CertainTeed prior to 1967 2 concerning the potential dangers associated with 3 exposure to asbestos? 4 A. I don't know whether I acquired 5 everything that they knew. I mean, I acquired what 6 I know. 7 Q. In approximately 1969 or 1970 you 8 switched from the technical engineering department 9 to the sales engineering department, is that true? 10 A. In '69, yes. 11 Q. In about 1972 you took on a more 12 sales-oriented position and left the engineering 13 side of CertainTeed, is that correct? 14 A. Yes. I became general sales manager, 15 yes, for pipe, asbestos-cement, PVC. 16 Q. And, as general manager for 17 asbestos-cement pipe, were you responsible for the 18 profitability for that division? 19 A. When was this, sir? 20 Q. 1972, when you became general 21 manager. 22 A. No. I became general sales manager. 23 Q. General sales manager. 24 A. Yes. I was responsible for the sale 25 of the product.
Page 42 1 MR. PLACITELLA: That's all right. 2 Somebody just called me to tell me what documents 3 you actually looked at. 4 MR. EDELL: I can tell you that Spark 5 versus Peel is applicable in -- 6 MR. PLACITELLA: That's good. So, 7 when you ask me for the picture books that my client 8 looked at, I'll remember that they are not to be 9 produced. 10 MR. EDELL: Okay. 11 MR. PLACITELLA: So, tell Mr. Suss 12 not to send my any more letters. 13 MR. EDELL: I'll do that. 14 MR. PLACITELLA: Thank you. 15 MR. EDELL: Promise. 16 BY MR. PLACITELLA: 17 Q. Now, through the normal course of 18 your work at CertainTeed, sir, did you acquire 19 information that was available to CertainTeed before 20 1967? 21 A. I acquired information concerning the 22 manufacturing of asbestos-cement pipe, what 23 literature we had, and somewhat of who our customers 24 were. 25 Q. And did you also acquire information	Page 44 1 Q. And what were your day-to-day 2 responsibilities? 3 A. To sell the product. 4 Q. Were you involved in the marketing 5 and distribution of the product? 6 A. I was somewhat involved, obviously, 7 in the distribution, but not the marketing. 8 Q. In 1975 did you become the general 9 marketing manager for asbestos-cement pipe and 10 accessories? 11 A. Yes, I did. 12 Q. And what were your responsibilities 13 in that capacity? 14 A. I had profit responsibility for 15 asbestos-cement pipe. 16 Q. And, when you say "profit 17 responsibility," what do you mean by that? 18 A. Well, you know, I -- I -- profit 19 responsibility for the product and the growth of the 20 product. I obviously worked with the sales 21 department as far as setting price, I worked with 22 the manufacturing department to see what we could do 23 to reduce our costs, and we also tried to see if 24 there were any different markets we could get into 25 or different products we could get into.

11 (Pages 41 to 44)

1 Q. And in 1977 did your job
2 responsibility change again?

3 A. Yes.

4 Q. And what was that?

5 A. We had an organization within the
6 group and we set up two pipe divisions within the
7 group, one asbestos-cement and one PVC, and I became
8 general manager of the asbestos-cement pipe
9 division.

10 Q. And then in 1980 was there another
11 reorganization?

12 A. Yes, there was.

13 Q. And at that point did you become
14 senior vice-president of sales for all product lines
15 and accessory items?

16 A. As far as the pipe group is
17 concerned.

18 Q. Yes.

19 A. Yes. Just asbestos-cement and PVC
20 pipe, yes.

21 Q. And then in 1980 --

22 A. Excuse me. That also included
23 marketing for asbestos-cement pipe.

24 Q. And did you keep that job until
25 approximately 19 -- 2001 when you retired?

1 A. No.

2 Q. What job did you have between 1980
3 and 2001? What were the changes?

4 A. Well, in 1985 I -- the job that I had
5 as senior vice-president of sales, the marketing of
6 PVC pipe became part of that job, so I had sales
7 responsibility for asbestos-cement pipe and PVC pipe
8 and marketing responsibility for both pipes.

9 And then in 1989 I became president
10 of the pipe and plastics group, which included both
11 asbestos-cement pipe and PVC pipe.

12 Q. And how long did you keep that job?

13 A. Until I retired.

14 Q. And that was in 2001?

15 A. Yes.

16 Q. And you currently work for
17 CertainTeed as a consultant in asbestos-related
18 matters?

19 A. Asbestos-cement pipe matters, yes.

20 Q. And you are compensated for your
21 time?

22 A. Yes, I am.

23 Q. At what rate?

24 A. \$125 per hour.

25 Q. And do you have -- do you assist in

1 the answering and preparation of Interrogatories in
2 the context of asbestos litigation?

3 A. I, once in a while, get asked
4 questions which I answer.

5 Q. And do you actually have a consulting
6 contract with CertainTeed?

7 A. Yes, I do.

8 Q. And is that a -- as I understand, a
9 very short contract of about three paragraphs?

10 A. I don't know the number of
11 paragraphs, but it's no longer than three-quarters
12 of a page, yes.

13 Q. And am I correct that you are the
14 only corporate representative ever to testify for
15 CertainTeed about asbestos-cement pipe?

16 A. I don't know the answer to that
17 question.

18 Q. As I understand it, you are called
19 upon from time to time to act as an expert witness
20 on behalf of CertainTeed?

21 A. I don't know the answer to that,
22 either. I don't -- I don't know whether I've ever
23 been called an expert witness.

24 Q. Well, you've been called upon from
25 time to time to provide your opinion as to whether a

1 particular plaintiff would have worked with
2 CertainTeed asbestos-cement pipe products, based
3 upon your review of the information supplied in the
4 case, true?

5 A. That's correct, yes.

6 Q. And in this case have you been
7 retained by CertainTeed for that purpose?

8 A. I've been retained by CertainTeed for
9 these two cases to just give my opinion of whether
10 or not it was CertainTeed's asbestos-cement pipe.

11 Q. And have you prepared a report in
12 that regard?

13 A. No, I have not.

14 MR. PLACITELLA: Well, before I would
15 depose this witness on that particular issue, I
16 would ask for a report, and I'll -- we'll do that
17 another day because that, for me, under New Jersey
18 rules, is expert testimony.

19 Now --

20 MR. EDELL: I understand your
21 position. My silence shouldn't be taken as an
22 acquiescence.

23 MR. PLACITELLA: I'm not prepared to
24 ask him questions about that. He's never been named
25 as an expert.

1 BY MR. PLACITELLA:

2 Q. You have -- am I correct, sir, that
3 CertainTeed has been in the business of selling
4 asbestos-containing products from at least the
5 1930s?

6 A. I don't know when they started
7 selling asbestos -- asbestos products. We
8 started -- CertainTeed started to sell
9 asbestos-cement pipe in mid-1962.

10 Q. But you are aware, sir, that
11 CertainTeed made many other asbestos-containing
12 products that predated your joining the company by
13 decades, true?

14 A. I don't -- I don't know when they
15 started and what products they made, but I do know
16 that they made products prior 1962, yes.

17 Q. You've never given testimony in other
18 cases, sir, that you are aware that CertainTeed has
19 manufactured asbestos-containing products beginning
20 in the 1930s?

21 A. I may have made that statement. I
22 don't recall it, but -- I mean, I may have made it.
23 I mean, it does sound like they -- it does sound
24 familiar, that they made some asbestos products in
25 the 1930s, but I don't know that exactly.

1 Q. And, sir, am I correct that
2 CertainTeed manufactured asbestos-containing
3 products right here in the State of Pennsylvania?

4 A. We manufacture -- yes, we
5 manufactured asbestos-cement pipe in Ambler, yes.

6 Q. What kinds of asbestos-containing
7 products are you aware of that CertainTeed
8 manufactured?

9 A. As -- well, could you repeat that
10 question? I'm sorry.

11 Q. What types of asbestos-containing
12 products are you aware of that CertainTeed
13 manufactured?

14 A. I am aware of some roofing products
15 that contained some asbestos. Specifically what
16 they were, I'm not sure. And I was also aware of
17 some specialty insulation -- railroad insulation
18 product and, of course, asbestos-cement pipe.

19 Q. Are you aware that CertainTeed sold
20 asbestos-cement products other than asbestos-cement
21 pipe?

22 A. Yes.

23 Q. And what asbestos-cement products are
24 you aware of that CertainTeed sold other than
25 asbestos-cement pipe?

1 A. Asbestos-cement -- I'm not so sure
2 that I know what asbestos-cement -- maybe the siding
3 was asbestos-cement that they may have sold, but I
4 don't know whether it was or not.

5 Q. Tell me the kinds -- the types of
6 asbestos-cement pipe that you are aware of that
7 CertainTeed was involved in manufacturing.

8 A. What do you mean by "types"? I'm
9 sorry.

10 Q. Well, is there more than one type of
11 asbestos-cement pipe that was manufactured by
12 CertainTeed?

13 A. Well, there are different markets
14 that they distribute -- we distributed our products
15 to, yes. We made pressure pipe for specific markets
16 and we made non-pressure pipe for specific markets.

17 Q. But it's all the same, sir?

18 A. No, it's not all the same. I mean --

19 Q. So, then, what are the different
20 kinds of products?

21 A. Well, I mean, there is different --
22 the diameters are essentially the same. The wall
23 thickness could be different, depending on the
24 market you are selling to, and the asbestos content
25 could be different, depending on the market you are

1 selling to.

2 But the diameters -- I mean, they
3 were all nominal diameters. We made three-inch
4 through 24-inch, and our standard length was 13
5 feet, and it was 13 feet for any products -- excuse
6 me -- any markets that we were going after.

7 Q. Did you make asbestos-containing
8 sewer pipe?

9 A. Yes, we did.

10 Q. Do you also know that to be called
11 waste pipe?

12 A. I've heard that expression, yes.

13 Q. Did you make asbestos-containing
14 pressure pipe?

15 A. Yes, we did.

16 Q. Did you make asbestos-containing vent
17 pipe?

18 A. No, we did not.

19 Q. You never made a vent pipe containing
20 asbestos?

21 A. That's correct.

22 Q. Did you manufacture a vent pipe?

23 A. What was your first question? Wasn't
24 that the same question?

25 Q. Did you manufacture vent pipe?

1 A. No, we did not.
 2 Q. You never manufactured vent pipe?
 3 A. No, we did not.
 4 Excuse me. We manufactured -- just a
 5 correction. We manufactured some air vent pipe back
 6 in the late '60s -- in the '60s and we got out of
 7 the business in the late '60s.
 8 Q. So you did manufacture air vent pipe?
 9 A. Air vent pipe, in St. Louis, yes.
 10 Q. And did that contain asbestos?
 11 A. Yes, it did.
 12 Q. Okay.
 13 A. I wasn't considering that. Sorry.
 14 Q. Well, we'll go through each one. The
 15 asbestos-cement pipe that was sold in the States of
 16 Pennsylvania and New Jersey, where was that
 17 manufactured?
 18 A. In Ambler, Pennsylvania.
 19 Q. So, it wouldn't have come from
 20 California; it could have come directly from Ambler,
 21 true?
 22 A. That's correct, yes.
 23 Q. And did you have primary customers or
 24 distributors for asbestos-cement pipe in New Jersey
 25 and Pennsylvania?

1 A. Yes, we did.
 2 Q. And do you know who they were?
 3 I'm waiting.
 4 MR. EDELL: I'm sorry. Could we have
 5 the question read back, please.
 6 (Pertinent portion of the record is
 7 read.)
 8 THE WITNESS: In Pennsylvania, it was
 9 IMCO, and then --
 10 BY MR. PLACITELLA:
 11 Q. Can you spell is that, please.
 12 A. I-M-C-O, and then in New Jersey we
 13 sold to Brent, and we also sold to another company
 14 in Southern Jersey, and I can't recall their name
 15 right now.
 16 Q. Konnect?
 17 A. Excuse me?
 18 Q. Do you know the name Konnect?
 19 A. Konnect -- how do you spell that?
 20 Q. With a K.
 21 A. No.
 22 MR. CAMP: I'm sorry. What was his
 23 answer?
 24 THE WITNESS: "No."
 25 MR. PLACITELLA: He doesn't know.

1 THE WITNESS: No. I said "No."
 2 BY MR. PLACITELLA:
 3 Q. You never sold to them?
 4 A. I don't think so.
 5 Q. Do you know -- so you don't know, as
 6 you sit here today, who the distributor was in New
 7 Jersey?
 8 A. I just told you, Brent.
 9 Q. No. Southern New Jersey.
 10 A. I can't remember who it was in
 11 Southern New Jersey, no, as I sit here today.
 12 Q. Is there any information that you
 13 could refer to to determine that information?
 14 A. Not that I'm aware of.
 15 Q. So there are no documents that you
 16 could look at to make that determination?
 17 A. Not that I'm aware of.
 18 Q. Do you maintain records of sales of
 19 asbestos-cement pipe for the States of New Jersey
 20 and Pennsylvania?
 21 MR. EDELL: Objection to the form of
 22 the question.
 23 THE WITNESS: We have invoices from
 24 the Ambler plant, and they start in 1967, and we
 25 have them up till the time that they shut down in

1 1982.
 2 BY MR. PLACITELLA:
 3 Q. And are those invoices complete?
 4 A. Not for that time period, no, they
 5 are not.
 6 Q. How complete are they?
 7 A. Well, in 1967 we have one month,
 8 June. In '68 we have the fourth quarter. In '69 we
 9 have the full year, other than I believe it's
 10 August -- or it could be November. We have one
 11 month missing in '69. And in '70 on they are
 12 complete, other than '74. We have one month missing
 13 in '74.
 14 Q. And how is it that you know that they
 15 are complete?
 16 A. They are done in chronological,
 17 numerical order, and you start at the beginning of
 18 the year and you can see if there is any -- and
 19 obviously there is month and customer and everything
 20 is on the invoice, and you can see if there is a --
 21 if there is a void or a missing -- you can tell what
 22 is missing. You can get the dates off the invoices.
 23 Q. Well, have you ever, for instance,
 24 matched the invoices you have to a general ledger to
 25 see if you have the invoices for every sale?

1 A. I just told you -- no. I just told
2 you what we did. I'm sorry.

3 Q. So, basically, when you say they are
4 complete, you just looked at the invoices that were
5 available?

6 A. The invoices, but they are in -- I
7 mean, the first invoice is dated January 1st and the
8 last invoice is dated December 31st for a year.

9 Q. Right.

10 A. And you can see if they follow in
11 sequence. And they are numbered in sequence, so
12 that, if you have nothing missing, you have a
13 complete invoice -- a complete file.

14 Q. So you have a number for every
15 invoice, so, if there is 365 invoices, for example,
16 you would have 1 through 365?

17 A. That's correct.

18 Q. So there wouldn't be a 362a?

19 A. There shouldn't be.

20 Q. Okay.

21 A. No. There should be -- no, that's
22 right. Yes, you are right.

23 Q. Now, where are these invoices kept
24 currently?

25 A. In -- at Goodwin Procter's files in

1 Washington.

2 Q. And do you know how they are
3 organized?

4 A. They are in -- on a microfilm,
5 microfiche.

6 Q. Do you know whether they've ever been
7 incorporated into a database?

8 A. Not that I'm aware of.

9 Q. Do you know whether they've ever been
10 catalogued so, if you wanted to ask somebody, "Did
11 you sell to Cohen, Placitella & Roth in 1976," you'd
12 be able to tell, other than looking through each and
13 every invoice in 1976?

14 A. You'd have to look at the invoice,
15 because we don't have them necessarily designated or
16 separated by customer. But on every invoice it's
17 the -- the sold-to customer is on there and the
18 ship-to customer is on there and the quantity of the
19 pipe that's shipped.

20 Q. The invoices, however, don't
21 necessarily tell you where the product went, true?

22 A. No, that's not true. There is a
23 ship-to on the invoice. Every invoice has a
24 ship-to.

25 Q. So the invoice always tells you the

1 job site on which the product was ultimately used?

2 A. No, that's not -- your question was,
3 does it show -- tell where it's shipped to, and it
4 does tell where it's shipped to. However, if you
5 are our distributor and you buy a product and it's
6 in any kind of a quantity, generally one truck or
7 longer for a job, you would have it shipped directly
8 to the job site, but you'd be showing up as the
9 customer, but the ship-to would be the job site.

10 Q. But there are circumstances, for
11 example, where you would ship to a place like Brent
12 where the destination would be Brent and, if Brent
13 then used it at a particular job site, it wouldn't
14 necessarily be reflected there, true?

15 A. That's correct, yes.

16 Q. Do you maintain brochures for all of
17 the products that you sold that were asbestos-cement
18 pipe products?

19 A. Yes.

20 MR. EDELL: Objection to the form.

21 THE WITNESS: Sorry.

22 BY MR. PLACITELLA:

23 Q. Where are those brochures located?

24 A. They are in Goodwin Procter's files.

25 Q. And have you seen them yourself?

1 A. I've seen brochures, yes.

2 Q. And if you, Lloyd Ambler, asked, "I
3 want to see all the brochures ever used," how would
4 you get it?

5 A. I'd call them down there and ask for
6 them.

7 Q. And they'd be able to hand them to
8 you?

9 A. Yes.

10 MR. PLACITELLA: I'd make a request
11 for the same thing.

12 BY MR. PLACITELLA:

13 Q. Do you know who the salespeople were
14 for asbestos-cement pipe on behalf of CertainTeed in
15 the States of New Jersey and Pennsylvania?

16 A. I couldn't recite those to you. They
17 changed and I just can't recall them all, no.

18 Q. Do you know any of them?

19 A. Well, I know who the district sales
20 managers were on the --

21 Q. And who was that?

22 A. Well, we had -- John Prechack was a
23 district sales -- same district sales -- by the way,
24 the same district sales manager would handle both
25 states.

1 Q. Okay.

2 A. John Prechack was a district sales
3 manager, Gale Olsen was a district sales manager,
4 and there was a district sales manager prior to John
5 that -- Paul Williams was a district sales manager
6 prior to John.

7 Q. And is Mr. Prechack alive?

8 A. No, he's not.

9 Q. What about -- is Gale Olsen a male or
10 a female?

11 A. It's a male.

12 Q. Is Mr. Olsen alive?

13 A. I don't know. Last I talked to
14 him -- it's been a couple years now, so I don't
15 know.

16 Q. Where did he last reside when you
17 spoke to him?

18 A. Right outside of West Chester,
19 Pennsylvania.

20 Q. Do you know what town?

21 A. No, I do not.

22 Q. And what was the reason why you had
23 to speak with him?

24 A. Just a friend. Go out and have lunch
25 with him.

1 Q. So you have his phone number?

2 A. I did. I don't know whether I still
3 have it or not. I mean, I have a number. I don't
4 know whether it's current or not.

5 Q. Where do you keep that number?

6 A. It's at my house.

7 MR. PLACITELLA: I'll make a request
8 for that number.

9 BY MR. PLACITELLA:

10 Q. Mr. Williams, is he still alive?

11 A. No, he's not.

12 MR. EDELL: Chris, just for the
13 record, if you want something and you send me a
14 letter --

15 MR. PLACITELLA: Every time I make a
16 request, could you make a note and I'll have it all
17 in one spot?

18 MR. EDELL: I'm not going to ferret
19 through the transcript and --

20 MR. PLACITELLA: I'm not. I'm going
21 to get one list at the end and I'll just send you
22 that sheet.

23 MR. EDELL: Fine.

24 MR. PLACITELLA: As I -- just so I
25 know, before I speak to him, is Mr. Olsen part of

1 the litigation control group?

2 MR. EDELL: I don't know, but I'll
3 let you know.

4 MR. PLACITELLA: You'll let me know
5 that before I go out and talk to him?

6 MR. EDELL: Sure.

7 BY MR. PLACITELLA:

8 Q. Do you have a record somewhere of the
9 salespeople for the States of Pennsylvania and New
10 Jersey for asbestos-cement pipe?

11 A. Not that I'm aware of.

12 Q. Turning to ventilating pipe, can you
13 tell me what the intended use of the
14 asbestos-containing ventilating pipe was that was
15 manufactured and sold by CertainTeed?

16 A. By that do you mean vent -- air vent
17 pipe?

18 Q. Correct.

19 A. It was pipe that was manufactured to
20 be sold to conduct warm air for residential
21 housing -- primarily residential housing, and it was
22 pipe that was installed underneath the basement
23 floor just to conduct air for either heat or air
24 conditioning. It was manufactured in St. Louis,
25 Missouri.

1 Q. And was it ever --

2 A. And it was sold primarily in the
3 Midwest market.

4 Q. Well, do you know whether or not it
5 was ever sold in New Jersey or Pennsylvania?

6 A. I never -- I never remember it being
7 sold in the time I was with the company in that
8 area. It was just sold in the Midwest market. We
9 got out of the business in '69.

10 Q. Well, do you know for certain whether
11 it was sold in New Jersey or Pennsylvania?

12 A. I can only tell you what I know, and
13 I know it was not -- well, we never -- I never was
14 involved in any sale of that product.

15 Q. Well, you weren't involved in sales
16 at all during this time period, were you, sir?

17 A. Well, I got involved in sales -- I
18 worked -- when I was in the technical department in
19 '67, when I came to work for the company, I worked
20 very closely with the sales and marketing group on
21 technical issues. I pretty well knew what product
22 lines we were selling and where, and then, when I
23 got into sales engineering, I was certainly involved
24 in sales, in '69.

25 Q. So, was your job, sir, in the 1960s

1 to know where all the asbestos-cement pipe was sold
2 by CertainTeed?

3 A. I don't know where every job was, but
4 I know what products we were selling in what markets
5 when I came to work for the company in '67.

6 Q. And, sir, are you saying that the
7 vent pipe was never used in commercial applications?

8 A. It -- no, I'm not saying that. I
9 said, primarily in residential. It could have been
10 used in -- if you say like a school or a hospital,
11 if that's commercial, it could have been used there,
12 also.

13 Q. And the years that was sold, sir?

14 A. Well, I don't know when it started.
15 Obviously it was sometime '62 or after, and we got
16 out of the business in 1968 or '9.

17 Q. And, when you say you got out of the
18 business, how do you know that?

19 A. Because there was an all-out effort
20 to deplete the inventory and we didn't make any
21 more.

22 Q. And when was the last production of
23 the vent pipe that contained asbestos manufactured
24 by CertainTeed?

25 A. As best I can recall, it was in the

1 late '60s. '8 or '9.

2 Q. And how was that shipped, when that
3 product was shipped, sir?

4 A. By truck.

5 Q. Do you know who the salesman was or
6 the district manager in charge of the sale of that
7 product?

8 A. In the -- in the late '60s -- well,
9 it was in St. Louis, and I don't know who -- no, I
10 don't. Ray Blankenship was the district manager and
11 then he moved to Valley Forge in the late '60s, and
12 I can't remember who replaced Ray.

13 Q. Well, who was in charge of the
14 marketing of that product?

15 A. The marketing? It was a non -- there
16 was a non-pressure pipe marketing manager. I
17 can't -- it was probably Ed Lawless at that time.

18 Q. And where did he reside?

19 A. I don't know where he resided.

20 Q. Where was his office?

21 A. In Valley Forge. Valley Forge -- or
22 at that point it was in -- in -- it was not -- we
23 didn't -- hadn't opened our offices in Valley Forge,
24 so it was over in -- I forget the name of that area.
25 We had a little office building about a half a mile

1 outside of Ambler.

2 Q. So, the office that was in charge of
3 selling asbestos-containing vent pipe for
4 CertainTeed was located in Pennsylvania?

5 A. No. That wasn't the question, I
6 don't believe.

7 Q. Well, the person that was in charge
8 of the marketing of the asbestos vent pipe for
9 CertainTeed was in Pennsylvania?

10 A. Yes. All marketing managers were in
11 Pennsylvania, yes.

12 Q. When that product was shipped, how
13 was it shipped?

14 A. By truck.

15 Q. And how was it packaged?

16 A. It was -- wasn't packaged any
17 differently than our normal pipe. It was palletized
18 on -- you know, it had lumber on the sides and it
19 had steel straps.

20 Q. And what trades would be involved in
21 installing that product, do you know?

22 A. Generally, I would say a -- it would
23 be a pipefitter, for lack of a better term.

24 Q. And do you know, from your
25 experience, what trades would be working in the

1 vicinity of the people installing that product? Not
2 necessarily installing it themselves.

3 A. No, I don't know that.

4 Q. Do you know whether that product was
5 ever fabricated on site?

6 A. What do you mean by "fabricated"?

7 Q. Well, was it ever cut, scored,
8 drilled on site?

9 A. I'm sure it was cut. I don't know
10 that, I wasn't there, but I'm sure it was.

11 Q. Do you know whether ever -- testing
12 was ever done to determine whether asbestos was
13 released during the cutting of CertainTeed vent
14 pipe?

15 A. Testing where?

16 Q. Well, that's a good question, so I'll
17 rephrase it.

18 Do you know whether testing was ever
19 done to determine whether people installing the pipe
20 would cause a release of asbestos fiber when they
21 cut the pipe?

22 A. There was no testing done at that
23 time period because we recommended manual ways to
24 cut our pipe.

25 Q. And the manual -- when you say

1 "manual," what do you mean by that?

2 A. Well, there are two general manual
3 ways. One is the pop cutter and the other is the
4 carbide tip, like wheel cutter.

5 Q. What do you mean, "carbide tip wheel
6 cutter"? What do you mean by that?

7 A. It had little carbide tip cutters on
8 the end of a spoke and they would just turn the
9 wheel around and it would cut through the pipe.

10 Q. Sir, you indicated to me that you
11 were familiar with the applications for the vent
12 pipe, correct?

13 A. The applications?

14 Q. Yes.

15 A. Just what I told you. I never sold
16 it. It was sold in residential and there were
17 probably some commercial applications for it. It
18 was generally put underneath -- underneath the
19 basement slabs.

20 Q. Well, sir, you marketed it for
21 commercial applications, did you not?

22 A. Well, I just said it was probably
23 sold in hospitals and in schools, if that's
24 commercial.

25 Q. Well, other than hospitals and

1 schools, you marketed broadly for commercial
2 applications, did you not?

3 A. I don't know what your definition of
4 commercial application is. I mean, we sold it in
5 the general St. Louis area.

6 Q. I'm saying, sir, what was the
7 intended application -- what kind of commercial
8 applications was it marketed for?

9 A. The only ones I'm aware of -- it was
10 primarily residential. The only commercial
11 applications that I can recall, unless you have
12 something differently there, was somewhat in maybe
13 schools or hospitals or something like that.

14 Q. Well, weren't you the one who said to
15 me that it was part of your job to know the markets
16 for this product?

17 A. I wasn't involved with air vent pipe
18 because we were getting out of that business,
19 generally, when I came to work for the company, and
20 we were depleting our inventory and, like I say,
21 that was in roughly '68, and I came to work for the
22 company in '67.

23 I was more involved with the water
24 and sewer part of the product.

25 Q. So you don't really know where all

1 the asbestos-cement pipe for vent was sold, do you?

2 A. Just from what I know when I came to
3 work for the company. We made it in St. Louis and
4 it was primarily sold in the Midwest.

5 MR. PLACITELLA: Can we have this
6 marked P-4, please.

7 (Exhibit Ambler 4 is marked for
8 identification.)

9 MR. EDELL: Chris, counsel -- my
10 co-counsel says that the first page, which has been
11 marked as Ambler 4, this exhibit, does not go with
12 the remaining pages of the exhibit.

13 MR. PLACITELLA: That's not my
14 understanding, but we'll -- well, let's make it
15 easy. Rip off the first page and put 4 on the
16 second page.

17 MR. EDELL: That's fine.

18 MS. PARIS: I was just wondering if
19 the microphone could be moved a little bit closer to
20 the witness.

21 MR. PLACITELLA: The witness -- the
22 microphone is two feet from the witness' mouth.

23 MS. PARIS: Thank you.

24 MR. PLACITELLA: You're welcome.

25 BY MR. PLACITELLA:

1 Q. Sir, you have in front of you what I
2 believe is a 1967 brochure for CertainTeed
3 asbestos-cement pipe -- do you see that -- called
4 "Air Duct"?

5 A. I see it, but I don't see where it
6 says '67.

7 Q. All the way on the back page in the
8 little letters in the lower left-hand corner.

9 A. I saw those, sir, but I don't -- I
10 can't read '67. I don't know that.

11 Q. Do you recognize this as a brochure
12 for Air Duct asbestos-cement pipe by CertainTeed,
13 sir?

14 A. Yes. Air vent pipe, yes.

15 Q. And it says here that the pipe was
16 used for heating, true?

17 A. Right.

18 Q. Air conditioning?

19 A. Right.

20 Q. And ventilating?

21 A. Right.

22 Q. True?

23 A. Yes.

24 Q. And it says that -- and it's
25 advertised on the front page of this brochure, sir,

1 that it's for industrial use, true?
 2 A. Yes.
 3 Q. And commercial use?
 4 A. Yes.
 5 Q. In addition to residential and
 6 institutional use, correct?
 7 A. Right.
 8 Q. And the first thing that's listed is
 9 a -- has a picture of a factory, right?
 10 A. That's the first block, yes.
 11 Q. And the second block to the right is
 12 commercial, correct?
 13 A. Correct.
 14 Q. So, does that refresh your memory,
 15 sir, as to whether this product was, in fact,
 16 intended for use both in industrial and commercial
 17 applications, other than institutional applications?
 18 A. Well, I tried to answer your question
 19 as honestly and as factually as I could before, Mr.
 20 Placitella. I mean, yes, it is what it says, and I
 21 can remember, when I came to work for the company,
 22 they were selling it primarily in the residential
 23 and some commercial applications.
 24 Q. But you don't really know what
 25 happened before you came to the company then, in

1 terms of marketing this product, do you?
 2 A. I was not involved with this product
 3 when it came out.
 4 Q. Now, just for the record, this
 5 brochure has pictures of people cutting the pipe,
 6 correct?
 7 A. Yes. With a hand saw, yes.
 8 Q. All right.
 9 And hammering it with a chisel,
 10 correct?
 11 A. Yes.
 12 Q. And the pipe stacked one on top of
 13 another, correct?
 14 A. Yes.
 15 Q. And none of the people in these
 16 pictures are wearing any type of respirator, true?
 17 A. That's correct. There was no need
 18 to.
 19 Q. Nobody in this picture -- any of
 20 these pictures are wearing a respirator, true?
 21 A. That's correct, because these are
 22 all -- like I've testified to earlier, sir, these
 23 are all manual ways of cutting the product.
 24 Q. Sir, that wasn't my question. Let me
 25 ask the question again.

1 Nobody in these pictures is wearing a
 2 respirator, true?
 3 A. That's correct, because there is
 4 manual ways of cutting the product.
 5 Q. Sir, did I ask you the reason?
 6 A. No, but --
 7 Q. Okay.
 8 So let me ask you the question again.
 9 Nobody in these pictures are wearing a respirator,
 10 true?
 11 A. No. That's correct.
 12 Q. Now, in addition to --
 13 MR. EDELL: You don't want to know
 14 why?
 15 MR. PLACITELLA: I'm going to get to
 16 that later on, okay?
 17 MR. EDELL: I'm joking.
 18 MR. PLACITELLA: We'll get there.
 19 You'll have all the time you need.
 20 BY MR. PLACITELLA:
 21 Q. At the time that this product was
 22 marketed and these pictures -- or the depictions of
 23 people cutting the product were incorporated into
 24 your brochure, had CertainTeed conducted any testing
 25 to determine whether the operations shown in this

1 brochure were going to release asbestos fiber as
 2 part of the operation?
 3 A. There was no testing done.
 4 Q. Now, is there something also known as
 5 fluid pipe? Fluid pipe?
 6 A. Fluid pipe? Not that I'm aware of.
 7 Fluid-Tite.
 8 Q. There is not a product known as fluid
 9 pipe?
 10 A. I don't recall a product called fluid
 11 pipe.
 12 MR. EDELL: Fluid-Tite. It's a
 13 trademark.
 14 BY MR. PLACITELLA:
 15 Q. I'm asking, is there a type of
 16 product called fluid pipe?
 17 A. I've not heard of fluid pipe. I
 18 mean, in -- is this a brand name or a trade name?
 19 Q. Generically, did you make a fluid
 20 pipe that contained asbestos?
 21 A. We made a pipe that transmitted
 22 fluid, if that's your question, but we didn't call
 23 it -- I've never called it fluid pipe.
 24 Q. You called it what?
 25 A. If it was asbestos-cement, we'd call

Page 77 1 it asbestos-cement, we'd call it A/C, but our brand 2 name was Fluid-Tite. 3 Q. And is that the only brand name you 4 ever sold a fluid pipe for? 5 A. Fluid-Tite, yes. 6 Q. And what was the intended use of that 7 product? 8 A. As I mentioned earlier, we sold it to 9 the pressure pipe market and the non-pressure pipe 10 market. One was for the transmission of water, the 11 other was the transmission of storm drain or sewage. 12 Q. And when you say -- well, I can stop 13 now and you can change it. Why don't we take a 14 break. 15 THE VIDEOGRAPHER: Off the record at 16 11:04 a.m. 17 (Discussion is held off the record.) 18 MR. EDELL: Before we start, can you 19 mark this, please, as Ambler 5. 20 (Exhibit Ambler 5 is marked for 21 identification.) 22 MR. EDELL: Before, Mr. Placitella, 23 you asked whether I responded in writing to all 24 three of the Deposition Notices that you had marked 25 during the beginning of the deposition, and I have	Page 79 1 we got a Notice during the week, but -- 2 MR. PLACITELLA: And I also see one 3 in Glock. 4 MR. CAMP: -- but the record will 5 speak for itself. We'll work it out. 6 MR. EDELL: I see one for Wecker. 7 MR. PLACITELLA: And Glock. 8 MR. EDELL: Okay. 9 BY MR. PLACITELLA: 10 Q. Let's talk about pressure and 11 non-pressure pipe. What was the pressure pipe 12 intended to be used for? 13 A. Well, generally, three areas: One 14 was the municipal water market; the other was the 15 irrigation market, and then the third was the fluid 16 transmission market. 17 Q. And the non-pressure pipe, what was 18 the intended use of that? 19 A. Sewage -- domestic or any kind of 20 sewage, and then also storm drain. 21 Q. Was the pressure -- the pressure pipe 22 ever installed anywhere other than underground? 23 A. Not -- not that -- we did not sell it 24 for anyplace other than underground, and I can't 25 recall it ever being installed above ground. I
Page 78 1 marked Ambler 5, which is my letter to you of 2 July 28, 2009, which states, in part, "I am writing 3 with respect to the three Notices for corporate 4 depositions that you've recently served on 5 CertainTeed in the various matters that are the 6 subject of this deposition." 7 MR. PLACITELLA: That wasn't the 8 statement I made, but I have no doubt that you and I 9 corresponded about these depositions. 10 MR. EDELL: Okay. 11 MR. PLACITELLA: That's different 12 than what I asked. 13 THE VIDEOGRAPHER: Back on the record 14 at 11:10. 15 MR. CAMP: Chris? 16 MR. PLACITELLA: Yes. 17 MR. CAMP: Would you mind just 18 confirming on the record that the matter is not 19 noticed in Glock and Wecker pursuant to the Notice 20 we got from your office? 21 You included that when you cited 22 cases before. 23 MR. PLACITELLA: Actually, I do see 24 Wecker on a Notice. 25 MR. CAMP: It was, and then I think	Page 80 1 mean, it could have come out of the ground, go over 2 a certain area, but then went back into the ground. 3 Q. And what about the non-pressure pipe? 4 Was that ever installed out of the ground? 5 A. I've never seen it installed out of 6 the ground. We didn't sell it for that reason. 7 Q. Did you sell any asbestos-containing 8 pipe with the intended use -- as one of its intended 9 uses that it would be installed above the ground? 10 A. No, we did not. 11 Q. Other than, of course, the vent pipe? 12 A. Well, the vent pipe -- I don't 13 believe that was installed above the ground. 14 Q. You don't know so, as you sit here? 15 A. Well, I'm looking at this brochure. 16 I mean, as far as I know, on the vent pipe, it was 17 all under a slab or under the ground, and that's 18 what this brochure says also. 19 Q. You don't know that it was installed 20 in commercial buildings between floors? 21 MR. EDELL: Objection to the form of 22 the question. 23 THE WITNESS: Yes. I don't know if 24 it was or it wasn't, but the intent, as I understand 25 it, was to be in the ground.

1 BY MR. PLACITELLA:

2 Q. But you don't know for certain the
3 vent pipe -- if the vent pipe was installed above
4 the ground or not?

5 A. I don't know --

6 MR. EDELL: Objection to the form of
7 the question.

8 BY MR. PLACITELLA:

9 Q. True?

10 MR. EDELL: Are you asking him
11 whether it ever occurred or whether it was
12 intended -- that was an intended use of the product?

13 MR. PLACITELLA: I'm asking him the
14 question I asked him.

15 MR. EDELL: Which --

16 BY MR. PLACITELLA:

17 Q. You don't know for certain, sir,
18 whether the asbestos-containing vent pipe was
19 installed above the ground?

20 MR. EDELL: Same objection to the
21 form of the question.

22 BY MR. PLACITELLA:

23 Q. You can answer it.

24 A. I don't -- I don't -- I don't know if
25 it was ever installed above the ground --

1 Q. Okay.

2 A. -- but, as I understand it, that
3 wasn't its intent.

4 Q. It was your understanding that it
5 wasn't to be sold for factory and commercial
6 applications too, right?

7 A. I told you what I told you earlier,
8 sir.

9 Q. Okay.

10 Now, the asbestos-cement pipe, in
11 terms of its composition, was it basically the same
12 whether it was a pressure or non-pressure pipe?

13 MR. EDELL: Objection to the form of
14 the question.

15 THE WITNESS: What do you mean by
16 its composition?

17 BY MR. PLACITELLA:

18 Q. Did the asbestos content vary
19 depending on whether the product was a pressure or
20 non-pressure pipe?

21 A. Yes, it did.

22 Q. And how did it vary?

23 A. Primarily the percentage of asbestos
24 in the product.

25 Q. And what was the percentage of

1 asbestos in the product for pressure pipe?

2 MR. EDELL: Are we speaking about any
3 particular manufacturer's product?

4 MR. PLACITELLA: CertainTeed is the
5 only one I care about.

6 MR. EDELL: I just wanted to know.

7 MR. PLACITELLA: We'll get to all the
8 stuff they did with Manville tomorrow.

9 MR. EDELL: Okay.

10 BY MR. PLACITELLA:

11 Q. Right now we are talking about
12 CertainTeed. Do you understand that, sir?

13 A. Yes.

14 Q. Okay.

15 So, when I'm asking you questions --
16 unless I say something about Johns-Manville or some
17 other competitor, when I'm asking you questions
18 about asbestos-cement pipe, you'll understand I'm
19 talking to you about CertainTeed asbestos-cement
20 pipe, okay?

21 A. Yes.

22 Q. The asbestos-cement pipe -- the
23 pressure pipe, what was the percentage of asbestos
24 in the pressure pipe?

25 A. It ranged anywhere between, by

1 weight, 15 to 20 percent. It averaged somewhere
2 around 17 percent.

3 Q. And what was the percentage of
4 asbestos in the non-pressure pipe?

5 A. It ranged anywhere between 10 and 15
6 percent and averaged 12, 13 percent.

7 Q. By weight?

8 A. I'm sorry. Yes, by weight.

9 Q. And it was my understanding that the
10 product came generally in 13-foot lengths, whether
11 it was pressure or non-pressure pipe?

12 A. Yes, our standard length was 13 feet.

13 Q. And a 13-foot pipe weighed
14 approximately what?

15 A. I don't know. Depends on the size,
16 depends on the class.

17 Q. Did you sell asbestos-cement pipe
18 with up to 25 pounds of asbestos in a single piece
19 of pipe?

20 A. Twenty-five pounds?

21 Q. Right.

22 A. We'd have to sit here and figure it
23 out, but I'm sure -- one piece of pipe, I'm sure we
24 did.

25 Q. And in every piece of asbestos-cement

1 pipe sold by CertainTeed there were two different
2 kinds of asbestos, true?

3 A. For the most part that's true, yes.

4 Q. They are chrysotile, correct?

5 A. That was one, yes.

6 Q. And crocidolite was the other?

7 A. That's correct, yes.

8 Q. Am I correct that, of the asbestos
9 content for CertainTeed asbestos-cement pipe,
10 approximately 10 to 15 percent was crocidolite
11 asbestos?

12 MR. EDELL: Objection to the form of
13 the question.

14 THE WITNESS: Of the total asbestos
15 content, that's correct.

16 BY MR. PLACITELLA:

17 Q. You sold asbestos-cement pipe from
18 1962 until 1992, true?

19 A. Pretty true. Pretty true. I mean,
20 we -- we stopped manufacturing it in the fourth
21 quarter of 1992, and obviously we had some
22 inventory, so that sloughed over into the first
23 quarter of '93.

24 Q. Okay.

25 What trades is your understanding

1 that installed CertainTeed pressure pipe that
2 contained asbestos?

3 A. Primarily, pressure pipe, utility
4 contractors.

5 Q. And what trades do they employ?

6 A. What do you mean, "what trades do
7 they employ"?

8 Q. Well, you just said before vent --
9 vent pipe was installed by pipefitters.

10 A. Yes. That's my opinion on that, yes.

11 Q. So what trades installed pressure
12 pipe?

13 A. Well, they -- I mean, generally the
14 people actually installing the pipe were called
15 laborers, and then you obviously had -- you had
16 operators for the equipment and then you obviously
17 had supervision on the job.

18 Q. And what about the non-pressure pipe?
19 What trades installed non-pressure pipe?

20 A. That was the -- the utility
21 contractors again, but ones that focused on -- on --
22 on sewer pipe installations.

23 Q. Was the non-pressure pipe ever cut in
24 the field?

25 A. Yes.

1 Q. Was the pressure pipe ever cut in the
2 field?

3 A. Yes.

4 Q. Do you know what trades were in the
5 vicinity of people who were cutting non-pressure
6 pipe?

7 A. Not necessarily. I do not, no.

8 Q. Do you know what trades would work in
9 the vicinity of people who cut pressure pipe?

10 A. Well, I don't know what the
11 definition of vicinity is, but I can't recall of
12 anybody being in the close area or in that area
13 where the pipe was being installed.

14 Q. Okay.

15 When you say "close area," what do
16 you mean by that?

17 A. Well, I don't know of any trades that
18 are -- that are necessarily working in -- where pipe
19 is being installed. It depends on -- on how the
20 overall construction is being programmed.

21 You know, are houses being built down
22 the street? Could be. Would there be carpenters
23 and roofers? Could be. I don't know that.

24 But there wasn't any trades that
25 were -- that were specifically there to work with

1 these contractors to install the product, other than
2 the -- other than the operators, and they were a
3 part of the company.

4 Q. The pressure pipe, was that ever
5 stalled -- installed as part of a building?

6 A. Inside the building?

7 Q. Or in the foundation of the building.

8 A. Well, we -- there was pressure pipe
9 run up to the building, yes.

10 Q. And, when you say "up to the
11 building," what do you mean by that?

12 A. Well, you have -- generally you have
13 pipe in the ground that's transmitting water, and
14 then you have to get it from that main line to the
15 building, and on some commercial applications the --
16 they did run asbestos-cement from the main line to
17 the building. Did it go into the building? It
18 could have gone in for some distance. I don't know
19 exactly how far -- we didn't sell that much -- we
20 didn't sell that much pipe going from the main line
21 to the building unless it was a -- some sort of a
22 commercial application.

23 Q. The non-pressure pipe, was that ever
24 installed in a building?

25 A. Not -- not -- that wasn't the intent

1 and I can't recall it ever being done.

2 Q. Was the non-pressure and the pressure
3 pipe shipped the same way?

4 A. It was all shipped by truck, for the
5 most part. I mean, obviously there are exceptions.
6 We did some piggybacking once in a while or --
7 but -- or even straight rail once in a while, but
8 primarily almost all our shipments were by truck.

9 Q. Are you aware that CertainTeed sold
10 asbestos-cement shingles?

11 A. I knew that there was some
12 asbestos -- I don't know whether it's
13 asbestos-cement or not, but I knew there was some
14 asbestos involved in the roofing group. To what
15 degree, I don't know.

16 Q. You are aware that CertainTeed sold
17 asbestos-cement siding shingles, correct?

18 A. I knew that they sold some asbestos
19 siding, yes.

20 Q. Do you know what the intended use was
21 for that product?

22 A. For what? Siding?

23 Q. Yes.

24 A. No, I don't.

25 Q. Do you know the years it was sold?

1 A. No, I do not.

2 Q. Do you know how it was shipped?

3 A. No, I do not.

4 Q. Do you know that -- who the
5 distributors were for New Jersey and Pennsylvania?

6 A. For siding?

7 Q. Correct.

8 A. No.

9 Q. Do you know where it was
10 manufactured?

11 A. No. I don't even know if CertainTeed
12 manufactured it.

13 Q. Had you ever heard that it was
14 manufactured by National Gypsum?

15 A. I heard that there was another
16 company that manufactured it, but I don't know who
17 it was.

18 Q. Do you know the trade that would have
19 installed it?

20 A. Installed the siding?

21 Q. Correct.

22 A. No. Only home builders.

23 Q. When CertainTeed was deciding whether
24 to put a warning on its asbestos-cement pipe, am I
25 correct that asbestos-cement siding was part of a

1 group of asbestos-cement products that was being
2 considered?

3 MR. EDELL: Objection to the form of
4 the question.

5 THE WITNESS: I have no idea. I
6 mean, I don't know -- asbestos-cement siding?
7 BY MR. PLACITELLA:

8 Q. Yes, sir.

9 A. In the late -- in the '70s?

10 I don't know that. I mean, we were
11 in the PVC siding business in the '70s.

12 Q. I didn't say the '70s, sir.

13 Do you know whether, in trying to
14 determine whether warnings should be placed on
15 CertainTeed products, CertainTeed grouped
16 asbestos-cement siding with asbestos-cement pipe as
17 part of its consideration?

18 A. I have no idea.

19 Q. Do you know -- do you have any
20 knowledge as to when or if warnings ever accompanied
21 the sale of asbestos-cement siding by CertainTeed?

22 A. I have no idea.

23 Q. Do you know whether any testing was
24 done by CertainTeed to determine whether asbestos
25 fiber was released during the installation of

1 asbestos-cement siding?

2 A. No. I don't know.

3 Q. Are you --

4 A. Your question was, specifically, do I
5 know, right?

6 Q. Correct.

7 A. I do not know.

8 Q. Okay.

9 Did CertainTeed sell asbestos-cement
10 sheets?

11 A. I don't know, and I don't believe
12 they did.

13 MR. PLACITELLA: Could you have this
14 marked Ambler 6.

15 (Exhibit Ambler 6 is marked for
16 identification.)

17 MR. PLACITELLA: I'm just waiting for
18 your lawyer, and I think they are trying to figure
19 out whether I typed anything in.

20 MR. EDELL: No. We just want to make
21 sure it's a complete set, that's all. There are
22 several attachments to the --

23 MR. PLACITELLA: I think I got them
24 all.

25 MR. EDELL: -- to the set.

1 Other than the portion that's
2 doctored, it looks like it's accurate.

3 MR. PLACITELLA: I can guarantee you,
4 if I doctored it, you wouldn't see it.

5 BY MR. PLACITELLA:

6 Q. You have in front of you what's been
7 marked P-6 for identification. These are the
8 Answers to Interrogatories. I presume that they are
9 the standard answers in every case, but they are
10 marked in the Bird case.

11 Do you see that? For Middlesex
12 County?

13 A. Yes, I do.

14 Q. Have you been involved in supplying
15 information to assist in answering Interrogatories
16 like this on behalf of CertainTeed?

17 A. I've been asked questions, specific
18 questions, when they are preparing Interrogatories,
19 and I gave my answers, yes.

20 Q. Would you go to Attachment D, please.

21 Do you see that, sir?

22 A. Yes, sir.

23 Q. Attachment D is asbestos-cement
24 product other than asbestos-cement pipe.

25 Do you see that?

1 A. Yes.

2 Q. Okay.

3 Could you go to Page 2 -- the bottom
4 of Page 2?

5 A. Yes.

6 Q. It says, "CertainTeed manufactured an
7 asbestos-cement board product from 1928 to 1930, but
8 the product was not economically successful."

9 Do you see that?

10 A. Yes.

11 Q. So we now know that CertainTeed was
12 manufacturing asbestos-containing cement products as
13 early as 1930. True?

14 A. Per this, yes.

15 Q. It further states, "Thereafter
16 CertainTeed did not manufacture asbestos-cement
17 sheets, but it did offer flat sheets for sale under
18 CertainTeed's name for a period that began in the
19 1950s and ended in approximately 1973."

20 Do you see that?

21 A. Yes.

22 Q. Is this the first time that you found
23 out -- today -- that CertainTeed sold
24 asbestos-cement sheets from the 1950s until 1973?

25 A. As I -- as I testified to, I was

1 under the impression we did not make asbestos-cement
2 sheets.

3 Q. It further says, "To the best of
4 CertainTeed's knowledge, these products were solid
5 slabs that were gray in color and manufactured from
6 cement, silica and asbestos fiber, with the asbestos
7 fiber being bound up in the cement matrix."

8 Do you see that?

9 A. Yes.

10 Q. These products were designed for use
11 on the exterior of commercial buildings, correct?

12 A. Yes.

13 Q. So you are obviously not the person
14 with the most knowledge concerning asbestos-cement
15 sheets or siding products sold by CertainTeed, true?

16 A. That's correct.

17 Q. Okay.

18 A. As far as I know, I'm not.

19 Q. Do you have any knowledge as to how
20 the asbestos content in the asbestos-cement sheets
21 compared to the asbestos-cement pipe?

22 A. No, I do not.

23 Q. The first time that CertainTeed
24 itself -- you know what, let me do a little
25 housekeeping here, so we're...

1 Let me start again. The first time
2 that CertainTeed manufactured asbestos-cement pipe
3 was sometime in 1962, true?

4 A. Yes.

5 Q. And what happened was that
6 CertainTeed purchased the asbestos-cement pipe
7 business from a company called Keasbey & Mattison,
8 true?

9 A. No. They purchased the
10 asbestos-cement pipe assets from Keasbey & Mattison.

11 Q. Is there a difference in your mind?

12 A. Well, I'm not a lawyer, obviously,
13 but the assets are the assets and, to me, an asset
14 doesn't necessarily include any liabilities or
15 anything of that nature. So they didn't necessarily
16 purchase the company; they purchased the assets.

17 Q. All I just asked you was, did they
18 purchase the business.

19 A. And I said they purchased the assets.

20 Q. And the assets included inventory?

21 A. Yes.

22 Q. It included the goodwill of the
23 company?

24 A. The name -- well, goodwill -- what do
25 you mean by "goodwill"?

1 Q. In terms of the customer base,
2 customer lists, salespeople, that kind of thing.
3 MR. EDELL: I'm going to object to --
4 this witness is not produced as a corporate
5 representative to answer legal issues regarding the
6 purchase of the assets of another corporation.

7 MR. PLACITELLA: I understand.

8 BY MR. PLACITELLA:

9 Q. Do you understand that they purchased
10 the goodwill of the company?

11 MR. EDELL: If you -- obviously, if
12 you think that you know what he's talking about and
13 you feel comfortable answering the question, then
14 answer the question. If not, then tell him that you
15 that's your understanding.

16 THE WITNESS: What -- how do you
17 define "goodwill"?

18 BY MR. PLACITELLA:

19 Q. I'll do it a different way.

20 CertainTeed purchased the knowledge
21 of the manufacturing process, correct?

22 A. Yes.

23 Q. And it purchased the factories that
24 made asbestos-cement pipe, correct?

25 A. Yes.

1 Q. And it purchased the customer lists,
2 correct?

3 A. Yes. Yes.

4 Q. And it -- and the accounting records
5 would have been transferred -- as it related to
6 asbestos-cement pipe sales, were transferred from
7 Keasbey & Mattison to CertainTeed, true?

8 A. I don't know what accounting records
9 were transferred.

10 Q. The salespeople with all of their
11 contacts generally were transferred from Keasbey &
12 Mattison to CertainTeed, true?

13 MR. EDELL: Objection to the form of
14 the question. What do you mean by "generally"?

15 THE WITNESS: Yes.

16 BY MR. PLACITELLA:

17 Q. Well, I don't know -- you can't say
18 each and every salesperson went over, true?

19 A. That's true.

20 Q. But, generally speaking, the sales
21 force for asbestos-cement pipe for Keasbey &
22 Mattison went over to CertainTeed as part of the
23 purchase, true?

24 A. Yes.

25 Q. Okay.

1 And those sales -- that sales force
2 had relationships and contacts with customers, true?

3 A. Yes.

4 Q. And those relationships and those
5 contacts would have gone from Keasbey & Mattison to
6 CertainTeed, true?

7 A. The contacts obviously did. I can't
8 say that all the relationships did.

9 Q. And the -- Keasbey & Mattison had
10 industrial hygiene-related people that worked for
11 them in the asbestos-cement pipe business, true?

12 A. Yes.

13 Q. And those people came over to
14 CertainTeed, as well, true?

15 A. Yes.

16 Q. Keasbey & Mattison also had medical
17 doctors that worked for them that were -- came over
18 to CertainTeed as part of the purchase, true?

19 A. I don't believe that's a fact. I
20 don't -- Keasbey & Mattison, as far as I know,
21 didn't have any medical doctors and, when I came to
22 work for CertainTeed Corporation, the -- the medical
23 doctors were people who we were using as outside
24 doctors. They weren't on our payroll.

25 Q. The knowledge that Keasbey & Mattison

1 had concerning how to safely manufacture its product
2 was transferred to CertainTeed, true?

3 A. The knowledge of how to manufacture
4 the product was transferred, yes.

5 Q. Keasbey & Mattison's knowledge how to
6 safely sell the product was transferred to
7 CertainTeed, true?

8 MR. EDELL: Objection to the form of
9 the question.

10 THE WITNESS: Yes.

11 BY MR. PLACITELLA:

12 Q. You understand that there was a
13 relationship between Keasbey & Mattison and a
14 company known as Turner Brothers, true?

15 A. Turner Brothers? I believe it was
16 Turner-Newall, but --

17 Q. Turner and Newall?

18 A. Yes.

19 Q. Okay.

20 And you understand that Turner and
21 Newall was part owner of Keasbey & Mattison before
22 the purchase of the assets, true?

23 A. Yes.

24 Q. You also understand that Turner and
25 Newall, as part of the transfer, became part owner

Page 101 1 of the entity that CertainTeed took over, true? 2 A. They became -- would you -- would 3 you -- 4 Q. They became part owner of the 5 asbestos-cement pipe business that CertainTeed owned 6 and operated? 7 A. I don't believe that the CertainTeed 8 pipe business was split out as an entity. It became 9 part of the corporation. 10 Q. Did -- were there people from Turner 11 and Newall that were on the Board of Directors of 12 Keasbey & Mattison? 13 A. Of Keasbey & Mattison? 14 Q. Correct. 15 A. I don't know the answer to that 16 question. 17 Q. Do you know whether there were people 18 from Turner and Newall that were on the Board of 19 Directors of CertainTeed? 20 A. For a period of time there were, yes. 21 Q. All of the research that was done 22 concerning asbestos-cement pipe by Keasbey & 23 Mattison was transferred to CertainTeed, true? 24 A. The research was transferred, yes. I 25 mean, all of it? I don't know the answer to that,	Page 103 1 BY MR. PLACITELLA: 2 Q. Whatever those people who were on the 3 Board of Directors knew from Turner and Newall they 4 would have brought with them when they became Board 5 of Directors of CertainTeed, true? 6 A. They would have brought -- whatever 7 knowledge they had would have come over. 8 Q. Now, do you recognize the name Ralph 9 Bateman? 10 A. Yes. 11 Q. And was he a person who was on the 12 Turner and Newall Board of Directors and also served 13 on the Board of Directors of CertainTeed? 14 A. I don't know about Turner and Newall, 15 but I do know he was on CertainTeed's board -- 16 CertainTeed's Product Corporation board. 17 Q. Do you know a man by the name of 18 Shepherd? 19 A. I know of -- I knew of -- I recognize 20 the name, yes. 21 Q. And he was also a Turner and Newall 22 executive, true? 23 A. Yes. 24 Q. And that Turner and Newall executive 25 also served on the board of CertainTeed, true?
Page 102 1 but obviously how to make the product and what went 2 into the product was, yes. 3 Q. Now, you indicated that there were 4 people who were on the Board of Directors of 5 CertainTeed for a period of time that were from 6 Turner and Newall. 7 Do you recall that? 8 A. Yes. 9 Q. For what period of time? 10 A. I don't know how long that was, sir. 11 Q. Do you know who the people were? 12 A. No, I can't give you their names. 13 Q. Do you know -- do you know that those 14 people were also on the Board of Directors of Turner 15 and Newall? 16 A. I heard that. 17 Q. So, whatever information was known to 18 Turner and Newall would have been transferred or at 19 least known to CertainTeed, true? 20 MR. EDELL: Objection to the form of 21 the question. 22 THE WITNESS: No. I mean -- I mean, 23 the people were -- the people were one here and one 24 here, so I don't know what they brought with them, 25 but the people were.	Page 104 1 A. Yes. 2 Q. Can you tell me, sir, based upon your 3 research, what information Keasbey & Mattison 4 transferred concerning the dangers of asbestos to 5 CertainTeed? 6 A. I don't know what was transferred 7 specifically from Keasbey & Mattison. 8 Q. Would you agree with me, sir, that 9 CertainTeed went through great efforts to ensure the 10 people that were working in its plants were being 11 protected from exposure to asbestos? 12 A. Yes. 13 Q. And, when CertainTeed took over the 14 operation from Keasbey & Mattison, those efforts 15 were evident already, true? 16 MR. EDELL: Objection to the form of 17 the question. 18 THE WITNESS: Yes. 19 BY MR. PLACITELLA: 20 Q. That Keasbey & Mattison, prior to 21 CertainTeed, had also taken great care to protect 22 the workers in its plants from exposure to asbestos, 23 true? 24 A. Yes. As best that I know. 25 Q. All right.

1 And am I correct, sir, that
2 CertainTeed, over the years, worked hard to improve
3 the safety measures that were in place for
4 protection against exposure to asbestos at the time
5 it purchased the Keasbey & Mattison assets?

6 A. Yes.

7 Q. When CertainTeed took over the
8 manufacture of the asbestos-cement pipe in 1962,
9 there were already engineering controls in the
10 plants to prevent exposure to asbestos to the
11 workers, true?

12 A. Yes.

13 Q. Okay.

14 And those engineering controls
15 included ventilation?

16 A. Yes.

17 Q. Okay.

18 And did those engineering controls
19 include hoods over where the asbestos-cement pipe
20 was being cut?

21 A. Yes.

22 Q. Okay.

23 Were there areas in the plants in
24 1962 where -- that were dedicated to the cutting of
25 asbestos-cement pipe?

1 A. Yes.

2 Q. Okay.

3 And the cutting occurred with a --
4 power equipment or non-power equipment?

5 A. Power equipment.

6 Q. Was there ever cutting that went on
7 inside the CertainTeed plant that did not involve
8 power equipment?

9 A. There could have been some incidental
10 cutting if somebody had to cut a small piece or
11 something.

12 Q. Now, the people who were in charge of
13 cutting the asbestos-cement pipe in the CertainTeed
14 plant in 1962 -- how many people were there, do you
15 know?

16 A. In charge of the cutting?

17 Q. No. People that did the cutting, the
18 actual cutting.

19 A. I don't have any recollection.

20 Q. Was it five, ten, 20? Do you have
21 any idea?

22 A. I don't -- I mean, it would depend on
23 how many lines were operating at the time. I don't
24 know.

25 Q. And the ventilation that was in

1 place, was it designed to remove all of the asbestos
2 fiber from the breathing zone of the person who was
3 cutting the pipe?

4 A. It was -- it was designed to remove
5 the asbestos from the areas where asbestos would be
6 released, yes.

7 Q. Was it designed to protect not only
8 the person who was cutting the pipe, but other
9 people who would be in the vicinity of when the pipe
10 was cut?

11 A. It was designed to -- to extract the
12 released fiber from that operation.

13 Q. There is no doubt, is there, that the
14 cutting of the CertainTeed asbestos-cement pipe
15 released asbestos fiber into the atmosphere?

16 A. In the plants?

17 Q. Yes.

18 A. That's a fact. There is no doubt.

19 Q. The people who were in charge of
20 cutting the asbestos-cement pipe in the plant, were
21 they provided any respiratory protection?

22 A. If needed, yes.

23 Q. So the people who were in charge of
24 cutting the asbestos-cement pipe in the plant, they
25 were provided both ventilation and respiratory

1 protection, true?

2 A. Well, the respiratory -- they could
3 use a respirator if they wanted to, on their own,
4 and the requirement for a respirator was only if
5 there was some foul-up where the -- the exhaust
6 system wasn't doing it's job. Until it was
7 corrected they had to wear a respirator there.

8 Q. So, if you could see the asbestos in
9 the air, you should wear a respirator?

10 A. Well, I mean --

11 MR. EDELL: Objection to the form of
12 the question.

13 THE WITNESS: -- I don't know how to
14 answer that question. I mean, obviously if -- if
15 the operation was not within the requirements at
16 that time period, you have to wear a respirator.

17 BY MR. PLACITELLA:

18 Q. And when you say a requirement of
19 that time period, what do you mean by that?

20 A. Well, I mean, prior to 1971 you had
21 the ACGIH requirements, and then after 1971 you had
22 OSHA.

23 Q. Well, sir, within a short period of
24 time after you took over the manufacturing plant
25 you, CertainTeed, were aware that the ACGIH

Page 109 1 requirements would not protect workers, true? 2 A. No. 3 Q. That's not true? 4 A. No. 5 Q. You know you are under oath -- 6 A. I understand. 7 Q. -- when you make that statement? 8 A. Yes. 9 Q. You were never provided any notice 10 before 1971 that the ACGIH requirements were not 11 protective of workers? 12 A. I didn't say that. I said, obviously 13 there was information and write-ups and material 14 that was so stating that, but the ACGIH requirements 15 were what they were, and it was our responsibility 16 to manufacture a product within the applicable 17 standards. 18 Q. But you knew, sir, did you not -- in 19 fact, your own people had drawn conclusions that the 20 ACGIH requirements may not be protective of workers' 21 health, as its relates to asbestos? 22 A. There were some people that had that 23 opinion. 24 Q. Within your own company? True, sir? 25 A. I'd have to see that, but I believe	Page 111 1 the standards were. 2 Q. And, in fact, there were standards 3 that you sought to achieve within the plant that 4 were below the ACGIH standards, true? 5 MR. EDELL: Objection to the form of 6 the question. What do you mean by "below"? 7 BY MR. PLACITELLA: 8 Q. You can answer it. 9 A. Well, I believe we had an internal 10 standard of trying to do two and a half million 11 particles per cubic foot of air, when the standard 12 was five. 13 Q. Yes, sir, the standard was five, but 14 what you used was 2.5, true? 15 A. We tried to -- well, we certainly 16 tried to arrive at that figure in the plants, yes. 17 Q. And you even tried to keep it under 18 2.5, if you could, true? 19 A. Well, if you could have -- if you 20 could have it -- we tried to do the best we could to 21 be well within the standards and we had internal 22 standards. 23 Q. And at 2.5, sir, am I correct that 24 your hygienist advised you that you can't even see 25 asbestos in the air at 2.5?
Page 110 1 there were some people that had that, but the 2 company's position was that, if we manufactured a 3 product that was within the standards, that's what 4 our job was to do, and we -- but we also, sir, 5 had -- had internal standards less than what the 6 standards were. 7 Q. That's my point. 8 Your internal standards for 9 protecting your own workers, sir, were less than the 10 ACGIH standards, were they not? 11 MR. EDELL: Objection to the form of 12 the question. What do you mean by "less"? 13 BY MR. PLACITELLA: 14 Q. You can answer it, sir. 15 A. Well, we -- we were trying to always 16 do better than what the standards were, whether it 17 be the ACGIH or whether it be the OSHA standards. 18 We were always trying to do better than the 19 standards. 20 Q. Yes, but, when it came to protecting 21 your own employees, you tried to do better than what 22 the ACGIH standards were, true? 23 A. When we were trying -- when we were 24 trying to have our operations in the plant -- we 25 were trying -- always trying to do better than what	Page 112 1 A. The hygienist advised us? I mean, 2 maybe there is something in writing. I don't 3 remember that or recall that. 4 What year was that? 5 Q. I'm asking you the questions, sir. 6 A. Well, I don't know -- I don't 7 remember anything -- seeing anything like that. 8 Q. Are you aware, sir, that you cannot 9 see -- at 2.5 you cannot see asbestos dust in the 10 air? 11 A. I'm not aware of it or not -- I don't 12 know whether you can or you can't. 13 Q. Are you aware, sir, whether you can 14 see asbestos dust in the air at five million 15 particles per cubic foot? 16 A. I don't know whether you can or you 17 can't. 18 Q. So, was it a standard within the 19 CertainTeed plants that, if you could see asbestos 20 in the air, you should protect yourself? 21 A. Was it a standard? 22 Q. Yes. 23 A. I mean, our policy was, sir, that we 24 tried to protect everybody in the plant and there 25 were applicable standards at the time. We tried --

1 we had internal standards and we were trying to meet
2 those internal standards to the best of our ability.

3 Q. Yes, sir, and was it a warning sign,
4 "If you see asbestos, wear a respirator"? Was that
5 part of your policy?

6 A. A warning sign?

7 I don't remember that. I mean --
8 but, if there was an area, it was posted -- there
9 was an area which was above the applicable standard,
10 then you were to wear a respirator until it was
11 corrected.

12 Q. Was it understood, sir, that, if a
13 worker could see asbestos in the air, that he should
14 protect himself or herself by wearing a respirator?

15 A. Understood by whom?

16 Q. By CertainTeed. By the employees at
17 CertainTeed.

18 A. It was understood, sir, that, if the
19 area was posted as being not within the applicable
20 standard, they were to wear a respirator.

21 Q. And what areas were posted as not
22 being within the applicable standard?

23 A. Well, it depends if there was a
24 foul-up at the -- at that particular area. There
25 was times when there were areas that were generating

1 fibers with counts that were above the applicable
2 standard, so respirators were required in that area
3 until such time as it could be corrected.

4 Q. Well, sir, you have maintenance
5 people in your plants?

6 A. Yes, we do.

7 Q. Beginning in '62?

8 A. Yes.

9 Q. And did you make respirators
10 available to maintenance people?

11 A. When they had to go in and clean out
12 various areas where we knew the -- that the release
13 would be such that would it would be above the
14 applicable standards, yes.

15 Q. What about the maintenance people who
16 would have to sweep up the dust that was left over
17 from the manufacturing process? Were they given
18 respirators?

19 A. I mean, I can't answer your question
20 any more than I have, sir. If there was an area
21 where you would generate fiber greater than the
22 applicable standard, you had to wear a respirator.

23 Q. So, when a maintenance person went in
24 with a broom, he would do one sweep and then they
25 would do a dust count and then they'd decide whether

1 he had to wear a respirator or not?

2 A. No, that's not -- it didn't happen
3 that way.

4 MR. EDELL: I think that was a poor
5 attempt at humor.

6 BY MR. PLACITELLA:

7 Q. So my question is, if somebody was
8 charged with sweeping up the asbestos fiber that had
9 fallen to the ground, were they provided
10 respirators?

11 A. Well, we tried to do -- eventually we
12 evolved away from doing sweeping -- dry sweeping.
13 We either used vacuums or we used wet removal of
14 anything on the floors.

15 But, if, in fact -- I mean, counts
16 were done through the plant periodically and, if a
17 certain operation would necessitate the use of a
18 respirator, the respirators were worn or it was --
19 and it was corrected as soon as possible.

20 Q. Did you provide maintenance people
21 who were sweeping up the plant with respirators?

22 A. Maintenance people had access to the
23 respirators, and whether they needed one when they
24 were sweeping up the plant or not, I don't know.
25 Depending on when it was done.

1 Q. Okay.

2 Was there ever a time when you
3 provided maintenance people with respirators?

4 A. Yes.

5 Q. Maintenance people who just did
6 sweeping?

7 A. No.

8 Q. Did you ever supply respirators to
9 maintenance people who were charged with sweeping?

10 A. Well, I don't know -- what
11 maintenance people were charged with sweeping?
12 Generally, the person who was at that station did
13 his own clean-up.

14 Q. And, when he did the clean-up, was --
15 did he wear a respirator?

16 A. There were counts done and, if the
17 clean-up required a respirator, he would wear one.

18 Q. Okay.

19 The people in packaging -- in
20 shipping --

21 A. Packaging.

22 Q. -- in shipping. Did you have a
23 shipping department?

24 A. Yes.

25 Q. Were those -- was there ventilation

Page 117 1 equipment installed in the shipping department? 2 A. Well, shipping is generally out in 3 the -- in the yard. I mean, that's where the 4 shipping takes place, in the yard. 5 Q. Well, was there a place from where 6 the pipe left the building and went onto a truck? 7 A. Yes, certainly. 8 Q. Okay. 9 A. That was from finishing going out to 10 the yard. There was res -- excuse me -- there was 11 ventilation in the finishing department. 12 Q. All right. 13 So, what went on in the finishing 14 department? 15 A. The pipe -- the ends of the pipe were 16 machined so you could put a coupling on. The pipe 17 was also tested. The -- and if the pipe was damaged 18 in any way, then it would be cut into shorter 19 lengths. So there were cut-off saws. Coupling 20 stock was cut, because the coupling stock was made 21 in 13-foot lengths, so they had to cut into the 22 lengths for the couplings, and it was also machined. 23 After it was -- came out of the 24 finishing right there, it was put onto a -- it was 25 put onto a palleting station and it was packaged at	Page 119 1 a respirator who was transporting asbestos-cement 2 pipe? 3 A. I never saw -- I've never seen -- the 4 many times I was in the plant, I've never seen a 5 forklift driver driving around with a respirator. 6 Q. Was there a place within the plant 7 where the piping was stacked in preparation for 8 being shipped out? 9 A. Stacked in preparation to be shipped 10 out? Well, it went into -- it went into packaging 11 right after it came down the finishing line. So it 12 was packaged and then -- sure. I mean, did the 13 forklift take it right out? No. It was sitting 14 there for a while, and then the forklift would come 15 in and take it out. 16 Q. The packaging department, where was 17 that located? 18 A. In the finishing department. 19 Q. And where the product was packaged, 20 was there ventilation in place there? 21 A. It was -- right at that specific 22 point I don't know. I mean, all the ventilation in 23 finishing was where the saws were actually doing the 24 cutting. 25 I mean, right at the packaging -- I
Page 118 1 that point, and then it was lifted up by a forklift 2 and it was taken out to the yard. 3 Q. The people who were working the 4 forklift, were they provided respirators? 5 A. Only if needed. 6 Q. Only if needed. What does that mean? 7 A. If there was anyplace that there was 8 a release of fiber that was greater than the 9 applicable standard, then they were required to wear 10 a respirator. 11 Q. So, if there was a release of fiber 12 above 2.5, the worker who was working the forklift 13 had to wear a respirator? 14 A. Well, 2.5 was never the applicable 15 standard; the applicable standard was five. And I 16 can't remember -- I mean, it's just not conceivable 17 that anybody wearing -- using a forklift would have 18 anything greater than -- in that neighborhood of a 19 5.0 million particles per cubic foot of air. 20 Q. So, then, why would you give them a 21 respirator? 22 A. I wasn't -- you asked me the 23 question, sir, and I'm saying -- you asked me 24 specifics, what if, what if, what if. 25 Q. Did you ever give a forklift operator	Page 120 1 don't believe there was a hood right there at 2 packaging because it wasn't required. 3 Q. Were people involved in the packaging 4 ever provided respirators? 5 A. Anybody in the plant, sir, was 6 provided a respirator if it was needed. 7 Q. So, if I was working in a plant in 8 1962, and I wanted to protect myself from exposure 9 to asbestos, there was a respirator available to me? 10 A. Yes. 11 Q. In addition to providing ventilation 12 and respirators to employees at the plant, you also 13 provided them medical examinations, did you not? 14 A. Yes. 15 Q. And that was beginning in 1962, true? 16 A. I don't know -- I believe it was, but 17 I'm not a hundred percent sure of that. 18 Q. And the purpose of the medical 19 examination was what? 20 MR. EDELL: Objection to the form of 21 the question. Are we talking about pre-employment 22 or post-employment? 23 MR. PLACITELLA: When somebody was in 24 the plant in 1962. 25 Did you give them pre-employment --

1 MR. EDELL: Same objection.

2 BY MR. PLACITELLA:

3 Q. Did you give them pre-employment
4 medical examinations?

5 A. I had one when I came to work for the
6 company, yes.

7 Q. In 1962 was CertainTeed providing
8 pre-employment medical examinations?

9 A. I don't know the answer to that.

10 Q. Were they providing post-employment
11 medical examinations?

12 A. Yes. I can't tell you what year it
13 started, but it was prior to me coming with the
14 company.

15 Q. And what was the purpose of the
16 post-employment medical examinations?

17 A. To make certain that there wasn't
18 any -- any disease developing in the employee.

19 Q. And, when you say "any disease
20 developing," what do you mean by that?

21 A. Any disease that would be
22 attributable to an operation in the plant.

23 Q. And what -- were X-rays given?

24 A. Yes, there were X-rays, yes.

25 Q. And who was the person who, in the

1 Ambler plant, was in charge of the medical
2 examinations and the X-rays?

3 A. There was a -- as I mentioned, there
4 was a doctor who was in a private practice, but
5 he -- he also was the attending doctor for the
6 plant.

7 Q. And there came a time, did there not,
8 when the employees in a CertainTeed plant were
9 warned specifically about the dangers of asbestos?
10 True?

11 A. They were educated about what
12 asbestos could do or could not do and how to handle
13 it safely.

14 Q. And that was the day that CertainTeed
15 took over the plant, true?

16 A. Yes.

17 Q. And whatever was known to CertainTeed
18 about the dangers of asbestos was made known to the
19 employees; nothing was held back, true?

20 A. We didn't hold anything back on
21 anybody.

22 Q. So, as soon as you knew it you made
23 sure the employees knew it, because it was important
24 to protect them, true?

25 A. Knew what?

1 Q. About -- anything about the dangers
2 of asbestos that was not known before.

3 As soon as you knew it you made sure
4 the employees knew it; you didn't hold anything
5 back?

6 A. Well, I mean, I can't tell you every
7 piece of paper that came into the corporation was
8 circulated to the plant. I only can assure you that
9 there were safety meetings at the plant as to how to
10 operate in a closed environment with high-powered
11 saws and in an operation where asbestos was being
12 released --

13 Q. At some --

14 A. -- major being released.

15 Q. At some point in time it became known
16 to CertainTeed that asbestos could cause cancer,
17 true?

18 A. Yes.

19 Q. And, when that information was known
20 to -- made known to CertainTeed, that information
21 was transferred and provided to its employees, true?

22 A. The -- the information they had on
23 asbestosis and the information they had on lung
24 cancer or meso was transmitted to the employees
25 through safety meetings, but they -- the employees

1 knew why we had ventilation systems in the plant.

2 Q. And who ran these safety meetings?

3 A. It was generally conducted by the
4 plant manager.

5 Q. And who was that at Ambler?

6 A. What time period?

7 Q. During the 1960s.

8 A. I can't answer prior to when I came,
9 but, when I came to work for CertainTeed, I think it
10 was -- Dan Maloney was the plant manager at Ambler.

11 Q. Now, when you said they had these
12 safety meetings, how did they occur? Did everybody
13 get called into a room at the same time? Were they
14 done by department? How was it done?

15 A. It was done where -- it was up to the
16 plant manager to handle the safely meetings as he
17 saw fit and not necessarily inhibit the operations
18 of the plant.

19 So, I mean, was the plant shut down?
20 No.

21 Q. Was the information transferred by
22 word of mouth or was it also in writing?

23 A. It was primarily by -- I mean, if
24 there was any specific information that was written
25 up by somebody in the company, that was obviously

Page 125 1 handed out or posted, but I imagine most of the 2 safety meetings were by mouth. 3 Q. When the disease known as 4 mesothelioma caused by asbestos was made known to 5 CertainTeed, that's information they provided to 6 their employees, true? 7 MR. EDELL: Can I hear the question 8 read back, please? 9 (Pertinent portion of the record is 10 read.) 11 MR. EDELL: I'm going to object to 12 the form of the question. When you say "caused by," 13 you mean definitively proven? Do you mean that it 14 became a possibility? 15 MR. PLACITELLA: I mean caused by. 16 BY MR. PLACITELLA: 17 Q. Do you know what that means? Caused? 18 Do you know what caused means, Mr. Ambler? 19 A. Yes. 20 Q. All right. 21 When it was first known that asbestos 22 could cause mesothelioma -- 23 MR. EDELL: Now you say could cause. 24 It's different than caused. 25 MR. PLACITELLA: I'm asking a	Page 127 1 or working with it. Excuse me. Working with it. 2 Q. And despite, sir, all of the measures 3 that were taken by CertainTeed to protect its 4 employees, they still got sick inside the plants, 5 did they not? 6 A. I don't know whether it was because 7 of CertainTeed or whether it was because of past 8 employment. I mean, somebody other than me has to 9 determine that. 10 Q. Well, when you say "past employment," 11 what do you mean by that? 12 A. Well, they -- most of the employees 13 had -- had previous employments, as far as the 14 plants, with Keasbey & Mattison. 15 Q. Yes, but you told me that those same 16 protections were in place when you took over. 17 A. Well, you know, you said that and I 18 agreed with it, but we enhanced the protection as 19 soon as we took the plants over. 20 I can't tell you what happened in 21 Keasbey & Mattison as far as safety meetings or 22 anything else. I only can tell you what we did, and 23 we enhanced our systems when we took the plants 24 over. 25 Q. But there were protections in place
Page 126 1 different question. Why don't you switch the tape. 2 THE VIDEOGRAPHER: Off the record at 3 12:10. 4 (Discussion is held off the record.) 5 THE VIDEOGRAPHER: Back on the record 6 at 12:11. 7 BY MR. PLACITELLA: 8 Q. When CertainTeed was advised that 9 asbestos was associated with mesothelioma, they 10 didn't hold that information back from their 11 employees; they told them, true? 12 MR. EDELL: Objection to the form of 13 the question. I don't know what you mean by 14 "associated with." 15 BY MR. PLACITELLA: 16 Q. You can answer it. 17 A. When CertainTeed was -- when 18 CertainTeed became aware that there was a possible 19 connection with asbestos and mesothelioma or any 20 disease, they shared that information. 21 Q. And they had safety meetings about 22 that? 23 A. They -- well, they had safety 24 meetings about what asbestos could do and how it 25 could be harmful and safe ways of using asbestos --	Page 128 1 at the plant when you took over, true? 2 A. There was ventilation systems in 3 place. 4 Q. And respirators were available when 5 you took over, true? 6 A. They were available, yes. 7 Q. And, despite those protections, sir, 8 the -- CertainTeed employees got sick, true? 9 MR. EDELL: Objection to the form of 10 the question. When you say "those protections" -- 11 BY MR. PLACITELLA: 12 Q. The protections that were in the 13 plant, including ventilation and respiratory 14 equipment. Despite those protections, the people 15 who worked in the plant still got sick, true? 16 MR. EDELL: When it was being run by 17 Keasbey & Mattison? You are talking about those 18 protections, right? 19 MR. PLACITELLA: He understands the 20 question. 21 MR. EDELL: I want to make sure 22 everybody understands the question. 23 MR. PLACITELLA: It doesn't matter if 24 everybody understands it. It only matters whether 25 he understood it.

Page 129 1 Did you understand my question, sir? 2 Did you understand my question, sir? 3 MR. EDELL: It's important that there 4 is no ambiguity. 5 MR. PLACITELLA: No. It's important 6 that you don't coach the witness. 7 MR. EDELL: I'm not coaching the 8 witness. 9 BY MR. PLACITELLA: 10 Q. All right. Let me ask the question 11 this way. 12 Despite the protections that were in 13 place when you took over, and the protections that 14 you improved, people in the plant still got sick, 15 true? 16 A. There -- we had -- obviously we had 17 Workman's Comp claims for asbestos disease, but I 18 don't know where it generated from -- where the 19 disease originated from. 20 I can only tell you that, when we 21 took the plants over in '62, based on the 22 information I learned when I came to learn -- came 23 to work for the company, we enhanced the systems. 24 I don't know how good the systems 25 were at Keasbey & Mattison. I just don't know. I	Page 131 1 Q. He was in charge -- he was involved 2 in health and safety, was he not, sir? 3 A. What do you mean? I don't understand 4 that question. 5 Q. He was involved in helping protect 6 the employees from exposure to asbestos, true? 7 A. He was in charge of -- in 8 engineering -- he was a part of the engineering -- 9 plant engineering, to work on the dust collection 10 systems and also work in processing -- processing 11 and the manufacturing of the product. 12 Q. So he would clearly understand what 13 was safe and not safe, in terms of the applicable 14 limits at the time, true? 15 A. Not necessarily. I mean, it was -- 16 it was our understanding, if you could manufacture a 17 product within the applicable standards, you were 18 manufacturing a safe product. 19 Q. Well, was he exposed within or 20 without the applicable standards? 21 A. I don't know where John got his 22 exposure from. I just don't know where John got his 23 exposure from. He worked for Keasbey a long time. 24 Q. He -- one of the things he was 25 involved with was making sure employees would not be
Page 130 1 don't know what safety meetings they went through, I 2 don't know what work practices they had in place. 3 Q. Sir, even the person who was in 4 charge of protecting the employees at CertainTeed 5 got mesothelioma, isn't that true? 6 A. No, that's not true. 7 Q. Who was Mr. McGinley, sir? 8 A. John McGinley? He wasn't in charge 9 of protecting the employees. 10 Q. What was his job? 11 A. He was in charge of -- depending -- 12 when? Let me ask you that. 13 Q. Well, during the 1960s what was his 14 job, sir? 15 A. During the '60s he was an engineer. 16 Q. He was not involved in doing dust 17 counts, sir? 18 A. Dust counts? 19 Q. Yes. 20 A. No, I don't think John -- 21 Q. What was his job as an engineer? 22 A. He was obviously working on process 23 equipment. He was also -- he did work on dust -- 24 dust -- enhancing the dust collection systems. He 25 worked out at --	Page 132 1 exposed to asbestos, true? 2 A. He was in charge of -- of -- for that 3 time period he was in engineering, and he was 4 working on the dust collection systems and he was 5 also -- to enhance them, and he was also working on 6 process engineering. 7 Q. One of his objectives, sir, was to 8 prevent exposure to employees from asbestos, true? 9 A. One of his objectives was to put dust 10 collection systems or have plant operations where 11 you'd be within the applicable standards. 12 Q. So one of his objectives, sir, was to 13 protect employees from exposure to asbestos, true? 14 A. I can't answer your question any 15 differently than I have done. 16 To make certain that you are running 17 an operation that was within the applicable 18 standards. 19 Q. So the employees would be healthy, 20 true? 21 A. If the -- that's right. It was our 22 understanding, if you are within the applicable 23 standards, your employees are healthy, yes. 24 Q. And he got mesothelioma, did he not? 25 A. Yes, he did.

Page 133 1 Q. Now, there came a time, did there 2 not, where it was suggested within the plant that 3 employees be specifically warned in writing on the 4 wall on a sign about cancer and asbestos, true? 5 A. There was a -- well, OSHA, in '72, 6 proposed a sign with "asbestos" on it, and "cancer," 7 yes. 8 Q. And that was discussed at 9 CertainTeed, true? 10 A. I don't know where all the 11 discussions took place at CertainTeed on that, I 12 wasn't a part of them, but obviously it was 13 discussed, because CertainTeed commented on it. 14 Q. And CertainTeed rejected that, true? 15 A. Well, they wanted the -- the 16 gentleman that made the presentation to OSHA wanted 17 a different sign. He didn't object to the sign. He 18 objected to the wording. 19 Q. He objected to the word "cancer," 20 true? 21 A. That's correct, yes, but he did -- 22 Q. Because he thought it would be -- 23 MR. EDELL: Let him finish. 24 THE WITNESS: He did -- and we can 25 get his testimony out, because obviously you have	Page 135 1 A. Sir, I don't know. I'm not a doctor. 2 Q. Is diabetes a harmful disease? 3 A. I'm not a doctor, sir. 4 Q. Is cancer a harmful disease? 5 A. Yes, cancer is a harmful disease. 6 Q. So, how would somebody know, when you 7 used the words "harmful disease," that it meant 8 cancer? 9 A. I don't know how to answer that 10 question. I can only tell you what was being -- it 11 was being discussed at the safety meetings what 12 the -- what the risks of asbestos were in the plant. 13 Everybody in the plant knew what was happening. 14 Q. Everybody in the plant knew about 15 cancer? 16 A. They knew about the harmful effects 17 of asbestos if you didn't handle it properly. 18 Q. Including cancer? 19 A. Whatever -- whatever -- that was 20 discussed. Mesothelioma or lung cancer, or if you 21 were a heavy smoker or a smoker. 22 Q. Everybody in the plant knew about 23 mesothelioma, true? 24 A. Well, I mean, it was discussed. It 25 was discussed.
Page 134 1 it -- he did say that harmful disease -- he did 2 suggest "harmful disease" on the sign. 3 BY MR. PLACITELLA: 4 Q. CertainTeed refused to post a warning 5 about cancer in the workplace, true? 6 A. I don't know what you mean by 7 refused. I mean, that was his suggestion. I can't 8 really tell you what came out of OSHA on that, but, 9 whatever came out of OSHA, that's what CertainTeed 10 did. 11 Q. Did CertainTeed ever post in the 12 workplace a word about cancer and asbestos? 13 A. I don't -- I can't verbatim sit here 14 and tell you what was on the sign, but, whatever 15 OSHA required, that's what CertainTeed put on their 16 signs. 17 Q. CertainTeed did not want to use the 18 word "cancer" because it was, quote, too scary, 19 close quote? Do you remember that? 20 A. That's what the gentleman said, yes, 21 but he did say "harmful disease." 22 Q. Is there a difference to you, sir, 23 between "harmful disease" and "cancer"? 24 A. Well, cancer is a harmful disease. 25 Q. Is gout a harmful disease, sir?	Page 136 1 Q. It was discussed amongst everybody in 2 the plant -- mesothelioma -- true? 3 MR. EDELL: Can we get a time frame 4 here? I think we were going to break for lunch -- 5 MR. PLACITELLA: I'm almost done. 6 BY MR. PLACITELLA: 7 Q. Everybody in the plant knew about 8 mesothelioma as soon as CertainTeed knew about it, 9 true? 10 MR. EDELL: Knew about what? 11 MR. PLACITELLA: Mesothelioma. 12 MR. EDELL: That it was a 13 possibility? 14 BY MR. PLACITELLA: 15 Q. That it was a possibility. That was 16 your testimony, right, sir? 17 A. Yes, CertainTeed became -- that 18 became something that they were aware of in like the 19 mid-'60s and it was discussed. These things were 20 discussed in -- 21 Q. And everybody in the plant knew it? 22 A. I don't know the answer to that 23 question. I can tell you it was discussed. 24 Q. In the plant? 25 A. At meetings.

1 Q. With the workers?
 2 A. With the workers.
 3 Q. Tell the ladies and gentlemen of the
 4 jury, when is the first time CertainTeed mentioned
 5 the word "mesothelioma" in relation to the sale of
 6 asbestos-containing cement pipe.
 7 A. Well, it's an entirely -- a different
 8 situation.
 9 Q. Isn't it true, sir, that, although
 10 you told the employees in the plant about
 11 mesothelioma, you never mentioned the word
 12 "mesothelioma" to a customer or a consumer ever?
 13 A. That's not true.
 14 Q. When is the first time you mentioned
 15 the word "mesothelioma" --
 16 A. Oh.
 17 Q. -- to a customer or a consumer?
 18 A. I may be wrong on that. We mentioned
 19 the word "cancer." We may not have mentioned the
 20 meso. I'd have to look at what we said on the label
 21 and also what was in the work practices, but
 22 "cancer" was used.
 23 Q. Cancer was not used until 1985?
 24 True, sir?
 25 A. Cancer itself was not used until

1 1985, that's right.
 2 Q. That was 20 years after you told the
 3 workers in the plant, true?
 4 A. But there -- that's true, but there
 5 were different situations. In the plant every piece
 6 of pipe was being machined with a high-powered saw.
 7 In the field the pipe was hardly ever -- never
 8 machined, to speak of, and it was hardly ever cut.
 9 It was cut with manual ways.
 10 Q. Sir, to be clear, you never told a
 11 consumer or a customer anything about mesothelioma
 12 ever?
 13 A. Well, sir, I'd have to look at what
 14 we said in the work practices. I know "cancer" was
 15 there. Whether the word "mesothelioma" was there or
 16 not, I don't know the answer to that. We can look
 17 at it. I'm sure you have it.
 18 Q. You are the person that's being
 19 produced with the most knowledge about what you told
 20 customers, and I'm asking you, sir, as you sit here
 21 today, can you say that you told customers about the
 22 possibility of asbestos exposure causing
 23 mesothelioma?
 24 A. I've answered your question.
 25 MR. EDELL: He said he was -- three

1 times he said he wasn't sure. He knows they talked
 2 about cancer, but he wasn't sure whether they talked
 3 about mesothelioma.
 4 THE WITNESS: We talked about cancer.
 5 BY MR. PLACITELLA:
 6 Q. And, when you said "cancer," you
 7 meant mesothelioma?
 8 A. That's a part of cancer. Certainly.
 9 Q. So why didn't you just use the word
 10 "mesothelioma"?
 11 A. I don't know the answer to that.
 12 Q. Well, sir, you were involved in the
 13 labeling decisions, were you not?
 14 A. I was a part of it. I wasn't in
 15 charge of it.
 16 Q. So why --
 17 A. Excuse me. By saying "cancer," to me
 18 you are telling the people what the risks are. It's
 19 cancer. Mesothelioma is a cancer. It's just like
 20 breast cancer or something like that. It's a
 21 cancer.
 22 Q. And, when you don't say "cancer," you
 23 are not telling them what the risks are, are you?
 24 A. When you don't say "cancer." Well,
 25 we are talking about cancer now versus mesothelioma.

1 Q. No. I'm talking about -- you said
 2 cancer and mesothelioma, in your mind, are one and
 3 the same --
 4 A. No.
 5 Q. -- in terms of warnings.
 6 A. I said mesothelioma is a cancer.
 7 Q. Okay.
 8 And, when you are not telling
 9 somebody that it causes cancer, you are not giving
 10 them all the information, are you?
 11 A. Well, we -- I mean, if you are going
 12 back earlier -- obviously you are -- we used "it
 13 could be harmful to your health." They were the
 14 terms that were used.
 15 Q. That's different than cancer, isn't
 16 it, sir?
 17 A. It is, yes.
 18 Q. So, the first time you ever used the
 19 word "cancer" was 1985, correct?
 20 A. Yes.
 21 Q. What prevented you from using the
 22 word "cancer" prior to 1985?
 23 A. Nothing, other than the fact, as I
 24 mentioned, we felt that, with our recommended work
 25 practices, there wasn't a risk.

Page 141 1 Q. Well, sir, isn't it a fact that you 2 refused to put the word "cancer" on the pipe in 1972 3 because you thought it was going to hurt sales? 4 A. On the pipe? 5 Q. Correct. 6 A. Yes, but I believe that the reference 7 was for ingestion, not for inhalation, so it's a 8 totally different story. 9 Q. You were asked to put the word 10 "cancer" on the pipe in 1972, true? 11 A. By whom? 12 Q. It was discussed within your company 13 whether to put the word "cancer" on the pipe in 14 1972, true? 15 A. Well, it was a part of the OSHA -- 16 proposed OSHA regulations at that point in 1972, but 17 it had to deal with the ingestion, not inhalation. 18 Q. It was rejected because it would hurt 19 sales, true? 20 A. Because -- well, it was recommended 21 not to do it because of the ingestion issue. The 22 ingestion issue was not an issue. 23 Q. Sir, it was -- you fought putting the 24 word "cancer" on the pipe in 1972 because it would 25 hurt sales, true?	Page 143 1 A. I've seen some, yes. 2 Q. In what context did you see them? 3 A. Well, primarily in testimony at 4 depositions or -- I can't remember if it was at 5 trial, but primarily depositions I've seen them. 6 MR. PLACITELLA: I would make a 7 request at this point for the production of any dust 8 counts produced concerning inside the plant by 9 CertainTeed in any other case. 10 BY MR. PLACITELLA: 11 Q. Am I correct that there were people 12 who worked at CertainTeed who brought with them, at 13 the time of the changeover from Keasbey & Mattison 14 to CertainTeed, knowledge about the relationship 15 between asbestos and cancer? 16 MR. EDELL: Objection to the form of 17 the question. 18 THE WITNESS: I don't know the answer 19 to that question. 20 BY MR. PLACITELLA: 21 Q. Have you seen documents during the 22 course of your preparation indicating that people 23 who worked for CertainTeed were informed about the 24 relationship between asbestos and cancer prior to 25 the transfer of assets from Keasbey & Mattison to
Page 142 1 A. Because the cancer related to 2 ingestion. 3 Q. Did you tell OSHA, in 1972, that, if 4 they made you put "cancer" on the pipe, it was going 5 to make the product unsalable? 6 A. I answered your question, sir. Yes, 7 because it was referring to the ingestion issue. 8 Q. And then, in 1985, you finally put 9 "cancer" on the pipe, correct? 10 MR. EDELL: In a different context. 11 THE WITNESS: In a different context, 12 exactly. 13 MR. EDELL: Let's break for lunch. 14 MR. PLACITELLA: It's a good time. 15 THE VIDEOGRAPHER: Off the record at 16 12:28 p.m. 17 (Discussion is held off the record.) 18 THE VIDEOGRAPHER: Back on the record 19 at 1:17 p.m. 20 BY MR. PLACITELLA: 21 Q. Good afternoon, Mr. Ambler. 22 One thing before I move on. In the 23 course of your preparing for this deposition or 24 other depositions, have you ever reviewed the actual 25 dust counts that were done inside the plants?	Page 144 1 CertainTeed? 2 A. Can you repeat -- read that back to 3 me, please. I'm sorry. 4 (Pertinent portion of the record is 5 read.) 6 A. Documents that were written prior -- 7 dated prior to '62? 8 Q. Correct. 9 A. Well, I've never seen anything in 10 preparation -- that I can recall, in preparation for 11 a deposition. 12 I mean, during a deposition I've seen 13 letters, but I can't remember what dates were on 14 them. 15 Q. You are aware of a person who worked 16 at the Ambler plant by the name of Mr. Horowitz, 17 correct? 18 A. I -- oh, I know of him. I don't know 19 whether he worked at the Ambler plant or not. I 20 don't believe he did, but I could be wrong on that. 21 Q. Who was Mr. Horowitz? 22 A. He was the safety supervisor, in 23 charge of safety for CertainTeed Corporation. 24 Q. And prior to that for Keasbey & 25 Mattison, correct?

Page 145 1 A. Yes. 2 MR. PLACITELLA: So let's have this 3 marked P Ambler 7. 4 (Exhibit Ambler 7 is marked for 5 identification.) 6 MR. EDELL: My only objection at this 7 juncture is that it's a highlighted document. 8 MR. PLACITELLA: I'll substitute it, 9 but I want him to focus -- 10 MR. EDELL: And I don't know what the 11 last page is. 12 MR. PLACITELLA: I think that's how 13 it was produced at Doris Fegan's deposition. 14 BY MR. PLACITELLA: 15 Q. I'm going to show you what's been 16 marked Ambler 7, which is a June 8th, 1961 minutes 17 of the Asbestos Textile Institute's Air Hygiene and 18 Manufacturing Committee. 19 Have you ever seen that before? 20 A. I don't recall it, sir. 21 Q. In attendance is Mr. Horowitz, 22 correct? 23 A. Yes. 24 Q. And Mr. Horowitz, at that time, in 25 1961, was the safety director in charge of Keasbey &	Page 147 1 Mr. Horowitz had about asbestos and cancer he would 2 have brought with him as the safety director of 3 CertainTeed, true? 4 MR. EDELL: I'm going to object to 5 the form of that question. You are asking the 6 witness to hypothesize -- 7 MR. PLACITELLA: No, I'm not. 8 MR. EDELL: Yes, you are. 9 MR. PLACITELLA: No, I'm not. 10 MR. EDELL: You didn't give him any 11 directions in the beginning -- 12 MR. PLACITELLA: It's an objection 13 you are not allowed to make. 14 MR. EDELL: No. I'm allowed to tell 15 him that he's not supposed to guess. 16 MR. PLACITELLA: You are not allowed 17 to make that kind of objection and you know it. 18 MR. EDELL: I think I am. 19 MR. PLACITELLA: No, you're not. 20 MR. EDELL: Since you didn't give him 21 that instruction -- 22 MR. PLACITELLA: He's been through 80 23 depositions. He know the rules. 24 MR. EDELL: I have no idea. I wasn't 25 at any of those depositions.
Page 146 1 Mattison, true? 2 A. I don't know what his title was at 3 Keasbey & Mattison, but he was somewhat involved 4 in -- he was involved in safety, yes. 5 Q. And it says -- where is he from? 6 A. Ambler, Pennsylvania. 7 Q. And does this document talk about -- 8 A. Excuse me. I'm sorry. It says -- 9 Keasbey & Mattison is in Ambler, Pennsylvania. 10 Q. Correct. 11 A. I don't know where Leon lived. 12 Q. And does the document discuss the 13 fact that there was a meeting where the relationship 14 between asbestos and cancer was raised? 15 MR. EDELL: I'm going to object to 16 the question. This document -- this witness has no 17 familiarity with this document whatsoever. 18 BY MR. PLACITELLA: 19 Q. Answer the question. 20 A. And the question was? Excuse me. 21 Q. Is the relationship between asbestos 22 and cancer referred to in this document? 23 A. Yes, it is. 24 Q. Okay. 25 And presumably any information that	Page 148 1 MR. PLACITELLA: So, you never read 2 one, Mr. Edell? 3 MR. EDELL: I read some, but I didn't 4 see in -- anybody state "Don't guess." 5 BY MR. PLACITELLA: 6 Q. Is it your belief, sir, that whatever 7 information Mr. Horowitz had about asbestos and 8 cancer, he would have brought with him when he took 9 over as safety director for CertainTeed? 10 A. It's my belief, sir, that he would 11 have -- if he would have retained any information 12 that he heard or read of somebody's opinion and -- 13 he certainly would have brought that, no matter 14 where he went. 15 Q. Of course. 16 Now, you are aware that -- I think 17 you mentioned before Mr. Barr, Neil Barr? 18 A. No, sir, I didn't mention him. 19 Q. Do you know who he is? 20 A. Barr -- not offhand, no. 21 Q. Do you know what the Asbestos Textile 22 Institute was? 23 A. I'd have to make an assumption. 24 CertainTeed was not a member of the Asbestos Textile 25 Institute.

Page 149 1 Q. But various members -- or various 2 employees and executives of CertainTeed were at one 3 time representative and attended meetings at the 4 Asbestos Textile Institute, true? 5 A. I don't know -- I know Leon went to a 6 couple meetings after he came with CertainTeed, but 7 I don't know who else went. 8 Q. Did you know the director of sales 9 went? 10 A. To the American Textile Institute? 11 Q. Correct. 12 A. Director of sales for the pipe 13 division? 14 Q. Yes, sir. 15 A. No, I did not know that. Can you 16 show me that? 17 Q. We'll get there. 18 Now -- 19 A. I'm not seeing any documents where 20 the director of sales went, but I don't know. 21 Q. We'll get there in due time, okay? 22 Are you aware as to whether Mr. 23 McGinley, who ultimately died of mesothelioma while 24 employed by CertainTeed, attended meetings of the 25 Asbestos Textile Institute?	Page 151 1 going to do with it, so... 2 MR. PLACITELLA: Why don't we mark 3 that next. 4 (Exhibit Ambler 8 is marked for 5 identification.) 6 BY MR. PLACITELLA: 7 Q. You have in front of you a prior 8 deposition you gave in the McNabb case, correct? 9 A. Yes. 10 Q. And that was not that long ago? It 11 was in 2009, the same year that we are in, correct? 12 January 13, 2009? 13 A. Yes. 14 Q. You were asked questions by Mr. 15 Madeksho (sic). Do you recall him? A Texas accent, 16 young guy? 17 A. Yes. 18 Q. And would you look at Page 112 of 19 your deposition, sir. 20 A. Okay. 21 Q. And does that refresh your memory, 22 sir, as to whether you had testified, back in 23 January this year, about whether Mr. McGinley went 24 to an Asbestos Textile Institute meeting where the 25 subject of asbestos and cancer was raised?
Page 150 1 A. I believe I've seen John -- excuse 2 me -- John's name on the attendance list of one 3 meeting. I believe I have seen that. 4 Q. And that was a confidential meeting 5 where they discussed cancer, was it not? 6 A. I don't know. I'd have to read it. 7 Q. And this was Mr. McGinley who I asked 8 you before whether he was ever involved in health 9 and safety? Wasn't that the capacity he attended 10 the Asbestos Textile Institute meetings? 11 A. I don't know what capacity -- he 12 attended it in his capacity with the company. 13 Q. And do you know, as you sit here 14 today, whether he attended meetings himself where 15 the subject of asbestos and cancer was discussed? 16 A. I don't know what was discussed at 17 that meeting that I recall seeing his name on the 18 attendance list. 19 Q. Do you recall going over that in 20 prior depositions and being asked those very 21 questions? 22 A. I may have. 23 Q. Just to make it easy for you, why 24 don't you take that. 25 MR. EDELL: I don't know what he's	Page 152 1 A. Well, I answered that question. I 2 believe John did go to an American Textile Institute 3 meeting. 4 Q. Where the subject of asbestos and 5 cancer was raised? 6 A. Well, I think that -- did he not show 7 me a letter and he was asking me -- 8 Q. Yes, sir, and you read the letter. 9 A. Right. 10 Q. And it said, under "Asbestosis and 11 cancer," the second paragraph, "Does that indeed 12 read "The British and South Africans have associated 13 lung cancer and asbestosis -- 14 A. Okay. 15 Q. -- since '35"? It says, "Yes," 16 correct? 17 A. I read the letter and said "Yes." 18 Q. And that was a meeting that Mr. 19 McGinley was at, true? 20 A. Yes. 21 Q. And that's the same Mr. McGinley who 22 ultimately died of mesothelioma after working for 23 many years for CertainTeed, true? 24 A. Yes. 25 Q. Now, soon after --

1 A. Are we done with this?
 2 Q. For now. Why don't you just keep it
 3 there because I may ask you more questions. So just
 4 put it off to the side, if you want.
 5 Soon after -- I even highlighted all
 6 the things I might ask him about. There you go.
 7 Soon after CertainTeed took over the
 8 asbestos-cement pipe business they sent Mr.
 9 Horowitz, as the safety director, to the conference
 10 hosted and organized by a Dr. Irving Selikoff, true?
 11 A. Yes.
 12 Q. And after he went to that meeting, at
 13 the request of CertainTeed, he generated a memo, did
 14 he not, discussing what he heard and what his
 15 recommendations were as a result of that conference?
 16 A. There was a memo prepared, yes.
 17 MR. PLACITELLA: Why don't we mark
 18 this next.
 19 (Exhibit Ambler 9 is marked for
 20 identification.)
 21 MR. PLACITELLA: This is not one of
 22 the exhibits you went over with him, Marc?
 23 MR. EDELL: It's very difficult to
 24 read.
 25 MR. PLACITELLA: Best copy you gave

1 me. Actually, I had to get it from Shep Hauptman.
 2 BY MR. PLACITELLA:
 3 Q. Sir, while Mr. Edell is looking at
 4 the document that we've just put in front of you,
 5 you've seen that document before, have you not?
 6 A. I didn't look at it, sir.
 7 Q. You didn't look at it at all?
 8 A. No, I haven't looked at it. I just
 9 handed it to --
 10 Q. Well, here is a copy. Tell me if
 11 you've seen this document before. Without my
 12 highlighting, of course.
 13 A. I have seen this through depositions.
 14 I never saw it while I was working for the company.
 15 Q. But was reviewing this document part
 16 of the research you did in preparing for testifying
 17 in this case?
 18 A. No.
 19 Q. Had you ever reviewed this document
 20 in preparation for testimony in any other case?
 21 A. Not that I'm aware of.
 22 Q. Do you know whether this document is
 23 part of the corporate records of CertainTeed
 24 Corporation?
 25 A. I don't know that one way or the

1 other.
 2 Q. You've seen this document, however,
 3 many times in depositions, have you not?
 4 A. I have seen it many times, yes.
 5 Q. And this document is a document that
 6 was authored by Mr. Horowitz, true?
 7 A. Well, I don't have the document in
 8 front of me, sir.
 9 Yes. Yes, it was.
 10 Q. And it was authored by Mr. Horowitz
 11 while he was in charge of safety for the CertainTeed
 12 Corporation, true?
 13 A. Yes.
 14 Q. And the date of the document is
 15 November 16, 1964?
 16 A. Yes.
 17 Q. And the subject is Conference on
 18 Biological Effects of Asbestos, New York Academy of
 19 Sciences, correct?
 20 A. Yes.
 21 Q. And it's to a number of people. One
 22 is a Mr. M.S. Davis, Jr. Do you know who he is?
 23 A. I knew who he was.
 24 Q. Who was he?
 25 A. He was head of the pipe division at

1 that time.
 2 Q. And the next one is cc to Mr. R.L. --
 3 is that Louis?
 4 A. Lance.
 5 Q. Lance. And who was he?
 6 A. He -- I don't know what his position
 7 was, but he worked in -- in -- when I came to work
 8 for the company he was working in the Ambler
 9 technical offices.
 10 Q. And then there was a Mr. J.L.
 11 Anderson.
 12 A. Yes.
 13 Q. Do you see that?
 14 A. Yes.
 15 Q. And who was he?
 16 A. At that point I believe Jack was in
 17 engineering -- central engineering.
 18 Q. What was his job? Was he in charge?
 19 A. I don't -- I don't know whether Jack
 20 was in charge or not.
 21 Q. Was Anderson somebody that was
 22 involved in ensuring that workers were not exposed
 23 to asbestos through the use of ventilation?
 24 A. He was -- he had responsibility
 25 for -- just like John McGinley did, for dust

Page 157 1 collection systems and also worked with process 2 equipment. 3 Q. And who is Mr. Shaw? Is that Dr. 4 Shaw? 5 A. Yes. 6 Q. And who is he? 7 A. I don't know. Never heard of him 8 until these depositions and did not know him. 9 Q. And this memo pertains to the pipe 10 division, true? 11 A. Well, it pertains to -- to 12 CertainTeed and it pertains to asbestos, and the 13 pipe division was in asbestos, obviously. 14 Q. Well, it didn't go to the person who 15 was in charge of the siding; it went to the person 16 who was in charge of the pipe, right? 17 A. Well, I don't know who Dr. Shaw was 18 and what his responsibilities were. 19 Q. Well, he was cc'd. I'm talking about 20 Mr. Davis, the one who was principally the 21 addressee. 22 He was in charge of the pipe 23 division, true? 24 A. Yes, he was. 25 Q. Okay.	Page 159 1 Q. Right. 2 And this was the same Turner Brothers 3 who had members of the Board of Directors on 4 CertainTeed, true? 5 A. I don't know the answer to that 6 question. Turner-Newall were the ones that had 7 the -- and I don't know the connection between 8 Turner Brothers and Turner-Newall. 9 Q. You don't know that they are the same 10 company? 11 A. I don't know if they are or they 12 aren't. 13 Q. Assuming that they are one and the 14 same company, if Turner Brothers were way ahead of 15 the rest of the United States, then CertainTeed 16 would have been way ahead of the United States 17 because they had a Board of Directors -- people from 18 Turner Brothers on their Board of Directors, true? 19 A. There is no way I can answer that 20 question. Number 1, I don't know exactly what the 21 Turner Brothers -- what their relation was with the 22 two people that were on the board, I don't know what 23 the relationship was between them and Turner-Newall, 24 and all I can say is this was their opinion. 25 Q. Did they tell Mr. Horowitz in their
Page 158 1 So, the concerns raised in this memo 2 related to the pipe division; not the shingle 3 division, true? 4 A. Well, I don't know if this got to 5 the -- probably that's right. 6 Q. Okay. 7 Now, does it also say in the first 8 paragraph that a Dr. Shaw did his own report? 9 A. Yes. 10 Q. Does it indicate that Mr. Horowitz, 11 as safety director for CertainTeed, had a meeting 12 with representatives of the Turner Brothers Asbestos 13 Company? 14 A. Yes. 15 Q. And that one of the things that was 16 discussed was that the Turner Brothers Asbestos 17 Company was way ahead of the United States, in terms 18 of knowledge of asbestos and disease, true? And how 19 to prevent it? 20 A. What was that question again? 21 (Pertinent portion of the record is 22 read.) 23 Well, if we are just referring to the 24 first paragraph, that's the Turner Brothers' 25 opinion, that they were ahead of the United States.	Page 160 1 meeting that in England the Board of Insurance had 2 accepted asbestosis as a cause of lung cancer going 3 back to 1931? 4 A. That's what this letter states. 5 Q. Did they tell Mr. Horowitz that the 6 dust sampling and counting methods that were being 7 used in the United States were inadequate because 8 they did not count all of the asbestos fibers? 9 A. Where are you reading that from, sir? 10 I'm sorry. 11 Q. Paragraph Number 5. 12 A. That was their opinion, yes. 13 Q. And then Mr. Horowitz goes on to 14 relate to the executives at CertainTeed what 15 actually transpired at the conference itself, true? 16 A. Where -- he -- you are taking that 17 from this first page? 18 Q. Yes, sir. 19 A. He -- 20 Q. The bottom paragraph. 21 A. He's relating to Mr. Davis and the 22 copyholders as to what was presented at this 23 conference. 24 Q. Yes, that's what I'm saying. 25 We agree?

Page 161 1 A. Yes. 2 Q. And what he says is that there 3 appears to be an accumulation of evidence of the 4 association of asbestos with cancer, correct? 5 MR. EDELL: It would be a lot 6 easier -- this is a really bad copy -- if you -- 7 MR. PLACITELLA: Do you have a better 8 copy? 9 MR. EDELL: -- if you point -- 10 MR. PLACITELLA: No, I'm serious. If 11 you have one, I'll be happy to substitute it. 12 MR. EDELL: I don't have a better 13 copy with me. 14 MR. PLACITELLA: Okay. 15 MR. EDELL: If you want to refer to a 16 particular paragraph, it would go much quicker. 17 MR. PLACITELLA: I'm still on the 18 bottom paragraph, first page. 19 BY MR. PLACITELLA: 20 Q. Concerning the conference itself, 21 there appears to be an accumulation of evidence of 22 the association of asbestos with cancer? 23 A. That's what was reported at the 24 conference. 25 Q. That's what he learned and that's	Page 163 1 BY MR. PLACITELLA: 2 Q. Your industry being the 3 asbestos-cement pipe industry, true? 4 MR. EDELL: It didn't say "hurt." It 5 said it would affect them, correct? 6 BY MR. PLACITELLA: 7 Q. Affect, correct? 8 A. Yes. 9 Q. Well, did you think that this 10 information was going to help or hurt the industry? 11 A. What information? 12 Q. About asbestos causing cancer. 13 A. It's certainly going to hurt the 14 industry if, in fact, you are not doing anything 15 to -- 16 MR. EDELL: I'm sorry. 17 THE WITNESS: -- if you are not doing 18 anything to control the situation. 19 BY MR. PLACITELLA: 20 Q. Okay. 21 So what he says is, this is what was 22 discussed and it could hurt our industry, and then 23 he goes on to talk about what was discussed, true? 24 MR. EDELL: That's not what he says. 25 Objection to the form of the question.
Page 162 1 what he reported back to the executives at 2 CertainTeed, true? 3 MR. EDELL: This is what the document 4 says. 5 THE WITNESS: Yes, that's what he 6 heard said at the conference, and he wrote a letter 7 to the individuals who we discussed earlier. 8 BY MR. PLACITELLA: 9 Q. And then, if we go to the second 10 page, he talks about things he heard at the 11 conference that, if proved to be true, would hurt 12 the asbestos-cement pipe industry, true? 13 First full paragraph. 14 MR. EDELL: First full paragraph 15 says -- 16 BY MR. PLACITELLA: 17 Q. "Some of the observations." Do you 18 see that? 19 A. Yes. 20 Q. Okay. 21 MR. EDELL: "If proved conclusive, 22 would affect." 23 MR. PLACITELLA: "Would affect our 24 industry." 25 MR. EDELL: That's what it says.	Page 164 1 THE WITNESS: It would affect our 2 industry. 3 BY MR. PLACITELLA: 4 Q. Meaning -- 5 A. That's Leon's opinion. 6 Q. Right. Meaning, it could hurt the 7 industry, true? 8 A. Well, would or could. 9 Q. Okay. 10 A. That's his opinion, yes. 11 Q. And the first thing it talks about 12 is, Number 1, malignant mesothelioma. Do you see 13 that? 14 A. Yes. 15 Q. And what does it say in Number 1? 16 A. It says what it says. 17 Q. What does it say, sir? Could you 18 read it? 19 MR. EDELL: No, he's not here to read 20 aloud into the record what the document says. 21 BY MR. PLACITELLA: 22 Q. I'll read it. You tell me if I read 23 it correctly, okay? 24 A. Yes. 25 MR. EDELL: No, he's not going to

Page 165 1 tell you whether you read it correctly. If you have 2 a question about the document, ask him the question. 3 MR. PLACITELLA: I'm going to ask him 4 a question. 5 MR. EDELL: Okay. 6 BY MR. PLACITELLA: 7 Q. It says, "Malignant mesothelioma, 8 cancer associated with asbestos, has been found in 9 cancers with no occupational exposure to asbestos." 10 Do you see that? 11 A. Yes. 12 Q. Do you know whether this is the first 13 time that CertainTeed was informed about the 14 relationship between mesothelioma and 15 non-occupational exposure to asbestos? 16 MR. EDELL: And how is that going to 17 hurt CertainTeed? 18 MR. PLACITELLA: That's an improper 19 objection, sir. I'm asking him a question. 20 THE WITNESS: And the question is, 21 again? I'm sorry. 22 BY MR. PLACITELLA: 23 Q. Was this the first time that 24 CertainTeed was made aware of an association between 25 mesothelioma and a non-occupational exposure to	Page 167 1 Do you see that? 2 A. Yes. 3 Q. Was that information ever made known 4 to CertainTeed before this document was written, if 5 you know? 6 A. I don't know. 7 Q. "People in the area may be affected 8 by waste dumps outside a plant or mine." 9 Do you see that? 10 A. Yes. 11 Q. Is that the first time that this 12 information was given to CertainTeed, to your 13 knowledge? 14 A. The first time information has been 15 given to CertainTeed about observations made at this 16 conference? 17 Q. No. 18 About the people getting mesothelioma 19 who were around waste dumps with asbestos. 20 A. I don't know if there was any other 21 information available or not prior to this memo. 22 Q. Well, this was important to 23 CertainTeed, was it not, because you, in fact, at 24 Ambler, had your own waste dump next to the plant, 25 didn't you?
Page 166 1 asbestos? 2 A. I don't know the answer to that 3 question. 4 Q. Okay. 5 A. By the way, it's not "in cancers," 6 it's "in cases." 7 Q. I don't know what you are talking 8 about. 9 A. Well, when you read it -- 10 MR. EDELL: You read it improperly. 11 THE WITNESS: -- you said "in 12 cancers," and it's "in cases." 13 BY MR. PLACITELLA: 14 Q. It says, "Malignant mesothelioma, 15 cancer associated with asbestos," doesn't it? 16 MR. EDELL: "Has been found in 17 cases," he said. You said "cancers." 18 MR. PLACITELLA: Oh, okay. 19 BY MR. PLACITELLA: 20 Q. "In cases with no occupational 21 exposure to asbestos." We agree? 22 A. Yes. 23 Q. Okay. 24 "There have been included animals who 25 lived in areas surrounding a factory or a mine."	Page 168 1 A. We had a dump at the plant, yes. 2 Q. In fact, you had so much asbestos in 3 that dump that a scientist at one point said that it 4 could qualify as its own asbestos mine, isn't that 5 true? 6 A. I don't -- I've never seen that. 7 Q. Number 4 says, "The suspicion that 8 asbestos fibers accumulate at the base of the lung 9 and small doses can thereby have a cumulative 10 affect." 11 Do you see that? Do you see Number 12 4? 13 A. Yes. 14 Q. Okay. 15 Is this -- 16 A. I say, yes, I can see it. 17 Q. All right. 18 To your knowledge, did CertainTeed 19 have any information about this subject prior to the 20 writing of this memo? 21 A. I don't know the answer to that one 22 way or the other. 23 MR. EDELL: He wasn't employed by the 24 company -- 25 MR. PLACITELLA: He is the person,

Page 169 1 sir, that's being produced with the most knowledge 2 concerning CertainTeed's historical knowledge of 3 the dangers of asbestos. 4 MR. EDELL: You're right. You're 5 right. I apologize. 6 MR. PLACITELLA: Right. And, so, 7 your -- 8 MR. EDELL: I apologize. 9 MR. PLACITELLA: -- your objection is 10 improper. 11 MR. EDELL: I said I apologize. 12 MR. PLACITELLA: Your apology is 13 noted and accepted. Just don't do it again. 14 BY MR. PLACITELLA: 15 Q. It says, in Number 5, "Increased 16 evidence that insulation workers and ladders with 17 low exposure to asbestos dust are subject to 18 mesothelioma." 19 Do you see that? 20 A. I see what was written here, yes. 21 Q. Do you know, prior to the writing of 22 this memo, whether there was information in the 23 possession of CertainTeed concerning the fact or the 24 thought that low exposure to asbestos dust can cause 25 mesothelioma?	Page 171 1 Q. Well, what's his reputation in the 2 company? 3 A. That -- I don't want to get into 4 that. It's nobody's concern. I don't know -- I 5 don't -- I didn't speak to enough people to find out 6 what his reputation was. 7 Q. His reputation was good enough that 8 he held the position of safety -- head of safety for 9 many years, true? 10 MR. EDELL: It may just be because he 11 was a good doctor. 12 MR. PLACITELLA: He's not a doctor. 13 MR. EDELL: You just called him a 14 doctor. 15 MR. PLACITELLA: Is that an 16 objection? Okay. 17 MR. EDELL: Assuming you were 18 truthful with us. 19 What's the question? 20 BY MR. PLACITELLA: 21 Q. Yes, sir? 22 A. Is there a question pending? I'm 23 sorry. I didn't mean to avoid you. I'm sorry. 24 What was the question? 25 Q. As a result of going to the
Page 170 1 A. I don't know one way or the other. 2 Q. Would you agree with me that Dr. 3 Horowitz cared about the health and safety of the 4 workers at the CertainTeed plant? 5 A. Oh, yes, I -- there is no doubt in my 6 mind that Leon was -- had -- he had -- did you say 7 concern? 8 Q. Concern. 9 A. He had -- he had -- 10 Q. He cared, I said. 11 A. He cared, yes. 12 Q. He was in earnest in his job, would 13 you agree with me? 14 A. Oh, yes, I think he was. As far as I 15 know. I never met the man. He left there the year 16 after I came with the company. 17 Q. But everything you know and 18 everything you've read would indicate that he took 19 his job seriously and he cared about the employees. 20 Would you agree with that? 21 A. Yes. 22 Q. Okay. 23 And that he was basically a pretty 24 good guy, by all accounts? 25 A. Sir, I never met him.	Page 172 1 conference, would you agree that the safety 2 director, Horowitz, had some concerns that he 3 expressed directly to the executives at CertainTeed? 4 A. He reported to the -- from this 5 conference he reported to the executives of the pipe 6 group the concerns that were raised at this meeting. 7 Q. And, as the safety director, he 8 recommended that certain actions be taken? 9 A. On the next page he did, yes. 10 Q. And he said, "We need answers to some 11 questions," did he not? 12 A. He said there needs to be answers to 13 some questions, right, and he listed some questions. 14 Q. And he has, what, 12 questions in the 15 beginning? 16 A. Yes. 17 Q. The first question he says we need 18 answers to is, "From the pathological point of view, 19 what is an asbestos fiber and how it's to be 20 positively identified." 21 Do you see that? 22 A. Yes. 23 Q. Can you tell me what steps 24 CertainTeed took to answer that question? 25 A. I think it was somewhat of a

1 rhetorical question, sir, and I think it was meant
2 to -- for the industry, because later on in the note
3 he -- he specifically said what he thought the
4 corporation should do.

5 Q. Well, was the corporation part of the
6 industry?

7 A. Yes.

8 Q. So, can you tell me what steps
9 CertainTeed took to answer Question Number 1?

10 A. I don't know what steps they took,
11 sir. I mean, they were working within the industry,
12 and I believe -- again, I mean, this to me is -- he
13 was saying what the industry should do and then on
14 the next page he said what CertainTeed should do.

15 Q. He asks, "One of the things they need
16 to know is the gravitational effect of asbestos
17 fiber in the lung," correct?

18 A. That's what the industry should be
19 doing, yes.

20 Q. And what did CertainTeed do to answer
21 that question, sir?

22 A. I don't know what specifically they
23 did. They worked with the industry, they joined
24 associations to make certain that everything was
25 being done.

1 Q. And what was the answer to that
2 question, sir, the gravitational effect of asbestos
3 fiber in the lung? What answer did CertainTeed come
4 up with?

5 A. I don't know what answer they came up
6 with, if any at all.

7 Q. The truth of the matter is, sir,
8 nothing was done, true?

9 A. I didn't answer -- I didn't say that.

10 Q. Have you seen anything in your review
11 of any material in preparation for today's
12 deposition or any other deposition that would
13 indicate that CertainTeed did anything to answer
14 this question?

15 A. I don't know what CertainTeed did. I
16 have not seen anything.

17 Q. "The effect of duration of fiber in
18 the lung."

19 That's the third question he wanted
20 answered, correct?

21 A. Yes.

22 Q. Have you seen anything in any of the
23 material that you've ever reviewed on behalf of
24 CertainTeed to indicate whether they answered --
25 made an endeavor to answer this question?

1 A. I've not seen anything in writing.

2 Q. "Studies to see if different types of
3 asbestos result in different types of cancer, if at
4 all."

5 That's the fourth question, is it
6 not?

7 A. Yes.

8 Q. Can you tell me what CertainTeed did
9 to answer this question?

10 A. They worked within the industry and
11 they worked in conjunction with OSHA trying to get
12 answers to all the questions.

13 Q. And what was the answer to that
14 question, sir?

15 A. I don't know of any answers that came
16 out of that question.

17 Q. Have you seen anything to indicate
18 that CertainTeed did anything to answer this
19 question?

20 A. I just know what they did as a
21 corporation. We worked with the various
22 associations and we tried to get all the answers we
23 could concerning the asbestos situation.

24 Q. Yes, but this is your health -- this
25 is your person in charge of health and safety, and

1 he's saying these are questions you need answered,
2 right?

3 A. He's saying the industry needs to be
4 answering these.

5 Q. And you are part the industry?

6 A. Yes, sir.

7 Q. So my question is, what did you do,
8 CertainTeed, to answer Question Number 4 concerning
9 whether different types of asbestos result in
10 different types of cancer?

11 A. The only way I can answer your
12 question, sir, is that CertainTeed worked with the
13 industry and they worked with various doctors that
14 were working with the industry to make certain the
15 information that was gathered was correct and
16 valuable.

17 Q. So what was the answer to that
18 question?

19 A. I don't know the answer to that
20 question.

21 Q. But you are the person here on behalf
22 of CertainTeed that's supposed to know that, isn't
23 that true, sir?

24 A. Well, I'm here -- sir, I'm here to
25 try to answer your questions to the best of my

Page 177 1 ability. If you think there is somebody that can do 2 a better job than me -- 3 Q. No, sir. 4 A. Wait, wait. Let me finish. 5 -- then you should contact 6 CertainTeed and find out. 7 Q. No, sir. 8 A. Wait a second. 9 I'm here -- I'm here to try to answer 10 your questions to the best of my ability. Whether 11 I'm the best that there is, I don't know, but the 12 litter is kind of small, and I don't know whether 13 you got the pick today, but you got what you got and 14 I'm just doing the best job I can. 15 Q. I appreciate that, sir, but I wasn't 16 the one that selected you. 17 A. I know, but, if you have an issue 18 with me or a problem with me -- well, wait. 19 Q. I have no problem with you, sir. 20 A. Okay, but if you -- 21 Q. I have no problem with you, sir. 22 A. Oh, I think you do, sir. 23 Q. No, I do not. 24 A. Let me just finish, please. 25 Q. I do not.	Page 179 1 asbestos on lung cancer, and there were some 2 no-smoking policies that were implemented. 3 Q. Yes, sir. 4 Was there ultimately a conclusion 5 drawn by CertainTeed that there was, in fact, a 6 synergistic effect between smoking and asbestos 7 exposure in relation to lung cancer? 8 A. Yes, we believed there was. 9 Q. And that was something that you 10 warned your employees about, true? 11 A. Yes, sir. 12 Q. And that's something that you warned 13 consumers about, true? 14 A. Consumers? Not that I know of, in 15 particular, because -- I mean, it's somewhat of a 16 different situation, as I tried to explain to you 17 before. 18 Q. "The possible other causes of 19 mesothelioma other than asbestos." 20 Did you see anything in your review 21 of any materials or any of the records of 22 CertainTeed to indicate that this question was ever 23 answered? 24 A. I've seen some people's opinion, and 25 I can't direct you to them, but I have seen people's
Page 178 1 A. Let me just finish. If you -- 2 Q. You can make whatever statements you 3 want, sir. 4 A. Thank you. 5 If you have a problem with me 6 answering your questions, then I'd suggest you bring 7 it to CertainTeed's attention and maybe they can 8 find somebody else. I'm doing the best job I can. 9 Q. I appreciate that, sir. That's not 10 my issue. 11 Sir, have you seen any information in 12 the files of CertainTeed to indicate that they ever 13 answered the question about whether there were 14 different types of asbestos resulting in different 15 types of cancer? 16 A. I have not seen anything. 17 Q. Five, "The relationship of smoking 18 and air pollution, et cetera, to asbestos dust and 19 to cancer." 20 Do you see that? Have you seen 21 anything in the files of CertainTeed to indicate 22 whether CertainTeed ever answered this question? 23 A. There was some work done, and I don't 24 know where I saw that work, but there was some work 25 done as far as the synergistic effect of smoking and	Page 180 1 opinion where they said that meso could be 2 contracted from things other than asbestos. 3 Q. And was that the opinion of 4 CertainTeed, sir? 5 A. CertainTeed -- they were of the 6 opinion that meso would be contracted from asbestos, 7 and maybe there are other areas, but we were mainly 8 concerned about controlling our asbestos fiber. 9 Q. Okay. 10 Number 9 discusses the need for more 11 and better epidemiologic studies, including all 12 exposures over a wide range. 13 Do you see that? 14 A. Yes. 15 Q. Can you tell me what epidemiologic 16 studies CertainTeed conducted to answer this 17 question? 18 A. There were quite a few 19 epidemiological studies being made back in the late 20 '60s and -- being made by various associations and, 21 in fact, by various doctors, and I've seen some 22 reports on that, and CertainTeed attended some 23 meetings on that. 24 MR. PLACITELLA: Do you want to make 25 a switch?

1 THE VIDEOGRAPHER: Off the record at
 2 2:01.
 3 (Discussion is held off the record.)
 4 THE VIDEOGRAPHER: Back on the record
 5 at 2:02.
 6 BY MR. PLACITELLA:
 7 Q. The next paragraph talks about what
 8 CertainTeed can do to meet problems raised at the
 9 conference in its plants, true?
 10 A. Yes.
 11 Q. And the first thing it says is,
 12 "Enforce the respirator program even when the
 13 exposures are intermittent and negligible," true?
 14 A. And then he said, "and dust control
 15 is not available."
 16 So, yes, that was our policy.
 17 Q. So, even where exposures were
 18 negligible and dust control wasn't available, people
 19 were to be given respirators, true?
 20 A. If people were trying to say that,
 21 no, you don't have to worry about it because it's
 22 negligible here -- I mean, people in the plant knew
 23 where you needed -- where you needed dust control
 24 and where you didn't and for what reasons. And if,
 25 for some reason, the dust control was not adequate

1 or there was a failure or something, then the
 2 respirator -- they'd have to wear a respirator until
 3 it was corrected.
 4 We tried to make sure our plants were
 5 engineered so you would not have to wear a
 6 respirator.
 7 Q. Yes, sir, but your head of safety
 8 says that, even where exposure is negligible, you
 9 should wear a respirator, true?
 10 A. That wasn't his policy, though. He
 11 put out policy later on or at the same time, and the
 12 policy didn't say that. It said just -- what I just
 13 told you.
 14 Q. So, CertainTeed did not follow the
 15 recommendations of the safety director?
 16 A. Well, certainly they did. The safety
 17 director put the policy out.
 18 Q. So, even though he told executives at
 19 CertainTeed that respirators should be worn when
 20 there was negligible exposure, that policy was never
 21 implemented, true?
 22 A. It says, "and dust control is not
 23 available."
 24 Q. Correct.
 25 A. And that's the policy that was

1 implemented.
 2 Q. But not where there was negligible
 3 exposure, sir?
 4 A. I don't know what negligible exposure
 5 is, sir.
 6 Q. Your --
 7 A. I only can tell you we had a policy
 8 and what it was, and he put it out.
 9 Q. Sir, was it a policy that people
 10 should wear respirators even when exposure was
 11 negligible?
 12 A. What's -- I don't know the definition
 13 of negligible.
 14 Was that word used in the policy?
 15 No, that I'm aware of. If the -- if the exposure
 16 was greater than the standards, you had to wear a
 17 respirator until it was corrected. That was our
 18 policy.
 19 Q. Well, he doesn't say that here, does
 20 he, sir?
 21 A. Well, there is a policy.
 22 Q. Does he say that here, sir, when the
 23 exposures are greater than the standards, that's
 24 when you wear respirators?
 25 A. No. He's making a point that you

1 need to make certain that you have a respirator
 2 program, and we had one.
 3 Q. He actually says that your standards
 4 in your plant were no good, doesn't he?
 5 A. Where does he say that?
 6 Q. Doesn't he say that, sir? You've
 7 seen this document many times.
 8 A. What document?
 9 Q. This document.
 10 A. Where does it say --
 11 Q. How about Number 4. Use a lower
 12 limit, perhaps two and a half million particles per
 13 cubic foot, to an allowable concentration of
 14 asbestos in our plant.
 15 A. Yes, but where does he say we are no
 16 good?
 17 Q. Well, he's saying use a lower than
 18 that you are currently using, doesn't he?
 19 A. Well, does that mean we are no good?
 20 I mean, ACGIH would set the limits; not us.
 21 Q. Does he say here, sir, that the
 22 standard that you are using is not low enough and
 23 that you should use a lower standard?
 24 A. No, he didn't say that. He's saying,
 25 use a lower standard. That's what he's saying.

Page 185 1 Q. And that doesn't mean that the 2 current standard, in your mind, is too high? 3 A. Sir, I didn't set the standard. 4 Q. Okay. 5 A. Scientists and doctors set the 6 standard for the ACGIH, and he's raising a point 7 that we should try to get down to two and a half, 8 and he's right, we should, and we did. 9 Q. Okay. So, back to my question. 10 According to the safety director, the standard that 11 you were using at the time was too high? 12 A. No. He's not saying that. 13 Q. Okay. Let's move to the next 14 question. 15 A. No -- but, sir, you made a statement 16 earlier that he said our plants were no good, and I 17 don't read that anywhere in here. 18 Q. I didn't say your plants were no 19 good; I said the safety -- dust standard you were 20 using was no good. 21 A. Well, we can go back and -- 22 Q. I'm not going to debate it with you. 23 A. It is what it is. 24 Q. Yes, sir. 25 He also says that people who are just	Page 187 1 A. Yes, he did. 2 Q. And he also says, "Make sure you 3 educate the workers" -- 4 A. Right. 5 Q. -- correct? 6 A. Yes. 7 Q. Okay. 8 A. And all these were implemented, sir. 9 Q. Correct. They were all implemented 10 for the benefit of your own employees, true? 11 A. They were all implemented for the 12 safety of the people working in the plants or people 13 visiting the plants. 14 Q. Who is Mr. Hutchcroft? 15 A. I don't know who he is now, but he 16 was working in the technical group. In fact, he was 17 my supervisor at one time. 18 Q. And who is Mr. Shaw? 19 A. I think -- isn't that the same 20 gentleman -- I don't believe I know -- is that Dr. 21 Shaw. 22 Q. Dr. Shaw -- they call him MD here, so 23 I guess that is Dr. Shaw. 24 A. I don't know who he is, sir. I'm 25 sorry.
Page 186 1 doing clean-up work in the plant should be given 2 respirators, does he not? 3 A. Where is he saying that? In this 4 document? 5 Q. Yes, sir. 6 A. I'm sorry. 7 Q. When he talks about negligible 8 exposure, the next sentence, he says, "This would 9 include maintenance and clean-up men," true? That's 10 what he says? 11 A. Yes, and -- and maintenance men were 12 given respirators, depending on the job they had. 13 Q. And the clean-up men? 14 A. Well, what's clean-up? Clean-up is 15 maintenance people going into the bag houses and 16 cleaning up or going on -- when the machine went 17 down on Sunday, going in and cleaning out the 18 machine. 19 Q. And he said that you should do more 20 monitoring of the dust in the plant, did he not? 21 A. I'm sorry, I don't see that, sir. 22 Where did he say that exactly? Please help. 23 Q. Number 3, "More frequent monitoring 24 of dust." 25 Does he say that?	Page 188 1 MR. PLACITELLA: Mark this, please. 2 (Exhibit Ambler 10 is marked for 3 identification.) 4 BY MR. PLACITELLA: 5 Q. You have, what, P-10 in front of you? 6 A. Yes, I do. 7 Q. This is a memo dated November 3rd, 8 1964, Re: Conference on biological effects of 9 asbestos. 10 You've seen this document before, 11 correct, sir? 12 A. Yes. I've seen it through 13 depositions, yes, sir. 14 Q. And this is Dr. Shaw's account of 15 what happened when he attended the Selikoff 16 conference on behalf of CertainTeed, true? 17 A. Yes. 18 Q. And what he relates to the executives 19 back at CertainTeed is that he went to this 20 conference along with Mr. Horowitz, true? I mean, 21 with Mr. Horowitz? 22 A. Yes. 23 Q. Okay. 24 A. And -- but he only -- I believe he 25 only sent it to Clyde Hutchcroft.

Page 189 1 Q. Okay. 2 It was also referenced -- this very 3 report was also referenced in the last document we 4 looked at. Do you remember the first line in the 5 last document? 6 A. Yes, sir, it is. 7 Q. Okay. 8 And he talks about that there was 9 over 200 -- or some 200 medical authorities at the 10 conference, correct? 11 A. Yes, he did. 12 Q. And on Page 2 he talks about things 13 he heard at the conference and that would require 14 refutation by CertainTeed, correct? 15 A. I'm sorry. Where -- could you direct 16 me where -- 17 Q. Sure. Third full paragraph. 18 "To cite but a few cases of the cases 19 and observations that were presented which are now 20 in print and a matter of record and which require a 21 refutation in kind." 22 Do you see that? 23 A. Yes. 24 Q. What's "refutation in kind" mean, do 25 you know?	Page 191 1 A. Well, CertainTeed, as I mentioned to 2 you earlier, sir, was doing everything possible to 3 have clean operations in our plants, and this letter 4 didn't necessarily accelerate or decelerate any of 5 the efforts. The efforts were what they were. 6 Q. Well -- but this part talks about 7 people at risk because they would have lived near 8 your plant, true? 9 A. Yes, but we -- we tried to make 10 certain that we weren't getting exposure of any 11 asbestos outside of the plant. There was no 12 emission of asbestos outside of the plant. 13 Q. Are you certain about that, sir? 14 A. Well, there were some areas that were 15 questionable, but the tests that I've seen and the 16 results that I've seen says it was pretty clean. 17 Q. Sir, you are aware of tests where 18 there was asbestos found in the yards and homes of 19 people who lived near the CertainTeed asbestos 20 plants, are you not? 21 A. Well, I don't recall specifically 22 yards, but there was some issues with fiber along 23 one of the streets that the plant was -- had trucks 24 go up and down. 25 MR. EDELL: Is there a question?
Page 190 1 A. I have no idea what he meant there. 2 Q. It doesn't mean we should agree and 3 do something; it means we have to fight it, doesn't 4 it? 5 A. I don't know the answer to that 6 question. I don't know what he meant by that. 7 Q. And, again, he also talks about that 8 he heard that animals who were in the vicinity of 9 mines had asbestos in their bodies, correct? 10 A. That's what he was -- that's what he 11 got -- that's what he said was stated at this 12 conference, yes. 13 Q. And he talks about a case from Dr. 14 Newhouse in England about a five-year-old girl who 15 got mesothelioma from just living near an asbestos 16 factory, doesn't he? 17 A. He -- he reports in this letter to 18 Mr. Hutchcroft that that's what was presented at 19 this conference, yes. 20 Q. And that she had a playmate who also 21 developed mesothelioma, true? 22 A. That was reported at the conference, 23 yes. 24 Q. Can you tell me what CertainTeed did 25 in response to this information?	Page 192 1 BY MR. PLACITELLA: 2 Q. Sir, the other thing that the doctor 3 did as a result is he provided a collection of 4 everything that was discussed at the conference -- 5 abstracts of everything that was discussed at the 6 conference to the executives at CertainTeed, did he 7 not? 8 MR. EDELL: Objection to the form of 9 the question. Which doctor? 10 MR. PLACITELLA: This doctor. Dr. 11 Shaw. 12 MR. EDELL: Okay, and abstracts 13 meaning -- 14 MR. PLACITELLA: Mr. Edell, is this 15 an objection, question, what? 16 MR. EDELL: No, no. I don't see the 17 abstracts. 18 MR. PLACITELLA: Well, I'm assuming 19 this is a document you went over with him yesterday 20 that you didn't want to tell me about. 21 MR. EDELL: No. I have a copy of it. 22 I'm just looking for all the abstracts. 23 MR. PLACITELLA: Oh. 24 BY MR. PLACITELLA: 25 Q. Can you answer my question, sir?

1 A. What was the question? I'm sorry.
 2 Q. This doctor provided to the
 3 executives at CertainTeed a collection of all of the
 4 abstracts of the papers delivered at the conference?
 5 Every one?

6 MR. EDELL: Objection to the form of
 7 the question. I have no idea what you mean. I
 8 don't see any abstracts.

9 THE WITNESS: Dr. Shaw is telling Mr.
 10 Hutchcroft that they have submitted a collection of
 11 the abstracts of papers that were given at the
 12 conference.

13 BY MR. PLACITELLA:

14 Q. Correct.

15 A. I mean, that's what it says.

16 Q. He says, "We have submitted a
 17 collection of all of the abstracts delivered," does
 18 he not?

19 A. That's what he's saying, yes.

20 Q. And then it goes on at the end of
 21 that same paragraph and talks about even including
 22 evidence about how the asbestos is ingested. So
 23 it's inhalation and ingestion, correct?

24 A. Yes. Yes.

25 Q. And the conclusion of the doctor who

1 attended this conference on behalf of CertainTeed
 2 and reported back to the executives of CertainTeed
 3 was that this kind of information needed to be
 4 combatted by CertainTeed and the whole rest of the
 5 industry, true?

6 A. What information?

7 Q. All of the publicity about the
 8 dangers of asbestos attendant to the Selikoff
 9 conference.

10 MR. EDELL: Objection to the form of
 11 the question.

12 THE WITNESS: Yes. I mean, he -- I'm
 13 sorry.

14 MR. EDELL: Hold on.

15 BY MR. PLACITELLA:

16 Q. Did Dr. Shaw recommend in this memo
 17 that CertainTeed should conduct additional research
 18 or did Dr. Shaw say that CertainTeed should come up
 19 with a strategy for fighting what was disclosed in
 20 this conference?

21 A. What his recommendation was, that the
 22 overall industry has to combine forces and establish
 23 a case history record file that will disprove such
 24 claims, and I'm -- claims that maybe aren't valid.
 25 Looking at the claims and finding out whether they

1 are valid or not. I mean, I've heard -- I've heard
 2 stories added to this young lady that died that the
 3 streets were -- they were almost blue with
 4 crocidolite fiber.

5 Q. Why? Is crocidolite bad?

6 A. Well, I don't know. I mean, if you
 7 are subjected to all kinds of fiber for some periods
 8 of time, there is a risk.

9 Q. Sir, can you tell me what CertainTeed
 10 did in response to this memo to disprove the
 11 information that was related at the Selikoff
 12 conference?

13 A. Again, sir, we continually worked on
 14 the safe operations of our plants, for both the
 15 inside and the outside of our plants.

16 Q. Well, that's not my question, so let
 17 me do it again.

18 It says that CertainTeed, as part of
 19 the industry, needs to take steps to either prove or
 20 disprove the facts -- the information that's been
 21 related at the Selikoff conference, true?

22 A. It says the overall industry, yes.

23 Q. That includes CertainTeed?

24 A. That's part of CertainTeed, yes.

25 Q. Have you seen anything in the files

1 of CertainTeed, in preparation for this deposition
 2 or any other deposition, that would indicate that
 3 CertainTeed took any steps itself to disprove the
 4 information that was provided to it or confirm the
 5 information that was provided to it in the Selikoff
 6 conference in 1964?

7 A. There was a lot of work done on the
 8 ingestion issue in the latter part of the '60s, and
 9 I've seen a lot of information concerning that, and
 10 that was a major concern in the late '60s for
 11 asbestos-cement pipe, was the ingestion issue.

12 Q. And what about the inhalation?

13 A. In the field the inhalation was not a
 14 concern of the industry for the reasons that you
 15 keep telling me we'll go into later.

16 Q. I'm not testifying. I'm just asking
 17 the questions.

18 A. Well, I just answered you to the best
 19 of my ability. I'm sorry.

20 Q. Can you tell me what CertainTeed did
 21 in response to either confirm or disprove the
 22 information related to mesothelioma and asbestos
 23 that was disclosed at the 1964 conference?

24 A. I --

25 Q. What CertainTeed itself did?

1 A. CertainTeed was a part of the
2 industry. We worked in conjunction with the
3 asbestos industry or the asbestos-cement pipe
4 industry.

5 Q. So tell me what specifically you did
6 within the asbestos-cement pipe industry --

7 A. We --

8 Q. -- to confirm or disprove that
9 exposure to asbestos at low levels could cause
10 mesothelioma.

11 A. Well, at the date of this letter
12 nothing was done with the industry, because neither
13 association was in existence at this time of this
14 letter. Both associations started the early part of
15 the 1970s.

16 But, in the latter part of the '60s
17 there was a lot of work done on the ingestion issue,
18 and CertainTeed was a part of that work, and that
19 was done by the four major domestic suppliers
20 meeting with lawyers and other people who evaluate
21 the effects or non-effects of the ingestion of
22 asbestos fiber.

23 Q. And that was in conjunction with
24 possible exposure as a result of water passing
25 through asbestos-cement pipe, right?

1 A. Yes.

2 Q. Okay.

3 Putting that aside, can you tell me
4 what steps CertainTeed took to inform itself as to
5 whether the information about the inhalation of
6 asbestos fiber at low doses set forth at this
7 conference, and it's relationship to mesothelioma --
8 what did it do to confirm or deny that information?

9 A. I don't know of anything specific
10 that CertainTeed did. We -- again, we worked very,
11 very hard to make certain that we had plants that
12 were clean and within the applicable standards at
13 the time of operations.

14 Q. Did you tell your employees in the
15 plants that even exposure at low doses, that were
16 discussed at this conference, were capable of
17 causing mesothelioma?

18 A. Well, we didn't know that.

19 Q. You didn't?

20 A. We didn't know that that's a fact.
21 That's just what this -- somebody reported.

22 Q. So this is not something you related
23 to your employees?

24 A. We -- sir, earlier this morning I
25 told you what we did at the safety meetings and

1 that's what we did.

2 Q. My question is, once you were told,
3 and it was written up in those memos to the
4 executives at the company, that there were cases of
5 people getting mesothelioma from low doses, did you
6 provide that information to your employees?

7 A. I don't think we specifically told
8 them about individual cases.

9 What we told them, what we were
10 trying to do and what we were doing to eliminate or
11 alleviate exposures in the plants.

12 Q. So the answer to my question is, you
13 don't know whether you told the employees that low
14 doses of asbestos exposure can cause mesothelioma?

15 A. Yes. I think I just answered your
16 question, sir.

17 Q. And what's the answer?

18 A. Well, could we read my answer back?

19 Q. No. Answer this question.

20 A. No. I --

21 Q. Do you know, sir, as you sit here
22 today, whether or not CertainTeed ever informed its
23 employees that low doses of asbestos exposure could
24 cause mesothelioma?

25 A. Sir, as I mentioned -- I did answer

1 that, and I said specifically I don't know what we
2 said as far as these reports were concerned. I can
3 tell you that we made certain that our employees
4 knew what we were doing in the plants.

5 Q. We are not connecting. Let me try it
6 a different way.

7 At any time did you ever inform the
8 employees in your plant that low doses of asbestos
9 exposure could cause mesothelioma?

10 A. And, as I said, I don't know whether
11 we specifically did that or not.

12 Q. Okay.

13 A. Wait, wait.

14 What we told our plant people is what
15 we were trying to do or what we were doing to
16 alleviate their exposure or risk in the plant.

17 Q. Okay. That's all I needed to know.

18 Now, CertainTeed attended meetings of
19 various trade organizations that also discussed the
20 association between asbestos and mesothelioma, true?

21 A. Yes.

22 Q. And that included an organization
23 known as NIMA? Do you know what NIMA is?

24 A. I know what it is, but I don't know
25 whether that was a topic of discussion at NIMA. I

Page 201 1 wasn't a part of NIMA. I didn't attend NIMA 2 meetings. 3 Q. Do you know what the Industrial 4 Hygiene Foundation is? 5 A. Yes, I've heard of that, too. I 6 believe we became a member of that later on, in the 7 late '60s. 8 MR. PLACITELLA: Mark this next. 9 (Exhibit Ambler 11 is marked for 10 identification.) 11 BY MR. PLACITELLA: 12 Q. Sir, you have in front of you P-11, 13 which are the minutes of the Occupational Health and 14 Safety Committee of the National Insulation 15 Manufacturers Association, dated October 10, 1967. 16 Do you see that? 17 A. Yes. 18 Q. Have you ever seen this document 19 before? 20 A. I don't believe I have. 21 Q. This document indicates that the 22 meeting was attended by Mr. Horowitz, again, 23 correct? 24 A. Correct. 25 Q. On behalf of CertainTeed, correct?	Page 203 1 A. I don't know. I don't see the 2 document. 3 MR. PLACITELLA: Mark this next. 4 (Exhibit Ambler 12 is marked for 5 identification.) 6 BY MR. PLACITELLA: 7 Q. I'll give you my copy so I can ask 8 you questions on it. 9 Have you ever seen this document 10 before, sir? 11 A. Yes, I have. 12 Q. In what context? 13 A. In context -- in connection with 14 depositions. Never when I was employed with the 15 company. 16 Q. And, sir, again, this document talks 17 about a meeting at the Industrial Hygiene Foundation 18 in Pittsburgh, Pennsylvania, that Mr. Horowitz, as 19 head of safety for CertainTeed, attended, correct? 20 A. Yes. I'm assuming he attended it. 21 I'm assuming he -- yes. Yes. 22 Q. Okay. 23 And you were working for the company 24 at this point, weren't you? 25 A. Yes, I was.
Page 202 1 A. Yes. 2 Q. And others at the meeting included 3 representatives of Johns-Manville? 4 A. Yes. 5 Q. And Owens-Corning? 6 A. Yes. 7 Q. And discussed at the meeting, sir, 8 was all the bad press that asbestos was getting in 9 the State of New Jersey because of asbestos exposure 10 and mesothelioma, true? 11 Second full paragraph. 12 A. As it relates to insulation 13 materials. 14 Q. And it also talks about Dr. Selikoff 15 again, correct? 16 A. Yes. 17 Q. You were, as a member of NIMA, 18 tracking the activities of Dr. Selikoff, correct? 19 A. You mean the company? 20 Q. Yes. 21 A. Yes. 22 Q. And just 20 days later, sir, your 23 company attended a meeting of the Industrial Hygiene 24 Foundation also discussing the relationship between 25 asbestos and mesothelioma, true?	Page 204 1 Q. He addresses this correspondence to 2 Mr. A.E. Alpine. Who was that? 3 A. He was in charge of asbestos-cement 4 pipe manufacturing in 1967. 5 Q. And also copied here was a Mr. Davis. 6 Who was Mr. Davis? 7 A. Well, that's the same Mr. Davis we 8 talked about earlier. He was general manager of the 9 pipe division. 10 Q. Was he a general manager -- was he 11 technically your boss? 12 A. No -- well, I was sort of very low on 13 the totem pole. 14 Q. He was your boss's boss's boss? 15 A. Yes, that's about right. 16 Q. So, this memo went to your boss's 17 boss's boss, pretty high up in the company at this 18 point, correct? 19 A. Well, my boss's -- yes, that was a 20 copy sent to him. It wasn't sent to him; a copy of 21 it was sent to him, yes. It was copied to -- it was 22 directly sent to Bert Alpine. 23 Q. Well, you have no doubt that he got 24 this, do you? 25 A. Who, Mr. Davis?

1 No, I don't have any doubt.
 2 Q. And he talks about in his memo what
 3 he learned, and one of the things he learned about
 4 was bronchial carcinoma, correct?
 5 A. That's what he reported that was
 6 obviously stated at this meeting.
 7 Q. And he also talks about mesothelioma,
 8 correct?
 9 A. Do you have another copy of it?
 10 Q. I'm sorry. I don't.
 11 Right underneath there where he
 12 talks -- do you see where it says, underscored,
 13 "mesothelioma, a rare tumor affects the cells'
 14 lining"?
 15 Do you see that?
 16 A. Yes.
 17 Q. And then he goes on to talk about
 18 historical information, correct?
 19 A. Yes, historical information.
 20 Q. Right.
 21 A. Yes.
 22 Q. And he says that "before 1918 there
 23 wasn't a lot of information on the health aspects of
 24 asbestos, right?
 25 A. That's what he's reporting, right.

1 Q. And that, by -- and then he goes on
 2 and he talks about 1960, a study done by a Dr.
 3 Wagner in association --
 4 A. Where --
 5 Q. Page 2.
 6 A. Oh, I'm sorry.
 7 Q. -- associated with exposure to
 8 crocidolite.
 9 Do you see that?
 10 A. Yes. Sorry. Yes.
 11 Q. And that was one of the kinds of
 12 asbestos that was in your asbestos-cement pipe,
 13 true?
 14 A. Yes.
 15 Q. And it says -- when he talks about
 16 people who got mesothelioma, it says, "many were not
 17 even industrially exposed. Although they lived in
 18 the mining area, some only for a short time and some
 19 only as children."
 20 Do you see that?
 21 A. Yes.
 22 Q. Can you tell me whether that
 23 information was ever made known to you in 1967 by
 24 your boss's boss's boss or anybody under him?
 25 A. I never got a copy of this letter,

1 but I -- I do know what CertainTeed knew about
 2 mesothelioma in 1967.
 3 Q. Were they aware of this information?
 4 I guess they were.
 5 A. Well, they had -- they got this
 6 information, but, if you read further on, it says
 7 there were only 500 cases reported in the world up
 8 to this time.
 9 Q. 500 deaths is a lot of deaths, isn't
 10 it?
 11 A. Well, in the world? I don't know the
 12 answer to that.
 13 Q. Well, that would be the equivalent
 14 of, say, two planes coming down and crashing.
 15 A. It's not quite the same comparison.
 16 Q. It's not, sir?
 17 A. I don't think so.
 18 Q. So, 500 people is not a lot of
 19 people?
 20 A. I didn't say that.
 21 Q. Okay.
 22 A. I'm saying it says 500 people, and it
 23 was reported that, even though there were only 500
 24 cases -- that's not me. I'm reading what's in this
 25 letter.

1 Q. I'm not arguing with you, sir.
 2 A. Thank you.
 3 Q. So, it was known that 500 people were
 4 dead or dying from mesothelioma at the time this
 5 letter was written?
 6 A. That's what the letter says.
 7 Q. And that's what CertainTeed knew,
 8 true?
 9 A. They knew what was reported at this
 10 meeting.
 11 (Discussion is held off the record.)
 12 BY MR. PLACITELLA:
 13 Q. Now, CertainTeed was aware that
 14 people in the field were cutting and sawing
 15 asbestos-cement pipe, true?
 16 A. Yes.
 17 Q. And the cutting and sawing of
 18 asbestos-cement pipe would liberate asbestos fiber,
 19 true?
 20 A. In various --
 21 MR. EDELL: Objection to the form of
 22 the question. Do you have any time frame at all?
 23 BY MR. PLACITELLA:
 24 Q. You can answer it, sir.
 25 Cutting and sawing asbestos pipe

Page 209 1 covering liberates asbestos fiber, true? 2 MS. GEISE: Pipe covering? 3 BY MR. PLACITELLA: 4 Q. I'm sorry. Let me rephrase it. 5 Cutting and sawing of asbestos-cement 6 pipe liberates asbestos fiber into the air, true? 7 A. In various quantities, yes. 8 Q. And stacking asbestos-cement products 9 can cause exposure to asbestos, true? 10 A. Stacking in what respect and where? 11 Q. Just stacking one thing on top of the 12 other and the mere abrasive effect of moving one off 13 the other can create exposure, true? 14 A. I don't believe it creates, if any, a 15 great exposure, because the asbestos is encapsulated 16 in the wall of the pipe and, if there is any 17 movement, you are really moving cement against 18 cement. 19 Q. Sir, have you ever seen dust created 20 when one piece of pipe is pulled off another piece 21 of pipe? 22 A. No, I haven't. 23 Q. Has that ever been reported to you? 24 A. Not that I'm -- 25 Q. Have you ever read any documents to	Page 211 1 A. We -- well, we had installation 2 guides, and it was our belief that, if you follow 3 those installation guides, you would be installing a 4 safe product and, as the tests proved out later, we 5 were right. Excuse me. A product within the 6 standards. 7 Q. Sir, did you recognize, at 8 CertainTeed, as a principle, that the company should 9 warn consumers about the dangers associated with the 10 use of its products? 11 A. I think that -- I've answered this 12 question many times. I believe that a company -- 13 any company has a responsibility to make certain 14 that they have procedures out to the customer as to 15 how to install the product in accordance with any 16 specification or any requirements by any agency. 17 Q. And that is a responsibility that was 18 in effect in 1962 when you took over the manufacture 19 and sale of the pipe, true? 20 A. Well, I mean, that was CertainTeed's 21 philosophy as far as I ever knew. 22 Q. And would you agree that at 23 CertainTeed you recognized the principle that a 24 company should test its products to determine if 25 they are dangerous before you sell them?
Page 210 1 that effect? 2 A. Not that I can recall. 3 Q. There came a time -- you've been 4 asked a series of questions many times in a 5 deposition, so I'm going to try to short-cut it. 6 Were there historically basic 7 principles of consumer protection followed in the 8 asbestos-cement pipe industry? 9 A. I'm sorry. I don't understand the 10 question. 11 Q. Well, were there basic principles 12 that you followed, in terms of health and safety in 13 relation to consumers, when you manufactured and 14 sold asbestos-cement pipe? 15 MR. EDELL: Objection to the form of 16 the question. I have no idea what you mean, but if 17 you -- 18 THE WITNESS: No. I'm sorry. I'm 19 having a problem understanding the question. 20 BY MR. PLACITELLA: 21 Q. Were there certain ethical business 22 practices that you conformed with, in terms of 23 selling asbestos-cement pipe, in terms of warning 24 consumers of the potential dangers associated with 25 that pipe?	Page 212 1 A. Well, if -- if you felt that the way 2 you were recommending the product to be installed, 3 that it wouldn't be in accordance with the 4 standards, then I think you had a responsibility as 5 a corporation to make certain that you tested it to 6 be sure that you were selling a product that was 7 safe or could be installed in accordance with your 8 installation instructions that would be within the 9 applicable standards. 10 Q. That, of course, presupposes, sir, 11 that you actually gave instructions, true? 12 A. Well, we have installation 13 instructions. We always had them. Ever since I 14 came to work for the company. 15 Q. From 1962 forward, sir? 16 A. You know, I have not seen anything 17 from '62, but I've seen them -- I saw one dated '64, 18 so I believe we had it in '62. 19 Q. You saw an installation instruction 20 from 1964, sir? 21 A. I believe it was '64 or '65. In that 22 area. 23 Q. And what did that installation 24 instruction say, sir? Because that would be 25 contrary to the Answers to Interrogatories I have in

1 this case.

2 A. Well, I mean, it was our normal
3 installation instructions.

4 Q. Which were what?

5 A. How to -- how to receive the pipe,
6 how to unload it, how to assemble it, and how to
7 back -- how to test it.

8 Q. How about how to use it safely? When
9 did you first have an instruction about how to use
10 the product safely so as to avoid exposure to
11 asbestos?

12 A. What do you mean by "safely"? I
13 mean, these installation instructions were within
14 the applicable standards at the time, so it was our
15 understanding, if you did that, you were selling a
16 product that could be installed safely.

17 Q. And when did you do that, sir?

18 A. I say I saw an installation
19 instruction that was back -- I believe it was '64.

20 Q. And --

21 A. I could stand corrected on that, but
22 it was prior to '67.

23 Q. So you have an installation
24 instruction that told people who were installing
25 your product how to protect themselves from exposure

1 to asbestos prior to 1967? Is that what you are
2 saying?

3 A. No. I'm saying that we had an
4 installation instruction on how to install our
5 product that you could install that would be within
6 the applicable standards. That's what I'm saying.

7 Q. Give me the '67 document.

8 Sir, you'll agree that a company
9 should always tell the truth about the risks and
10 benefits of its products, true?

11 A. I believe a company has to be very
12 honest with its customers, yes.

13 Q. And you would agree, the greater the
14 danger the greater the warning required with the
15 product, true?

16 A. I believe --

17 MR. EDELL: Objection to the form of
18 the question.

19 THE WITNESS: I believe a company
20 needs to be certain that their customers know how to
21 work with the product that's within the applicable
22 standards.

23 BY MR. PLACITELLA:

24 Q. Sir, have you ever testified that "I
25 would agree that we have an obligation to inform

1 workers how to install and use the product safely"?
2 Have you ever testified to that?

3 A. Well, I just -- just 30 seconds ago.

4 Q. Do you agree with that statement,
5 sir?

6 A. Yes.

7 Q. Now, we had marked before the 1967 --
8 what we thought was the 1967 manual or brochure
9 related to asbestos-cement pipe for venting.

10 Do you remember that?

11 A. Yes, sir.

12 Q. Is there anything in this that talks
13 about how to protect yourself from exposure to
14 asbestos?

15 A. It -- no. It tells -- it tells the
16 installer how to cut the pipe, which would be within
17 the applicable standards.

18 Q. Where does it say "applicable
19 standards"?

20 A. Well, I mean, it doesn't say within
21 the applicable standards, but we wouldn't put
22 anything out that wasn't within the applicable
23 standards.

24 Q. Well, what is the installer supposed
25 to know by reading this about applicable standards?

1 A. If you use this -- if you use this
2 way of installing the product, you are installing
3 it -- you are installing it within the standards.

4 Q. Sir, is there anything in this
5 brochure that talks about the dangers of asbestos?

6 A. No.

7 Q. When is the first time that you put
8 anything in material for the customer concerning the
9 dangers of asbestos?

10 A. The first thing I remember reading
11 was in 1974. We had -- we had something in our
12 installation guide in '74.

13 Q. Well, you didn't have it for all
14 products, right? You only had it for sewer pipe?

15 A. That's correct.

16 Q. Okay.

17 Anybody else who would have used it
18 for any other purpose wouldn't have gotten this,
19 true?

20 A. In '74, that's correct, yes.

21 Q. Okay. Now --

22 A. Well, wait. I'd have to look at --
23 excuse me. I might be wrong on that. I'd have to
24 look at an installation guide that was around that
25 period, because that standard -- that standard

Page 217 1 warranty -- excuse me -- that standard OSHA 2 statement was in our pressure pipe installation 3 guide, too. It was imprinted right on the front 4 page. 5 Q. I'm going to go through all that. 6 Sir, before you ever put a word about 7 the dangers of asbestos in any material that might 8 remotely reach the consumer, you rejected that 9 warn -- doing so on multiple occasions, true? 10 A. No, that's not true. 11 Q. Not true? 12 A. No. 13 Q. Sir, am I correct that CertainTeed 14 met with members of the asbestos-cement industry on 15 multiple occasions in the 1960s after receiving 16 information on asbestos and mesothelioma, discussed 17 whether people should be warned, and rejected that 18 notion? 19 A. The only thing I know of, sir, there 20 was an Asbestos-Cement Products Association meeting 21 that we were not members of, but we had an attendee 22 at the association, and he voted on some change to 23 one paragraph. That's the only thing I'm aware of. 24 But I don't think in any way that said we didn't 25 want to warn people of things.	Page 219 1 THE VIDEOGRAPHER: Off the record at 2 2:53. 3 (Discussion is held off the record.) 4 THE VIDEOGRAPHER: Back on the record 5 at 3:06 p.m. 6 MR. PLACITELLA: Mark this next. 7 (Exhibit Ambler 13 is marked for 8 identification.) 9 BY MR. PLACITELLA: 10 Q. Before we broke I asked you questions 11 about whether, during the 1960s, shortly after you 12 started to work for CertainTeed, CertainTeed, along 13 with other members of the asbestos-cement pipe 14 industry, had considered warning consumers or 15 contractors about health hazards associated with the 16 use of asbestos-cement products, and your answer was 17 what? 18 A. In what -- what are you -- in what 19 respect did the -- did the industry try? 20 Q. Did you, as a member of the 21 asbestos-cement products industry, have discussions 22 in the 1960s about whether people who were exposed 23 to asbestos as a result of using asbestos-cement 24 products should be warned about the dangers 25 associated with that exposure?
Page 218 1 Q. How long after you started was 2 CertainTeed involved in discussions with other 3 members of the asbestos-cement pipe industry about 4 whether or not people using your products needed to 5 be warned? 6 A. I don't know -- I don't understand 7 that question. The only people -- the only meetings 8 I know about in -- as far as the pipe -- as far as 9 the pipe industry is concerned, happened to -- in 10 the '60s, happened to have been in connection with 11 the ingestion issue. 12 Like I say, there was a meeting for 13 Asbestos-Cement Products Association, but you say 14 pipe, and that's the only meeting I'm aware of. 15 Q. Well, the Asbestos-Cement Products 16 Association included manufacturers of 17 asbestos-cement pipe, true? 18 A. There were members there from pipe, 19 but it was more of a building products association, 20 but, as far as I know, we were not a member of that 21 association. 22 MR. PLACITELLA: Why don't we take 23 two minutes and see if we can fix this -- it's 24 annoying -- and we'll come back and pick up. 25 (Discussion is held off the record.)	Page 220 1 A. Well, we -- we were not members of 2 the Asbestos-Cement Products Association, that we 3 can find anywhere. 4 Q. Are you certain of that? 5 A. We investigated all the files and we 6 talked to all the people that we can even talk to, 7 and we are pretty sure we weren't members. We 8 attended meetings. 9 Q. You signed in as members, didn't you? 10 A. I didn't go to any of the meetings. 11 And then, secondly, I think your 12 question was, was it a warning label -- was warning 13 labels discussed at the meetings? Was that your 14 question? 15 Q. Was the need to warn people who were 16 using asbestos-cement products discussed at the 17 meetings? 18 A. There was a discussion on that, yes. 19 Q. And the notion that the people should 20 be warned was rejected? 21 A. Not that I'm aware of. 22 Q. This one is for you, Mr. Ambler, this 23 one is for you, Marc. 24 You have in front of you the 25 minutes -- Ambler 13, the minutes of the meeting of

Page 221 1 the Health and Safety Council of the Asbestos-Cement 2 Products Association, dated November 14, 1968. 3 Do you see that? 4 A. Yes. 5 Q. And have you seen this document 6 before? 7 A. Yes, I have, through depositions. 8 Q. And the first paragraph says, "A 9 meeting of the members of the Health and Safety 10 Council of the Asbestos-Cement Products Association 11 was held pursuant to notice at the board room of the 12 FlintCoat Corporation." 13 Do you see that? 14 A. FlintCoat Company, yes. 15 Q. It says, "The following persons were 16 present." 17 Do you see that? 18 A. Yes. 19 Q. And it -- and it lists CertainTeed 20 Products Corp. as a member, true? 21 A. No. 22 Q. It doesn't say, came from a meeting 23 of the members and these are the people that were 24 members? 25 A. It says, "The following persons were	Page 223 1 discussed at this meeting, sir? 2 A. Where do you see that, sir? I mean, 3 do you want me to read the whole thing? 4 Q. Well, you've seen this before. Do 5 you recall what it says? Do you want me to point 6 out pieces to you? 7 A. Yes, if you would, please. 8 Q. Okay. The second page, third full 9 paragraph. 10 Do you see that? 11 A. Yes, sir. 12 Q. And it talks about Mr. Mayne calling 13 upon Mr. Scheckler of Johns-Manville. 14 A. Yes. 15 Q. To report on the proposed pamphlet 16 entitled, Recommended Health Safety Practices for 17 Applying -- Handling and Applying Asbestos-Cement 18 Products. 19 A. Yes. 20 Q. Do you see that? Okay. 21 And does that refresh your memory, 22 sir, as to whether a health -- recommended health 23 safety practice for asbestos-cement products was 24 discussed at the meeting? 25 A. Well, I know that something was
Page 222 1 present." 2 Q. And one of those persons was Mr. 3 Alpine. 4 A. Sir, I don't know how to answer you. 5 I mean, this is a question we've researched and 6 researched, and we don't feel we were members of 7 this association. However, we had people who 8 attended meetings. I don't know how else to answer 9 your question. 10 Q. You attended the meeting and the 11 minutes say you were a member, but you say you were 12 not a member? 13 A. No, it doesn't say we weren't a 14 member. 15 MR. EDELL: Objection to the form of 16 the question. 17 MR. PLACITELLA: Okay. 18 THE WITNESS: It does not say we were 19 a member. It says, a meeting of the members, but 20 then it says, "The following persons were present." 21 It doesn't say the people there had to be members. 22 BY MR. PLACITELLA: 23 Q. And it talks -- and what was 24 discussed at this meeting? Was a booklet concerning 25 safe practices using asbestos-cement product	Page 224 1 discussed about asbestos-cement products at the 2 meeting. 3 Q. And it also talks about how the -- 4 that there was a draft of the booklet that was being 5 circulated, true? 6 A. Draft booklet, right. 7 Q. And that it was designed for 8 contractors and those who handle asbestos-cement 9 material, correct? 10 A. Right. 11 MR. PLACITELLA: Okay. Mark this 12 next. 13 (Exhibit Ambler 14 is marked for 14 identification.) 15 BY MR. PLACITELLA: 16 Q. Sir, am I correct that members -- or 17 executives at CertainTeed were involved in the 18 review of this booklet? 19 A. Yes. 20 Q. And I've provided you, as Exhibit 21 Number 14 to this deposition, the draft booklet, 22 which is attached to a memo from Mr. Zimmerman. 23 Do you see that? The third page? 24 A. I'm sorry. Your question was? 25 Q. Look at the third page of the

56 (Pages 221 to 224)

Page 225 1 document. 2 A. Okay, I'm on the third page. 3 Q. This is the draft booklet entitled, 4 "For Handling and Applying Asbestos-Cement." 5 Do you see that? 6 A. No, I don't. 7 Q. Right there. To the right. 8 A. Oh, I'm sorry. Yes. 9 Q. And it was prepared by the 10 Asbestos-Cement Products Association? 11 A. Yes. 12 Q. And that's the booklet that's 13 referenced in the minutes of the meeting attended by 14 Mr. Alpine, correct? 15 A. Yes. 16 Q. And this booklet had to do with 17 asbestos-cement products including asbestos-cement 18 pipe, true? 19 A. I'd have to see the booklet to see 20 what it said about pipe. There was some reference 21 to pipe, as I understand it. 22 Q. If you look at the fifth page of the 23 booklet -- 24 A. Right. 25 Q. -- it says that -- one of the	Page 227 1 products. 2 Q. It mentions in the booklet that 3 applies, as well, to asbestos-cement pipe, true? 4 A. It mentions asbestos-cement pipe -- 5 Q. Okay. 6 A. -- but the association was involved 7 with building products. 8 Q. Well, was Mr. Alpine there as a 9 representative of CertainTeed building products or 10 as a representative of asbestos-cement pipe? 11 A. He was there as a representative of 12 CertainTeed Products Corporation. 13 Q. But his job focused on 14 asbestos-cement pipe, correct? 15 A. His job was in the pipe division, 16 yes. 17 Q. Okay. 18 And this draft that was discussed at 19 the meeting attended by Mr. Alpine has various 20 provisions in it, true? 21 A. Yes. 22 Q. For instance, on Page 2 it talks 23 about the major points to keep in mind when handling 24 or applying materials containing asbestos. 25 Do you see that?
Page 226 1 products the booklet refers to is asbestos-cement 2 pipe -- 3 MR. EDELL: Objection to the form of 4 the question. 5 BY MR. PLACITELLA: 6 Q. -- true? 7 MR. EDELL: It's a draft of the 8 booklet. 9 MR. PLACITELLA: I understand. We 10 agree it's the draft. 11 MR. EDELL: Not the booklet. 12 MR. PLACITELLA: We agree it's the 13 draft. 14 THE WITNESS: It says -- well, it 15 refers to -- it mentions in the first paragraph 16 asbestos-cement pipe, but it says that -- well, it 17 says quite a bit about it. 18 BY MR. PLACITELLA: 19 Q. Yes, but the only reason I'm showing 20 that to you is this book pertains to asbestos-cement 21 pipe in addition to other products, true? 22 A. Yes -- 23 Q. Okay. 24 A. -- but it was more applicable to 25 building products -- asbestos-cement building	Page 228 1 A. Yes. I'm sorry. 2 Q. Okay. 3 And the things to keep in mind says, 4 "Keep dust to a minimum," correct? 5 A. Yes. 6 Q. "Wear approved respirators when 7 exposed to dust, maintain good housekeeping at all 8 times," correct? 9 A. Yes. 10 Q. On Page 3, in the introduction, it 11 indicates that "Respirators should be worn when 12 dusts are generated as a result of sawing, drilling 13 or other similar operation," true? 14 A. It does say that, yes. 15 Q. And, under housekeeping on the next 16 page it says, "A major source of dust is from loose 17 material, scrap, and other debris distributed 18 throughout the job area and disintegrated by 19 trampling on, running over, et cetera," correct? 20 A. That's what it says, but it doesn't 21 say what job areas or what products they are talking 22 about. 23 Q. And then on the next page it says, 24 under shipping, "Under normal conditions unit load 25 handling and storage of asbestos-cement products,

1 including roofing and siding shingles, flat and
2 corrugated sheets, asbestos-cement pipe, et cetera,
3 should present no problems, if the safety practices
4 and regulations are observed and enforced."

5 Do you see that?

6 A. It says that, yes.

7 Q. And then down in the third paragraph
8 it says, "If breakage of asbestos-cement products
9 occurs, broken pieces of material should be cleaned
10 up and disposed of to avoid disintegration by
11 trampling, running over, et cetera," correct?

12 A. It says that.

13 Q. The next page talks about
14 fabrication, and it says, in the second paragraph,
15 "Fabrication of asbestos-cement products involving
16 cutting, drilling, sawing should be done in a manner
17 that will minimize dust. The use of proper methods,
18 tools and equipment will contribute considerably
19 towards dust abatement," correct?

20 A. Correct.

21 Q. And then on the bottom, when it talks
22 about clean-up, it says that you should use vacuum
23 equipment, correct? And, if you can't use vacuum
24 equipment, wet down the material?

25 A. That's what it says.

1 Q. So, in --

2 A. That's what we evolved into, sir, in
3 our plants.

4 Q. In your plant?

5 A. In our plant.

6 Q. Was the information in this booklet
7 provided to purchasers or workers who used
8 asbestos-cement products in 1967?

9 A. No, for the simple reason we didn't
10 believe it was -- we had an issue with the way we
11 were recommending to install our products.

12 Q. But your brochures in 1967 showed
13 people cutting asbestos-cement pipe, true?

14 A. With manual -- with manual means,
15 yes.

16 Q. They showed people hammering
17 asbestos-cement pipe, true?

18 A. That brochure shows it.

19 Q. They show people chiselling
20 asbestos-cement pipe, true?

21 A. Well, isn't the hammer and the chisel
22 one operation there? I'd have to see it again.

23 Sir, I don't think that's two --
24 there are two inter -- two different operations
25 there.

1 Q. They show the stacking of
2 asbestos-cement pipe, true?

3 A. I'd have to see it. Can I see it,
4 please?

5 Stack -- shows one on top of another,
6 yes.

7 Q. Okay.

8 So, if they are in the same year, the
9 information that the Asbestos-Cement Products
10 Association said should be provided was not
11 provided --

12 A. Well, I don't understand --

13 Q. -- in the same brochure in the same
14 year, true?

15 A. No. I don't understand that question
16 at all. What was not provided?

17 Q. You didn't tell people to wear
18 respirators when they were cutting the product in
19 1967, did you?

20 A. Because they didn't need to.

21 Q. That's your conclusion, right, sir?

22 A. That's the company's conclusion --

23 Q. I understand that.

24 A. -- and it proved out to be right when
25 we tested in '77.

1 Q. That's why so many people died,
2 right, sir?

3 Now, that brochure was discussed
4 again in 1969, a year later, true?

5 A. It was discussed again. I don't know
6 the exact date of it, but obviously you have it
7 there.

8 MR. PLACITELLA: Why don't you mark
9 this the next -- I guess it's 15.

10 (Exhibit Ambler 15 is marked for
11 identification.)

12 BY MR. PLACITELLA:

13 Q. Now, in 1969 the head of the pipe
14 division for CertainTeed was actually a member of
15 the committee that was working on this booklet,
16 true, that you say you were never a member of?

17 MR. EDELL: He didn't say they
18 weren't a member of this particular committee. He
19 said he wasn't a member of the organization.

20 MR. PLACITELLA: Oh, so you could be
21 on the committee writing all the stuff, but you
22 couldn't be a member?

23 MR. EDELL: Perhaps that's true, but
24 that's not what he said.

25 BY MR. PLACITELLA:

Page 233 1 Q. Okay. 2 Sir, Mr. Alpine, who was head of the 3 pipe division, was on the committee charged with 4 reviewing this booklet, true? 5 MR. EDELL: Where does it say that? 6 MR. PLACITELLA: I'm asking him a 7 question. 8 THE WITNESS: I'm sorry, sir. Your 9 question is, was Mr. Alpine at this meeting? 10 BY MR. PLACITELLA: 11 Q. No. 12 My question is, not only did he go to 13 the meeting; he was a member of the committee that 14 was charged in drafting and reviewing the proposed 15 booklet forewarning consumers related to 16 asbestos-cement pipe? 17 A. He was a part of putting that booklet 18 together, yes. 19 Q. And the booklet was discussed first 20 in 1968 and then brought back up at a meeting in 21 1969 because it was not approved for release in 22 1968, true? 23 A. Well, I mean, I don't know why it 24 was -- what actions -- I mean, it was November of 25 '68, and then it was brought up again in February of	Page 235 1 Look on the page before it, sir. 2 A. Well, that was just a memorandum sent 3 out. He's saying the people at the meeting -- 4 Q. No, no, no. We are not connecting. 5 Turn to the first page. 6 A. I'm connecting very well, I think. I 7 think you are asking me about the February 18th 8 meeting, are you not? 9 Q. No, sir. 10 First I'm asking, who got the minutes 11 of the meeting? 12 A. Oh. I didn't think that was your 13 question. 14 Q. Okay. That's my question. 15 A. I'm sorry. 16 Q. The people that got the minutes -- by 17 the way, this meeting (sic) was sent out by the 18 lawyers for the organization, true? 19 A. That's correct, yes. 20 Q. Okay. 21 And you think the lawyers would send 22 out minutes of meetings to non-members? 23 A. Sir, I don't know the answer to that 24 question. 25 MR. EDELL: Lawyers never make
Page 234 1 '69. Maybe some additional information had to be 2 determined. I don't remember that. 3 Q. Okay. 4 So, the first time it was brought up, 5 it was -- CertainTeed did not use the booklet to 6 warn anybody, true? 7 A. CertainTeed did not use the booklet. 8 Q. Okay. 9 Then a memo was generated, which I 10 gave you, dated March 3rd, 1969, attaching the 11 minutes of the meeting of the Health and Safety 12 Council. 13 Do you see that? 14 A. Dated February 18th? 15 Q. Correct. 16 A. Yes. 17 Q. And the people that got this at 18 CertainTeed include a Mr. McNabb. Who was he? 19 A. In '69 he was executive 20 vice-president of the corporation. 21 Q. And Mr. Davis. What was his job in 22 '69? 23 A. In '69 -- I don't see where he was a 24 part of this meeting. 25 Q. Says, "M.S. Davis, Jr., CertainTeed."	Page 236 1 mistakes. 2 THE WITNESS: I mean -- 3 BY MR. PLACITELLA: 4 Q. There wasn't a mistake here, sir. 5 Whether -- one, two, three, four people from -- 6 three people from CertainTeed got this, didn't they? 7 A. That's correct, yes, sir. 8 Q. The executive vice-president of the 9 company? 10 A. Yes. 11 Q. Mr. Davis. What was his job? 12 A. As I mentioned earlier today, he's -- 13 he was president of the pipe division. 14 Q. He was president of the whole pipe 15 division. And then Mr. Alpine. 16 A. He was in charge of -- he was in 17 charge of asbestos-cement pipe manufacturing. 18 Q. And then attached are the meeting 19 minutes, correct? 20 A. Yes. 21 Q. And it says that the person who 22 attended the Health and Safety Council meeting on 23 behalf of CertainTeed was Mr. McNabb. 24 Who was Mr. McNabb in 1969? 25 A. He was executive vice-president of

Page 237 1 the corporation. 2 Q. So -- of the whole corporation? 3 A. Yes. 4 Q. Well, how many people in the 5 corporation in 1969? 6 A. I don't know. 7 Q. A thousand? 8 A. I have no idea. 9 Q. Tens of thousands? 10 A. I have no idea. 11 Q. How many countries did you operate 12 in? 13 A. CertainTeed Corporation? 14 Q. Yes. In 1969. 15 A. Well, primarily just the United 16 States. I mean, we did export products once in a 17 while, but primarily in the United States. 18 Q. So, the executive vice-president of 19 the entire corporation thought it was important 20 enough to attend this meeting that you weren't a 21 member of -- 22 A. Sir -- 23 Q. -- in 1969, true? 24 A. -- I'm -- I'm telling you -- you are 25 implying that I'm sort of leading you astray. I	Page 239 1 Q. And a medical advisor, correct? 2 A. Dr. Wright, yes. 3 MR. EDELL: Do you want to really 4 work this out and get the real answer? 5 MR. PLACITELLA: I want answers -- I 6 want my questions answered. Is there an objection? 7 MR. EDELL: It's not that 8 complicated. 9 MR. PLACITELLA: Is there an 10 objection? 11 Then please don't interrupt. 12 MR. EDELL: It's a waste of time, but 13 go ahead. 14 MR. PLACITELLA: I'm not wasting 15 time. 16 MR. EDELL: You are, Chris. 17 BY MR. PLACITELLA: 18 Q. Discussed at the meeting was the 19 recommended code of practices again, correct? 20 Second full paragraph, Page 2. 21 A. Well, Mr. Mayne is saying that he 22 spoke briefly on the background of the concern of 23 the asbestos industry with health and safety 24 practices. 25 Q. And down on the fourth paragraph Mr.
Page 238 1 don't know if we were a member or not -- 2 Q. Okay. 3 A. -- but, please, sir, please feel free 4 to go down and check all the files you would like. 5 Q. That's not my job, sir. 6 A. Well, I'm trying to answer -- I mean, 7 four times now you've implied I'm not telling you 8 the facts. 9 Q. You are the one that said you weren't 10 a member. I'm just asking the question. 11 A. Well, yes. 12 Q. Other people who were there were 13 representatives were Philip Carey, sir? 14 A. That's what it says, yes. 15 Q. FlintCoat Company, sir? 16 A. That's what it says. 17 Q. GAF? 18 A. Yes. 19 Q. Johns-Manville? 20 A. Yes. 21 Q. The Quebec Asbestos Mining 22 Association? 23 A. Yes. 24 Q. The lawyers? 25 A. Yes.	Page 240 1 Scheckler again says, "No progress was made on the 2 manual since the last meeting," right? 3 A. That's correct, yes. 4 Q. And on the next page it says that 5 there were only four members of the subcommittee 6 involved in drafting the pamphlet, true? 7 A. Yes. 8 Q. And one of them -- the four 9 members -- is the head of the pipe division for 10 CertainTeed, Mr. Alpine, true? 11 A. No. 12 Q. Mr. A.E. Alpine is not one of the 13 members? 14 A. No, that's not what your question 15 was. 16 You asked me if he was head of the 17 pipe division. He was never head of the -- 18 Q. Head of pipe manufacturing? 19 A. Yes. 20 Q. Sorry. Yes. Head of pipe 21 manufacturing. Thank you. 22 A. Yes. 23 Q. And one of the main purposes for 24 discussing this booklet was to limit your liability 25 should you get sued, true?

Page 241 1 A. Mr. Carey said that was one of the 2 purposes of issuing the booklet, yes. 3 Q. Was the booklet released to warn 4 consumers in 1969? 5 A. We did not release this booklet, as 6 far as I know. I don't know if anybody did. 7 Q. On more than one occasion it was 8 discussed that one of the reasons you should publish 9 the booklet and use it was to protect yourself from 10 lawsuits, true? 11 A. That was what -- 12 MR. EDELL: Objection to the form of 13 the question. 14 BY MR. PLACITELLA: 15 Q. You can answer it. 16 A. That's what Mr. Sirney (sic) -- no, 17 wait. I'm sorry. Strike that. 18 Yes, Mr. Sirney stated that one 19 purpose was for the limitation of liability. It 20 says, "The limitation of liability of the 21 manufacturers." 22 Q. What was the date of that document, 23 sir? 24 A. March 8th -- excuse me -- 25 February 18th.	Page 243 1 Q. What was his position? 2 A. I don't know exactly what Steve's 3 position was. 4 Q. Where did he work? 5 A. In '69? Probably he was -- he was 6 probably headquartered in either Broad Axe or -- in 7 Pennsylvania, Broad Axe or Ardmore. 8 Q. Did he work in relation to 9 asbestos-cement pipe? 10 A. Yes, he did. 11 Q. So he was there to represent 12 CertainTeed's interests as it relates to 13 asbestos-cement pipe, would you agree? 14 A. No, not necessarily. Obviously he 15 did other things, too, so he may have been there 16 just on asbestos. 17 Q. Do you see anything in any research 18 that you've done to indicate that he was there 19 representing the interests of CertainTeed for 20 anything other than asbestos-cement pipe? 21 A. I haven't seen anything one way or 22 the other, but this was a building products 23 association, so I would certainly think that 24 CertainTeed would want to hear what they are saying 25 about asbestos in building products.
Page 242 1 Q. 1969? 2 A. Yes. 3 Q. And, in December of 1969, the 4 publication of the booklet was rejected again by 5 CertainTeed and the other members of the 6 Asbestos-Cement Products Association, true? 7 A. I don't know. If it says that, then 8 it's true. 9 MR. PLACITELLA: Mark this next. 10 (Exhibit Ambler 16 is marked for 11 identification.) 12 BY MR. PLACITELLA: 13 Q. You have in front of you P-16, which 14 is a December 10, 1969 letter with attached minutes 15 of the First Annual Meeting of the Health and Safety 16 Council ACPA, dated November 21, 1969. 17 Do you see that? 18 A. Yes. 19 Q. And the person who attended this 20 meeting on behalf of CertainTeed was a Mr. Monoky, 21 M-o-n-o-k-y. Who was he? 22 A. Monoky. 23 Q. Monoky. 24 A. He was -- he was involved in health 25 and safety.	Page 244 1 Q. So he would be reporting back both to 2 people in asbestos-cement pipe and other building 3 products? 4 A. If he -- if he reported back. I 5 don't know what Steve did with it. 6 Q. Now, one of the things that was 7 discussed at this meeting he attended was the issue 8 of product liability, correct? 9 A. Where is that, sir? 10 Q. Page 2. 11 A. It's Mr. Ball discussed product 12 liability from Johns-Manville, yes. 13 Q. Right. And he talked about the 14 various classes of people who the members could 15 expect to sue them for failing to warn about the 16 dangers of asbestos, true? 17 A. Where do you see that, sir? 18 Q. Page 2, Page 3 -- 19 A. Well, I mean -- 20 Q. -- Page 4. 21 A. Did he use the word "expect" or did 22 he use the word "could"? 23 Q. Well, let's go through it. Mr. Ball 24 restricted his comments, he talked about asbestosis 25 and put aside mesothelioma and cancer for a second.

Page 245 1 Do you see that? 2 A. Yes. 3 Q. Okay. 4 And he talked about the classes of 5 people who may file a lawsuit. 6 A. Who may, yes. 7 Q. Correct? 8 A. Who may file, yes. 9 Q. Okay. 10 And he says, "The first class of 11 people are the people who work day-to-day with the 12 products because of their handling, sawing, nailing 13 and so forth." 14 A. Correct. 15 Q. Correct? 16 A. Yes. 17 Q. Because their exposure would be 18 unavoidable, true? 19 A. Where does he say it's -- 20 Q. "Are exposed to asbestos fibers 21 unavoidably liberated into the atmosphere." 22 Do you see that? 23 A. Yes. I'm sorry. Yes. 24 Q. "Such exposure, if proper safety and 25 housekeeping procedures are not followed, is a more	Page 247 1 they were suing the members, true? Third full 2 paragraph. 3 A. And your question was? I'm sorry. 4 Q. What he indicated was that one of the 5 things that people may be sued over is the failure 6 to warn about the dangers of asbestos and how to 7 work with the product safely, basically. Isn't that 8 what he says? 9 A. He gets into some of that, yes. 10 Q. And then what he recommends to the 11 members on Page 5 is "Put a warning on the 12 packaging. The warning should state that there may 13 be a health hazard and that proper precautionary 14 procedures such as wearing respirators be followed." 15 Isn't that what he says? 16 A. Yes, but they are talking about 17 building products there. 18 Q. Where does it say that? 19 A. It doesn't say it, but they are. 20 Q. Well, sir, you were there -- where 21 does it say they are only talking about building 22 products? 23 A. It doesn't say that, sir, but their 24 own company didn't put it on pipe. 25 Q. Whose own company?
Page 246 1 or less continuing one." 2 Do you see that? 3 A. Yes. 4 Q. And the next one is a second class of 5 potential plaintiffs who are identified as being 6 so-called neighborhood plaintiffs, correct? 7 A. Yes. 8 Q. These are people who live near a 9 plant or a mining facility that emit asbestos fibers 10 into the air, correct? 11 A. Yes. 12 Q. And, of course, these are the same 13 class of people that Dr. Selikoff's conference 14 talked about in 1964 and were discussed at the IHF 15 meeting in 1967, correct? 16 A. I'd have to go back and read Dr. 17 Selikoff's -- but, I mean, there was -- in the other 18 report it was second class people. 19 Q. And then he said there is a third 20 class of people who might file suit, and those were 21 people who may use the products from time to time, 22 but not on a regular basis, correct? 23 A. Correct. 24 Q. And on Page 4 he talks about the 25 theory that he would expect plaintiffs would use if	Page 248 1 A. Johns-Manville. 2 Q. Well, shame on them. 3 A. I'm just stating a fact, sir. 4 Q. It doesn't say anything about this is 5 limited to building products, does it, sir? 6 A. No, but the association was primarily 7 for building products. 8 Q. But, sir, the only people who ever 9 attended, other than the executive vice-president, 10 on behalf of CertainTeed, were involved in 11 asbestos-cement pipe, true? 12 A. No, I don't believe that's true, 13 because I think Steve was involved in other things, 14 also. 15 Q. But you don't know that for a fact? 16 A. No, I don't know if he was or he 17 wasn't. 18 Q. Okay. 19 And what he says was -- what he says, 20 basically, is you should warn the consumer, correct? 21 A. If there is an issue, you should warn 22 the consumer, yes. 23 Q. And that you should also hand out the 24 pamphlet? 25 A. He's saying -- where does he say

Page 249 1 that? I'm sorry. 2 Q. The next paragraph. "Mr. Ball 3 stated." 4 A. That's what he's saying, yes. 5 Q. The next paragraph talks about a 6 presentation of Dr. Davis at the exact same time in 7 the meeting, correct? 8 A. Where does -- 9 Q. Page 6, sir. 10 A. Oh, Page 6. 11 Yes. What they are saying is what 12 this doctor presented at the meeting, correct. 13 Q. And the doctor, again, talked about 14 asbestos exposure and mesothelioma, correct? 15 A. He did mention mesothelioma, yes. 16 Q. And after this meeting, sir, in 1969, 17 did CertainTeed put a warning on its asbestos-cement 18 pipe? 19 A. No, they did not, for the reasons 20 that I've told you. 21 Q. After this meeting, sir, did 22 CertainTeed hand out a pamphlet telling people how 23 to protect themselves from exposure to asbestos when 24 working with asbestos-cement pipe? 25 A. We had our installation instructions,	Page 251 1 specifically to protect people from exposure to 2 asbestos in 1969? 3 A. No, I'm not. I said we had an 4 installation instruction for our product, for our 5 pipe, that told people how to -- to receive, unload 6 and install our product. 7 Q. Right. 8 A. That's what we had. 9 Q. And none of those installation 10 instructions mentioned the dangers of asbestos, 11 true? 12 A. Well, I don't know when the first 13 OSHA warning was put on pressure pipe, but, as I 14 mentioned earlier, it was put on the sewer pipe 15 installation guide in '74. But, sir, as I told you, 16 the way we recommended was within the OSHA 17 standards. 18 Q. Sir, OSHA was not in effect in 1969, 19 was it? 20 A. Well, we both know they weren't, but 21 then it was in -- in accordance with the ACGIH 22 standards. 23 Q. Well, sir, you knew the ACGIH 24 standards were inadequate to protect people, didn't 25 you?
Page 250 1 which would keep people from being exposed to 2 asbestos that was not in accordance with the 3 applicable standards. 4 Q. Show me that, sir. 5 A. Well, I mean, we have our 6 installation instructions. 7 Q. Where is that, sir? 8 A. Where are they? 9 Q. Can you produce that tomorrow at the 10 deposition, sir? 11 A. I can't produce it tomorrow. 12 Q. Can you ask your lawyers to show it 13 to me, because I don't think it exists? 14 A. You don't think what exists? 15 Q. I don't think there is installation 16 instructions in 1969 that instruct people on how to 17 protect themselves from exposure to asbestos. 18 A. Whoa, whoa. No, I didn't say that, 19 sir. What I said was, the installation instructions 20 were such that, if you used them, you would not be 21 exposed to asbestos that was not in accordance with 22 the applicable standards and, when testing was done 23 in 1977, that proved to be correct. 24 Q. Sir, you are saying that you had an 25 installation instruction that was designed	Page 252 1 A. We went through that earlier today, 2 and I'm not agreeing to that. 3 Q. But in your plant you used a standard 4 lower than the ACGIH standards to protect your 5 workers, did you not? 6 A. We always tried to -- we always tried 7 to have standards lower than the applicable 8 standards. 9 Q. Sir, in 1969, after getting the 10 advice from the attorney that people should be 11 warned, did you warn anybody who was using 12 asbestos-cement pipe that they needed to protect 13 themselves from exposure to asbestos? 14 MR. EDELL: Objection to the form of 15 the question. 16 THE WITNESS: When it was determined 17 that there was a way being used to install the 18 product, we warned the people not to use that means. 19 BY MR. PLACITELLA: 20 Q. Sir, in 1969 did you warn people 21 using asbestos-cement products to avoid exposure to 22 asbestos? Did you warn them of that? 23 A. No, for the reasons I've already 24 stated. 25 Q. Okay.

Page 253 1 You had done no testing concerning 2 the installation of asbestos-cement pipe as of 1969, 3 true? 4 A. No testing in the installation? Is 5 that your question? 6 Q. Yes, sir. 7 A. We didn't do it because we -- it was 8 our belief that you -- that the way we were 9 recommending to cut or machine the pipe was well 10 within any standard, and that was based on our 11 experience with the product. 12 Q. Sir, how would you know that without 13 doing the tests? 14 A. Well, as it proved out, we were right 15 because, when we did -- 16 Q. Sir -- 17 A. Excuse me. 18 -- when we did test the product, it 19 was within the OSHA standards. The OSHA standards 20 in '76, by the way. 21 Q. Sir, I'm not asking you about 1976 or 22 1977. 23 I'm asking you, in 1969 had you done 24 any testing to determine what level of asbestos 25 fiber was released when you cut or fabricated	Page 255 1 same question. 2 A. That's fine. 3 Q. So you refuse to answer my question? 4 A. No, I don't refuse to answer your 5 question. 6 Q. My question is -- 7 A. Sir -- 8 Q. Can you answer my question, sir, yes 9 or no? Can you answer my question -- 10 A. No, I can't answer it yes or no. 11 Q. Fine. Then I'll move on. 12 A. Okay. 13 Q. You refuse to answer my question yes 14 or no? 15 A. No. No. I'll -- 16 Q. Do you refuse to answer my question 17 yes or no? 18 MR. EDELL: Hold on. 19 BY MR. PLACITELLA: 20 Q. Excuse me, sir. Do you refuse -- 21 MR. EDELL: Let him say whatever he 22 wants to say and you'll respond. 23 THE WITNESS: I'm sorry. 24 BY MR. PLACITELLA: 25 Q. Do you refuse to answer my question
Page 254 1 asbestos-cement pipe on the job? 2 A. I told you we did not, and I told you 3 the reason for it is because it was our belief, 4 based on our experience with the product, that the 5 way we recommended to install the product would be 6 within the applicable standards. 7 Q. And what is the basis for that 8 statement, sir? 9 A. I mean, we were experienced with the 10 products. We -- there were some times in the 11 laboratory where we used the manual ways to cut pipe 12 for testing. I mean, we knew what was going on. We 13 just didn't fall off a turnip truck. I mean, we 14 knew what was going on, and it proved out to be 15 correct in '77 when the testing was done. 16 Q. Sir, I'm not asking you about 1977. 17 I'm asking you about 1969. 18 A. I -- 19 Q. You did no tests, am I correct, to 20 determine whether asbestos was released in 1969 on 21 the job cutting asbestos-cement pipe? 22 A. Sir, I've answered that question 23 three times now, and I'm going to continue to answer 24 it the same way. 25 Q. And I'm going to continue to ask the	Page 256 1 yes or no? 2 MR. EDELL: He has not refused to 3 answer any of your questions. You are doing nothing 4 more than badgering him. 5 MR. PLACITELLA: I'm not badgering 6 him. 7 MR. EDELL: If you've got another 8 question, ask it. 9 MR. PLACITELLA: I've got plenty of 10 questions. 11 MR. EDELL: Then go ahead. 12 BY MR. PLACITELLA: 13 Q. Sir, in 1970 was another draft of the 14 brochure circulated within your corporation? 15 A. I don't know the answer to that. 16 MR. PLACITELLA: Next. 17 (Exhibit Ambler 17 is marked for 18 identification.) 19 BY MR. PLACITELLA: 20 Q. You have in front of you Exhibit 21 Number 17, which is the 1970 version of the 22 recommended practices for fabricating and handling 23 asbestos-cement products. 24 Have you ever seen that before? 25 A. This is only part of the whole

Page 257 1 practices. I believe I've seen the whole practices 2 before. 3 Q. And you've seen this before in prior 4 depositions, have you not? 5 A. Yes. I didn't see it while I was 6 with CertainTeed. Yes. 7 Q. And, again, this brochure indicates 8 that care should be taken when exposed to asbestos 9 from asbestos-cement products on construction sites, 10 correct? Generally? 11 A. Yes, generally. 12 Q. And it talks about good housekeeping 13 practices and use of vacuums and the like, and 14 sawing, et cetera, correct? 15 A. Yes. 16 Q. And right in the introduction it says 17 that any time that you saw a product and state or 18 federal regulations are exceeded in terms of 19 exposure limits, respirators should be worn, 20 correct? 21 A. Where is that, sir? I'm sorry. 22 Q. Page 3. 23 A. Yes, it does say that. 24 Q. In 1970 you actually were part of an 25 organizational meeting that approved distributing	Page 259 1 Do you see that? 2 A. Yes. 3 Q. And on the second ballot CertainTeed 4 actually voted against the brochure? 5 A. What brochure? 6 Q. The -- the asbestos-cement product 7 brochure. 8 A. No. They didn't vote against it. 9 They voted against a proposed amendment to a certain 10 paragraph on Page 3. 11 Q. Right. 12 And ultimately the brochure was voted 13 on and unanimously passed, correct? 14 A. I don't know -- 15 Q. The next page. 16 A. I'm sorry. 17 Okay. 18 Q. Yes, sir? 19 A. That's correct. That's what it says. 20 Q. So Mr. Alpine actually voted for the 21 brochure? 22 A. If that's what it says, yes, he must 23 have. 24 Q. And he was there on behalf of the 25 asbestos-cement pipe part of CertainTeed, correct?
Page 258 1 this brochure, correct? 2 A. I don't know that. 3 MR. PLACITELLA: Next. 4 (Exhibit Ambler 18 is marked for 5 identification.) 6 BY MR. PLACITELLA: 7 Q. You have in front of you as 8 Exhibit 18 the May 19, 1970 minutes of the seventh 9 meeting of the Health and Safety Council, ACPA, 10 correct? 11 A. Yes. 12 Q. And Mr. Alpine was there on behalf of 13 CertainTeed? 14 A. Yes. 15 Q. And at that point he was still the -- 16 in charge of the plant for manufacturing 17 asbestos-cement pipe? 18 A. Yes. All plants, yes. 19 Q. All plants? 20 A. For asbestos-cement pipe. 21 Q. He had nothing to do with any other 22 product other than asbestos-cement pipe, correct? 23 A. At this time that's correct. 24 Q. And then on Page 3 it talks about 25 taking a vote on the brochure.	Page 260 1 A. I believe he was there representing 2 CertainTeed Products Corporation. 3 Q. And you know that how? You spoke to 4 him? 5 A. Excuse me? 6 Q. You spoke to him? 7 A. Not about this issue, no, I did not. 8 Q. So this was approved in 1970 for 9 distribution, correct? 10 A. The booklet was, yes. 11 Q. But it was never distributed by 12 CertainTeed, was it? 13 A. We didn't distribute it because we 14 thought it was mainly applicable to building 15 products. 16 Q. So, even though you voted on it, and 17 even though other people in the industry used it, 18 you, CertainTeed, decided not to use it, true? 19 A. What other companies in the 20 asbestos-cement pipe industry used it? 21 Q. Johns-Manville. 22 A. They didn't distribute it. 23 Q. They didn't? 24 A. No, they didn't. 25 Q. National Gypsum?

Page 261 1 A. Not for asbestos-cement pipe, they 2 didn't. 3 Q. National Gypsum? 4 A. They weren't in the asbestos-cement 5 pipe business. 6 Q. Do you know who used it? 7 A. I don't think any asbestos-cement 8 pipe producers distributed the booklet. 9 Q. Including yourself? 10 A. Including ourselves. 11 Q. So we now know, do we not, that there 12 was discussion about warnings related to 13 asbestos-cement pipe that CertainTeed was involved 14 in, including members, people who worked in the 15 cement pipe side of the business, for a period of 16 three years during the 1960s up to 1970, true? 17 A. Is there a question? 18 Q. Is that true? 19 A. Well, what? What's the question 20 again? I'm sorry. 21 Q. We now know, sir, from reviewing 22 these documents and going through your testimony, 23 that the subject of warning people using 24 asbestos-cement products was ongoing throughout the 25 late 1960s?	Page 263 1 BY MR. PLACITELLA: 2 Q. What evidence can you point me to 3 specifically, sir, that, as of 1970, you had to show 4 that the cutting of asbestos-cement pipe released 5 fiber within the applicable standards? 6 A. Nothing other than our belief at that 7 time, which proved out to be right. 8 Q. Sir, you did not provide any warning 9 on pressure pipe -- with respect to pressure pipe 10 for almost ten years after it was first discussed 11 within the Asbestos-Cement Product Association, 12 true? 13 A. We put a warning on our product in 14 1979, and it was voluntary -- we volunteered to put 15 that on. 16 Q. And, sir, that was 12 years after it 17 was first discussed by members of CertainTeed 18 executives at this association meeting, true? 19 A. It was -- there was a discussion 20 about putting warnings on products that -- if you 21 are going to be greater than the applicable 22 standards. 23 Q. And you took 12 years in order -- 24 A. Let me -- 25 Q. You took 12 years --
Page 262 1 A. The discussion of warnings? 2 Q. Correct. 3 A. Yes, but there is one thing that you 4 showed me, sir, where it says, if it were above -- 5 the release was above the standards, you were to put 6 warnings on. And, again, we were of the belief that 7 what we recommended in our installation guide would 8 not be -- if you used those, you would not be above 9 the applicable standard. 10 Q. Sir, you had no evidence to support 11 that belief, did you? 12 A. We had our experience with the 13 product, our knowledge of the product and, when we 14 did the testing in '77, it was proved to be right. 15 Q. In 1970 you had no evidence that you 16 can point to that showed that cutting 17 asbestos-cement pipe on the job would not release 18 asbestos fiber, did you? 19 A. No -- 20 MR. EDELL: Objection to the form of 21 the question. 22 THE WITNESS: -- I didn't say release 23 asbestos fiber. It released asbestos fiber, but it 24 was -- released asbestos fiber well within the 25 applicable standards.	Page 264 1 A. Wait. I wasn't finished my answer. 2 Q. I'll withdraw the last question. 3 Sir, you took 12 years from the time 4 warnings were first discussed before you put a 5 warning on asbestos-cement pipe, true? 6 A. Yes, but we had booklets which we put 7 out prior to putting the warning on the product. 8 Q. I'm going to get to that in a second. 9 It was almost 17 years from the time 10 you learned asbestos could cause cancer before you 11 put a warning on the asbestos-cement products, true? 12 A. We didn't put a warning on our pipe 13 until 1979. We did it on our own and it is what it 14 is. 15 MR. PLACITELLA: We can take a break. 16 THE VIDEOGRAPHER: Off the record at 17 4:05. 18 (Discussion is held off the record.) 19 THE VIDEOGRAPHER: Back on the record 20 at 4:18 p.m. 21 (Exhibit Ambler 19 is marked for 22 identification.) 23 BY MR. PLACITELLA: 24 Q. Between 1970, when the product 25 brochure was approved, and 1974, did CertainTeed

66 (Pages 261 to 264)

1 distribute any material to customers or consumers
2 mentioning the dangers associated with exposure to
3 asbestos?

4 A. No. I mean, I've already answered
5 that.

6 Q. Now, in 1974, am I correct that, for
7 sewer pipe, an installation guide was distributed by
8 CertainTeed Products Corporation?

9 A. There was one distributed in '74,
10 yes.

11 Q. I've put before you what I think is
12 Exhibit Number 19, which is an installation guide
13 for asbestos-cement fluid pipe -- Fluid-Tite
14 non-pressure sewer pipe.

15 Do you see that?

16 A. Yes.

17 Q. Have you seen this document before?

18 A. Yes.

19 Q. And down in the lower left-hand
20 corner it talks about a revision of March, 1974.

21 Do you see that?

22 A. Yes.

23 Q. Now, this particular brochure -- or
24 installation guide, I'm sorry, has a caution label
25 or a caution notice concerning asbestos fibers and

1 asbestos-cement pipe, correct?

2 A. Yes.

3 Q. And am I correct this is the first
4 time that such a caution notice was supplied to
5 either a customer or anyone else involved in the
6 consumer side of the CertainTeed asbestos-cement
7 pipe?

8 MR. EDELL: Objection to the form of
9 the question.

10 THE WITNESS: Yes, for the reasons I
11 told you earlier.

12 BY MR. PLACITELLA:

13 Q. And the caution statement reads,
14 "Caution, asbestos-cement pipe contains asbestos
15 fibers. Do not cut or machine without protection.
16 Breathing asbestos dust may cause serious bodily
17 harm."

18 Do you see that?

19 A. Yes.

20 Q. Do you know what the decision process
21 was to decide to put this caution statement in this
22 manual?

23 A. As I understand it, this is the
24 standard OSHA caution label, and the decision was
25 made to put it in -- in this installation guide, and

1 like I say, it was put on our pressure pipe
2 installation guide, but I just don't know the year.

3 Q. And do you know why it was
4 incorporated for sewer pipe and not pressure pipe?

5 A. Well, it was eventually. I just
6 don't know the year. It may have been essentially
7 the same time period. I don't know why it was
8 particularly put on this year and -- maybe this is
9 the time that this booklet was revised, which it
10 was. They say it was revised.

11 Q. Who was involved in the decision to
12 put this on this brochure?

13 A. I don't know the answer to that.

14 Q. Were you involved?

15 A. No.

16 Q. From your research, do you know who
17 was involved?

18 A. No, I do not.

19 Q. In the standard Interrogatories
20 answered by CertainTeed, in Middlesex County, in
21 response to Interrogatory B20, it indicates that
22 there were a number of individuals in the decision
23 to place a warning on asbestos-cement pipe. They
24 list a Mr. Ponce, Esquire.

25 Do you know who he is?

1 A. Yes, he was the corporate attorney at
2 the time.

3 Q. Is he still alive?

4 A. Yes, I believe he is.

5 Q. Do you know where he's located?

6 A. No. Just Philadelphia somewhere.

7 Q. And did he have anything to do with
8 this caution label?

9 A. Which one?

10 Q. The one on Ambler 19.

11 A. I don't know if he did or not.

12 Q. They also list you.

13 A. That's correct.

14 Q. What -- how were you involved in the
15 decision of whether or not to place a warning on any
16 asbestos-cement pipe sold by CertainTeed?

17 A. We are talking about 1979 now.

18 Q. Okay. So --

19 A. And --

20 Q. -- you had nothing to do with
21 warnings prior to 1979?

22 A. Well, this was a warning on the
23 product itself, and I was very much involved because
24 I was head of the asbestos-cement pipe division at
25 that point.

Page 269 1 Q. Was Mr. Ponce involved in the '79 2 decision? 3 A. That's what we are talking about, the 4 '79. 5 Q. All right. 6 A. I mean, I believe we are. 7 Q. So we don't know, as we sit here 8 today, who was involved in deciding to put this 9 statement in this installation guide? 10 A. I don't know. 11 Q. And is there any way to find that 12 out? 13 A. Not that I'm aware of. 14 Q. Now, this statement in the 15 installation guide, am I correct that, unlike the 16 guide approved by the Asbestos-Cement Products 17 Association, there is nothing in here about 18 respirators? 19 A. That's correct. 20 Q. And there is nothing in here about 21 drilling or using a hammer or anything like that? 22 A. No. But, I mean, for the reasons 23 I've stated, sir. 24 Q. There is nothing in here about 25 cancer?	Page 271 1 work clothes home with asbestos on them, true? 2 A. As far as I know, that came out in 3 the -- in the safety meetings, that you shouldn't go 4 home with asbestos on your clothes. 5 Q. But in this manual there is nothing 6 about not bringing asbestos home on your clothes? 7 A. No, because there -- as I keep 8 saying, there are two different situations here. 9 Q. There is nothing in this manual that 10 you should not bring asbestos home on your clothing 11 to your family? 12 A. No, because they are two different -- 13 as compared to the plant, they are two different 14 situations. 15 Q. I'm not asking you now as compared to 16 the plant. I'm just asking, in this manual you do 17 not warn anybody not to bring asbestos home on their 18 clothing to their family? 19 A. No, for the reasons that I stated. 20 Q. Now, in 1977 you put out a safe 21 practices guide, correct? 22 A. Recommended work practices, yes. 23 Q. Recommended work practices? 24 A. Yes. 25 Q. And is that the first time that went
Page 270 1 A. No. It just -- well, it just says 2 "bodily harm," is that correct? 3 Q. Right. There is nothing in here 4 about mesothelioma? 5 A. No, there is not. 6 Q. There is nothing in here that would 7 warn somebody not to bring asbestos dust home to 8 their families? 9 A. It's not in there, no. 10 Q. By the way, you had requirements in 11 the plant, did you not, that would protect against 12 people bringing asbestos dust home on their clothes 13 to their family? 14 A. Requirements? I don't know of any 15 requirements. 16 Q. In other words, people were told that 17 they shouldn't go home with their clothes full of 18 asbestos and bring it home to their family? 19 A. Well, yes, we didn't want anybody to 20 have their clothes full of asbestos because we 21 wanted to be certain that our plants were such that 22 all the asbestos would be going through the exhaust 23 systems. 24 Q. But people in the plant knew and were 25 told specifically that they should not wear their	Page 272 1 out, recommended work practices, in 1977? 2 A. As a -- as a pamphlet, yes. 3 Q. All right. 4 And that was ten years after the 5 discussion of putting a pamphlet out on safe 6 practices occurred at the Asbestos-Cement Products 7 Association, true? 8 A. Well, yes, but it was put out for 9 different reasons. A whole lot of different 10 reasons. 11 Q. It was put out ten years -- let me 12 ask you this question. The safe practices -- that 13 discussed the dangers of asbestos? 14 A. It -- the recommended work practices 15 discussed the proper way to install asbestos-cement 16 pipe, which -- 17 Q. Do you know who was involved in 18 drafting -- 19 A. I don't think we finished that 20 answer, but that's fine, if you're happy with it. 21 Q. At this point in the day I'm neither 22 happy nor unhappy. 23 In 1977 do you know who was involved 24 in the safe practices -- in constructing the safe 25 practices guide?

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Page 273 1 A. The recommended work practices? 2 Q. Yes, sir. 3 A. Yes. It was -- that booklet was 4 talked about -- was put together by the 5 Asbestos-Cement Pipe Producers Association and it 6 was approved by the various member companies. 7 Q. And when was it -- when did the 8 member companies sit -- first sit down to draft that 9 booklet? 10 A. Well, they -- the testing was done in 11 March of '77 by EEH, and then as soon as the testing 12 came out, the abrasive disk -- power and abrasive 13 disk saw became a problem area, and information was 14 sent out to the field and this booklet was 15 published, and it was published -- like I say, it 16 was published by employees of the association and 17 there were meetings to make certain that everybody 18 agreed to it. 19 Q. Well, how long did it take from the 20 time you ran the tests until the time you got the 21 booklet out? 22 A. Well, it has a date on there. I 23 think it was -- it could be August. It was the same 24 year. August, '77. I could be wrong on the month, 25 but it's right there on the cover of the book.	Page 275 1 weren't aware of any. 2 Q. Did you ever hear of people cutting 3 asbestos-cement pipe with a carborundum blade? 4 A. Yes, but I don't know what that 5 means. 6 Q. And that occurred in the 1960s, did 7 it not? 8 A. I don't know the answer. I already 9 told you about the gas-powered saws, sir, or what 10 our understanding was. 11 Q. Were you aware, sir, that people were 12 cutting asbestos-cement pipe with a carborundum 13 blade in the early 1970s? 14 A. I already answered that question, 15 sir. I mean, when we became aware of it was in the 16 mid-'70s. 17 Q. I'm asking about a carborundum blade, 18 not -- 19 A. Well, I don't know -- what do you 20 mean by a carborundum? 21 To me, it's not the blade, 22 necessarily, as much as the torque of the saw that 23 you are using. 24 Q. Were you aware, sir, before the 25 mid-1970s, that people were using power saws to cut
Page 274 1 Q. This is actually my outline of -- 2 A. I'm sorry. The book you sent out. 3 I'm sorry. 4 Q. So, was it just a matter of months 5 from the time you ran the tests till the time you 6 got the booklet out? 7 A. Yes. I think it was August. 8 Q. So, when you wanted to get the 9 booklet out, you could do it pretty quickly? 10 A. When there was a need to put it out, 11 we could do it very quickly, yes. 12 Q. Well, sir, people were using abrasive 13 saws in the field before 1977, weren't they? 14 A. It became our understanding that they 15 were starting to be used prevalently in the 16 mid-'70s. 17 Q. Sir, my question is, before 1977 18 people were using abrasive saws in the field? 19 A. And my answer is that it became -- 20 came to your understanding it was starting to be 21 used in the mid-1970s, like '75 or '6. 22 Q. So you don't know whether abrasive 23 saws were used to cut asbestos-cement pipe before 24 1975? 25 A. Gas-powered saws, at that time we	Page 276 1 asbestos-cement pipe? 2 A. Gas-powered saws? 3 Q. Any power saws. 4 A. Well, you know, some people were 5 using electric -- hand-held electric saws, and they 6 were within the applicable standards, but the 7 high-powered saws with the high rpms, that was the 8 major concern and, like I say, it became our -- 9 Q. Sir, I need to know -- I'm sorry. I 10 cut you off. 11 A. -- became our understanding in the 12 mid-'70s. '75, '76. 13 MR. EDELL: Let him finish, Chris. 14 BY MR. PLACITELLA: 15 Q. Trying to move to the finish. 16 How do you know that the cutting of 17 asbestos-cement pipe with power saws were within the 18 applicable limits? How do you know that? 19 A. Well, as I said, the hand-held 20 portable electric saws, because they weren't 21 developing any torque -- and we did test electric 22 lathing machines in '77, and they became -- the 23 results were well within the OSHA standards. 24 Q. Did you ever test these hand-held 25 saws that were being used -- power saws that were

1 being used to cut asbestos-cement pipe?

2 A. The only electric power saw that we
3 tested in '77 was the -- was the power lathe.

4 MR. PLACITELLA: Is this 20?

5 (Exhibit Ambler 20 is marked for
6 identification.)

7 BY MR. PLACITELLA:

8 Q. You have in front of you Exhibit
9 Number 20, Recommended Work Practices For
10 Asbestos-Cement Pipe.

11 Do you see that?

12 A. Yes, sir.

13 Q. Is this a brochure that you put out
14 as part of the Asbestos-Cement Pipe Producers
15 Association in '77?

16 A. That's correct, yes.

17 Q. And this booklet was intended for
18 whom?

19 A. Well, it was intended for our
20 customer base, which would be our distributors and
21 also the contractors who were installing the
22 products and -- excuse me, and engineers and
23 municipal officials.

24 Q. So it was not necessarily for the
25 laborer in the field, am I correct?

1 A. Well, it was for the contractors, and
2 this was a part of our shipments for quite a period
3 of time, so --

4 Q. I'm going to get to that.

5 A. Well --

6 Q. I'm just asking a question. Was this
7 intended for the guy who was a laborer in the field
8 cutting the asbestos-cement pipe?

9 (Discussion is held off the record.)

10 THE WITNESS: I'm sorry.

11 BY MR. PLACITELLA:

12 Q. Was this intended for use by the
13 laborer in the field cutting the pipe?

14 A. It was intended for the laborer in
15 the field to use these practices to install our
16 pipe, yes.

17 Q. So you expected the laborer in the
18 field to know and understand this brochure?

19 A. We expected the contractor and the
20 foremen to understand this brochure, plus we had
21 installation instructors in each of our districts
22 who went out and made sure it was understood.

23 Q. My question to you, sir, is, the
24 laborer in the field who was doing the work, did you
25 expect him to read and understand this brochure?

1 A. We expected him to be trained by his
2 supervisor on the use of this brochure.

3 Q. All right.

4 So, just so we are clear, this
5 brochure was not intended to be read and followed by
6 the laborer himself or herself?

7 A. No, I can't answer that -- that's two
8 questions. It was intended that the laborer would
9 follow these instructions. Whether he read them or
10 not, I can't -- I'm sure there were some laborers
11 who did and some that didn't, but we -- it was
12 our -- it was our focus to be certain that the
13 supervisor who was doing the job would know about
14 this and then train his people how to use the
15 product.

16 Q. That's not my -- I just want to get
17 on the same page with you.

18 When you issued this brochure, was it
19 your intention that it was going to be used by the
20 laborers or was it that you were just giving it to
21 the supervisors?

22 A. No. It was -- it was our intention
23 that these practices would be used by the laborer --

24 Q. So --

25 A. -- the person installing the product.

1 Q. So the laborer -- they are supposed
2 to understand things like eight-hour time-weighted
3 average, two fibers longer than five micrometers per
4 centimeter? When they read this, that's supposed to
5 mean something to them?

6 A. No, but if you go -- it tells you
7 what's approved and what's not approved.

8 Q. Well, I'm just trying to understand
9 what the intent of this brochure was, sir. You said
10 it was for the laborers.

11 I'm looking where it talks about
12 standards, and you are talking about two fibers
13 longer than five micrometers per cubic centimeter
14 ceiling concentrations. That is what you expected
15 the laborers to understand?

16 A. No, I did not.

17 Q. Okay.

18 A. We expected the laborers to
19 understand the practices that are in this book that
20 you could use to safely install -- to install the
21 product within the applicable standards, and it's
22 not only easily read, it also has illustrations.

23 Q. Yes, sir. Can we go to Page 6 of the
24 brochure?

25 MR. EDELL: Page 19.

Page 281 1 MR. PLACITELLA: I'll get there. 2 MR. EDELL: Okay. 3 BY MR. PLACITELLA: 4 Q. Do you see Page 6, sir? 5 A. Yes, sir. 6 Q. This is a picture of somebody 7 presumably unloading the pipe? 8 A. Yes, sir. 9 Q. No respirator, correct? 10 A. That's correct. 11 Q. At the bottom it says, "Exposure data 12 not currently available," correct? 13 A. That's correct. 14 Q. The next -- 15 A. Well, we have to read it all. I 16 mean -- 17 Q. "Recommendations based on exposure 18 data for operations believed to be comparable"? 19 A. "Comparable," yes. 20 Q. Comparable. 21 A. Yes. However, we did two series of 22 testing. We did a series of testing in March of '77 23 and we did another series of testing in December of 24 '77 because we weren't too happy with the way that 25 was worded, and we did this operation and the series	Page 283 1 "Significant amounts of airborne asbestos dust are 2 not produced." 3 A. Correct. 4 Q. What did you mean by "significant"? 5 A. Any -- well, there is a study itself, 6 which is not part of this, necessarily, but it means 7 that it's -- that there is -- that the amount of 8 fiber released from this operation was well within 9 the OSHA standards. Well within the OSHA standards. 10 Q. Sir, is it your understanding that 11 the OSHA standards were designed to protect against 12 cancer? 13 A. It was our understanding, sir, that 14 the OSHA standards were designed so that you could 15 manufacture, install and use a safe product. 16 Q. Sir, were you aware that the -- OSHA 17 specifically said that the standard would not 18 protect against cancer? 19 A. I saw -- heard some wording of that 20 fact, yes, but they were the ones that put the 21 standard out. 22 Q. So, knowing that the OSHA standard 23 would not protect against cancer, you still phrased 24 this booklet the way you did? 25 A. We phrased this booklet as a way to
Page 282 1 of testing in -- in December of '77 and it proved us 2 to be right. 3 Q. So you have another brochure -- a 4 different version of it? 5 A. Well, it didn't -- we didn't put out 6 another brochure until, as you well probably know, 7 until 1988. 8 Q. So the brochure that you kept out 9 until 1988 said you didn't have any exposure data? 10 A. Well, it tells you how to do it, and 11 we never had any questions on -- we said this 12 operation was safe, and we never had any questions 13 whether it was or it wasn't, and we say it is, so go 14 ahead and use it. 15 Q. The next page is cutting with a 16 carbide blade. 17 Do you see that? 18 A. Yes. 19 Q. And there is a picture of somebody, 20 correct? 21 A. Yes. 22 Q. And he's not wearing a respirator, 23 correct? 24 A. That's correct. 25 Q. And what you say on the bottom is	Page 284 1 install our product within the OSHA standards. 2 Q. Page 9 has a picture of a man using a 3 field lathe, correct? 4 A. Yes. 5 Q. To trim -- to end trim the product? 6 A. I wanted to read that before I 7 answered your question. 8 It's a little more than end trimming 9 here. You are machining dimensions on the pipe so 10 you can install it into a coupling and seal in the 11 gasket. 12 Q. Okay. 13 So, end trim and re-machine rough 14 pipe barrels, correct? 15 A. That's correct. 16 Q. Would that process release asbestos 17 fiber? 18 A. Yes. 19 Q. Does this man have a respirator on? 20 A. No. 21 Q. The next -- 22 A. But because -- I mean, my answer is, 23 no -- yes, it does release fiber, but well within 24 the OSHA standard. 25 Q. But you knew the OSHA standards would

Page 285 1 not protect against cancer? 2 A. Well, we -- we knew that -- we 3 were -- it was our understanding that, if you would 4 manufacture, sell -- ship and sell and install a 5 product in accordance with the standards, you were 6 doing a safe -- you were acting as a responsible 7 company. 8 Q. The next page, sir, talks about power 9 field lathes -- 10 A. Yes. 11 Q. -- for trimming? 12 A. Yes. 13 Q. Would this process release asbestos 14 fiber? 15 A. Yes. 16 Q. Does this man have a respirator? 17 A. No. 18 Q. The next page, Number 11, has 19 somebody -- what is he doing? Filing asbestos pipe 20 with a hand file? 21 A. Yes, he's putting a -- he's putting a 22 bevel on the end of the pipe with a hand file. 23 Q. And here it says there is no exposure 24 data available, correct? 25 A. That's correct.	Page 287 1 manual ratchet, pneumatic, electric or gasoline 2 drive to power the cutting head"? 3 A. Yes, but it was all manual. It was 4 all manual. 5 Q. So this is wrong? 6 A. Well, I don't know exactly what all 7 is taking place in there, but that's all inside 8 the -- inside that hole cutter, itself. 9 Q. Is this a power tool or not, sir? 10 A. I would not consider it a power tool. 11 Q. Even though it uses electric and gas 12 to drive a cutting head? 13 A. The cutting head within -- within the 14 casing. It wasn't exposed. 15 Q. Does this product -- does this 16 procedure generate asbestos fiber, sir? 17 A. Yes. 18 Q. Does this man portrayed in this 19 picture have a respirator on? 20 A. No, for the reasons I've mentioned. 21 Q. The man in the picture does not have 22 a respirator on, correct? 23 A. No, for the reasons I mentioned. 24 Q. I don't understand what that means. 25 A. Well --
Page 286 1 Q. Okay. 2 A. But there was in the -- in the 3 February -- excuse me -- in the December '77 4 results. 5 Q. Now, the next, Page 12, talks about 6 making cuts into the pipe with a hole cutter, 7 correct? 8 A. With a shell cutter, yes. 9 Q. When did shell cutters first come 10 into existence? 11 A. I don't know the answer to that, but 12 they were in existence ever since I was with the 13 company. 14 Q. So, from at least the 1960s? 15 A. Yes. 16 Q. And what's the purpose of a shell 17 cutter? 18 A. It depends whether you have to have a 19 hole in the product for some reason. 20 Q. And that was a power-driven tool, 21 correct? 22 A. No. No. 23 Q. Does it say here, "Shell cutters 24 consist of a hole cutter housing mounted on the 25 pipe, a carbide or diamond tip hole cutter and a	Page 288 1 Q. My question simply to you is, does 2 the man have a respirator on doing a procedure that 3 is known to generate asbestos dust? 4 A. And my answer to you is, he does not 5 have a respirator because the amount of asbestos 6 released is well within the OSHA standards. 7 Q. And you tested this procedure, sir? 8 A. It was tested in March of '77, yes. 9 Q. And you say, "Do not blow out with 10 compressed air or dry sweep." 11 A. Right. 12 Q. For how long -- was that a practice 13 that had been going on before 1977? 14 A. I don't know whether people were 15 doing that or not, but we were telling them not to 16 do it. 17 Q. So you don't know whether or not, 18 before 1977, people were blowing out with compressed 19 air or sweeping up the dust that was generated? 20 A. Well, I don't know if people 21 were blowing it out. I mean, you'd have to have a 22 compressor out there to do it. I don't know whether 23 they were blowing it out. 24 Q. What about dry sweeping? Were people 25 using a broom, sir, to sweep up the dust before

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1 1977?
 2 A. Out in the field?
 3 Not that I'm aware of.
 4 Q. So why did you tell them not to do
 5 it, sir?
 6 A. Just to be sure.
 7 Q. Okay.
 8 The next picture is somebody
 9 drilling --
 10 A. Yes.
 11 Q. -- asbestos-cement pipe?
 12 A. Yes.
 13 Q. Would the drilling of asbestos-cement
 14 pipe and the hitting it with a hammer generate
 15 asbestos fiber?
 16 A. I don't know about hitting it with a
 17 hammer, but drilling it would, yes.
 18 Q. Well, the purpose of hitting with a
 19 hammer is to knock the hole out where you drilled,
 20 correct?
 21 A. That's correct.
 22 Q. You don't think that's going to
 23 generate asbestos fibers?
 24 A. I don't know that. The fiber is
 25 encapsulated. You've already caused the hole, so

1 the fiber would -- if anything happened, would pull
 2 out with what you're -- the coupon that you are
 3 knocking out.
 4 Q. And you didn't have any exposure data
 5 for that when you put this pamphlet out, correct?
 6 A. That's correct, but we did in
 7 December.
 8 Q. The next shows somebody hitting it
 9 with a chisel --
 10 A. Correct.
 11 Q. -- correct?
 12 A. Correct.
 13 Q. Does that generate asbestos cement --
 14 asbestos fiber?
 15 A. Yes.
 16 Q. The next picture on Page 15 is
 17 somebody using a tool. What is he doing?
 18 A. He is -- he's -- within that --
 19 within that hole tool there is a tapping machine,
 20 and he's tapping a hole in the pipe.
 21 Q. Would that generate asbestos fiber?
 22 A. Yes.
 23 Q. Is this man wearing a respirator?
 24 A. No.
 25 Q. The next is a picture of somebody

1 using a boring machine? What's that?
 2 A. Where do you see that, sir? I'm
 3 sorry.
 4 Q. Page 16.
 5 A. That's a tapping machine.
 6 Q. A tapping machine?
 7 A. Yes.
 8 Q. Okay.
 9 And does that drill into the pipe?
 10 A. Yes.
 11 Q. And does that process generate
 12 asbestos fiber?
 13 A. Yes.
 14 Q. And is this person wearing a
 15 respirator?
 16 A. No, for the reasons I've already gone
 17 over.
 18 Q. Well, it says here you don't have any
 19 exposure data for this.
 20 A. Well, we did, in March -- excuse
 21 me -- in December.
 22 Q. The next is somebody hitting the pipe
 23 again with a chisel.
 24 A. Well, it's a coupling, yes.
 25 Q. Would that product generate asbestos

1 fiber?
 2 A. I don't know how much -- yes. Very
 3 little, yes.
 4 Q. Now we can skip all the way to Page
 5 19. This shows a picture of somebody cutting a
 6 piece of asbestos-cement pipe with what they say is
 7 an abrasive disk dry saw, correct?
 8 A. Correct.
 9 Q. And it says, "Power-driven saws with
 10 abrasive blades, masonry blades should not be used
 11 for dry cutting or beveling," correct?
 12 A. Correct.
 13 Q. And on this picture it says, "Not
 14 recommended" --
 15 A. Correct.
 16 Q. -- correct?
 17 A. Correct.
 18 Q. Does this picture mention anything
 19 about wearing a respirator when you do this process?
 20 A. Well, we don't want you to do the
 21 process.
 22 Q. Is there -- in this brochure, in
 23 1977, is there any mention of using a respirator
 24 with any of the processes depicted in this brochure?
 25 A. In this --

1 Q. Yes, sir.

2 A. I don't know if there is anything in
3 the front of it -- I don't believe there is, but let
4 me just check, please.

5 No, there wouldn't be, because the
6 only process that was tested that would need -- you
7 would need a respirator for would be the
8 high-powered abrasive disk saw, and we didn't want
9 people to use that.

10 Q. So what did you want them to use?

11 A. Either the equipment shown on Page 7
12 or the equipment shown on Page 8, which were manual
13 ways to cut pipe.

14 Q. So you didn't want them to use a saw
15 at all?

16 A. That's correct -- a power saw, that's
17 correct.

18 Q. Well, is there anything in here that
19 says that you can use any kind of saw?

20 A. Well, we did some testing later on on
21 a hacksaw -- or a hand saw, and you can use that
22 without any issues.

23 Q. Is there anything in this manual that
24 says not to use a saw?

25 A. What saw?

1 Q. Any kind of saw. Any hand saw, any
2 electric saw.

3 A. It says not to use the power saw.

4 Q. Right.

5 A. On Page --

6 Q. Abrasive disk drive saw?

7 A. Well, okay. It says don't use a
8 power saw -- power-driven saws with abrasive disk,
9 masonry blade --

10 Q. Could you use a saw that had water as
11 part of the process?

12 A. Well, we tested that in -- in
13 December and we decided, as an industry, not to
14 recommend that because, you know, you generate so
15 much frictional heat that I don't know how -- how
16 good the water is, so we didn't want to take a risk.

17 Q. Is there anything in this brochure
18 that says that, if you don't do the process depicted
19 on Page 7, that you could get cancer?

20 A. There is no -- nothing mentioned
21 about cancer. It just mentions about being a
22 possible health hazard.

23 Q. Is the word "cancer" mentioned
24 anywhere in this brochure?

25 A. No, it's not.

1 Q. Is there anything that says, if you
2 don't use the process on Page 7, it's a health
3 hazard?

4 A. If you don't use the process -- no.
5 It's saying what not to use. It's saying don't use
6 the high -- the power-driven saws. Don't use those.
7 They are not recommended. That's a potential health
8 hazard.

9 Q. But we don't know what health hazard?

10 A. What do you mean we don't know?

11 Q. Well, it doesn't tell you what health
12 hazard you are subjected to if you use the power
13 saw?

14 A. Well, we don't want -- we don't want
15 you to use it regardless of what the health hazard
16 is.

17 Q. When it talks about clean-up, does it
18 say anything about not letting workers go home with
19 asbestos on their clothing?

20 A. There is nothing in here about
21 asbestos -- going home with asbestos on their
22 clothing.

23 Q. Is the word "warning" anywhere in
24 this brochure?

25 A. I don't remember the word "warning"

1 being used. The only thing is -- along those lines
2 is that on Page 19 it says "Not recommended."

3 Q. Well, that's not a warning, is it,
4 sir?

5 A. I say that's the only thing that's
6 along those lines.

7 Q. Is the OSHA instruction on asbestos
8 located in the brochure?

9 A. The OSHA instructions? What
10 instructions?

11 Q. Well, did you put in the caution
12 statement that you put in the 1974 brochure for
13 sewer pipe?

14 A. That particular wording was not in
15 this brochure, but it does give the summary of the
16 OSHA asbestos standards.

17 Q. OSHA asbestos standards also talk
18 about cancer, asbestosis and mesothelioma, don't
19 they?

20 A. In some respects, I'm sure it does,
21 but we -- what was put in this brochure had to do
22 with the exposure limits.

23 Q. It doesn't say that, if you exceed
24 the exposure limits, you could get cancer, does it?

25 A. The word "cancer," sir? I mean, I've

1 answered that three times now. Exposure -- cancer
2 is not mentioned. It says a harmful -- what does it
3 say?

4 Q. Does it have the word "harmful" in
5 it?

6 A. I'm looking, sir. I'm looking.
7 I'm sorry. It says -- it's

8 identified as a possible health hazard.

9 Q. Where does it say that, sir?

10 A. On Page 3.

11 Q. Is that what CertainTeed believed,
12 sir, that exposure to asbestos is a possible health
13 hazard, or was it a proven health hazard?

14 A. Well, I don't know whether it was
15 proven or not. It's possible, if you -- if you are
16 subjected to substantial amounts of fiber over
17 periods of time, it was a potential -- a possible
18 health hazard.

19 Q. You could get cancer?

20 A. You could get cancer, you could get
21 asbestosis.

22 Q. And mesothelioma?

23 A. And -- well, that's cancer.

24 Q. But it doesn't say that?

25 A. No, it doesn't say that. It says

1 possible health hazard.

2 Q. Now, sir, you say that this was
3 distributed for some period of time with your
4 shipments.

5 A. That's correct, yes.

6 Q. What period of time?

7 A. Yes, I don't know the answer to that.

8 It depends -- I have been trying to find that out,
9 to be perfectly frank about it. I'm not so sure
10 that I have an answer to that question, but it
11 was -- some plants I believe it was like a year, but
12 then, if new customers came on, then it was
13 obviously sent to a new customer or a new ship-to.

14 Q. What about out of the Ambler plant?

15 When was it used out of the Ambler plant?

16 A. When was -- this was used?

17 Q. Yes, sir.

18 A. As soon as it became in print.

19 Q. For how long was it shipped with your
20 asbestos-cement pipe out of the Ambler plant?

21 A. I don't know the length of time,
22 but -- I just don't know the length of time.

23 Q. Well, was it two months, three
24 months, six months?

25 A. No. I believe it was sometime around

1 a year.

2 Q. About a year?

3 A. I believe that, but I don't know for
4 sure.

5 Q. Well, what's the basis for your
6 statement, sir?

7 A. Because I've talked to some people
8 and they think it was a year.

9 Q. So, if you got a shipment sometime
10 between '77 and '78 out of the Ambler plant, perhaps
11 you would have gotten this brochure?

12 A. Not perhaps. You would have gotten
13 this brochure.

14 (Discussion is held off the record.)

15 BY MR. PLACITELLA:

16 Q. This brochure was sent with the
17 shipment, sir?

18 A. With the truck, yes.

19 Q. So, if a truck, say, went to Brent
20 Materials?

21 A. Correct.

22 Q. And then who would get the brochure?
23 Brent Materials?

24 A. Wherever it was being shipped to
25 would get the brochure.

1 Q. So, if it was shipped to Brent
2 Materials, it would go to Brent Materials?

3 A. If the load went to Brent Materials,
4 they would have gotten the -- they would have gotten
5 the recommended work practices, yes.

6 Q. But if then the -- the -- Brent
7 Materials took that shipment and took some pipe and
8 sent it to this guy and some pipe to that place, the
9 brochure wouldn't be going with it, would it?

10 A. Not necessarily. However,
11 instructions were given to our installation
12 instructors, also to our salespeople, to make
13 certain all contractors in the field were given this
14 brochure.

15 85,000 of these things were
16 distributed. 85,000.

17 Q. So, when you wanted to put a warning
18 out, you certainly knew how to do it?

19 A. When we felt that there was a need to
20 do something, we knew how to do it, yes.

21 Q. So, you could have distributed
22 85,000 -- by the way, if you wanted to, you could
23 have distributed 85,000 of these in 1976, too,
24 correct?

25 A. Well, they were distributed when it

Page 301 1 became published. 2 Q. You could have also distributed it in 3 '75, if you wanted to? 4 A. If it was published in '75, it could 5 have been. 6 Q. You had the means to distribute 7 85,000 copies of this in '75, if you wanted to? 8 A. It wasn't published until '77 and 9 that's when it was distributed. 10 Q. So, for the people who were using 11 this product in 1985 -- or '75, they didn't get the 12 benefit of this? 13 A. But they also had our installation 14 instructions, and our installation instructions told 15 them how to cut the pipe or machine the pipe in the 16 field, and that was back into the '60s. 17 Q. And that installation instructions 18 said don't use a power saw? 19 A. No, it did not. 20 Q. Okay. 21 So, when you put this brochure 22 together you had no way of really guaranteeing this 23 was ever going to make it to the guy who was doing 24 the work cutting the pipe out in the field, true? 25 A. What's your definition of	Page 303 1 you could have attached it to the pipe. 2 A. It was on each truck. 3 Q. One per truck? 4 A. One per truck. 5 Q. So you had an alternative, though, 6 didn't you? 7 A. What was that? 8 Q. You could have put a warning on the 9 pipe itself? 10 A. We did that in '79. 11 Q. But you didn't do it in '77? 12 A. We did it in '79. 13 Q. You didn't do it in '77? 14 A. No. It was an enhancement we did in 15 '79. 16 Q. So, if you wanted to make sure that 17 the guy or the gal who was actually cutting the pipe 18 in the field would get warned, you knew how to do it 19 in 1977, didn't you? 20 A. When it became a need to do it, we 21 knew how to do it, yes. 22 Q. So, in 1979 is the first time that 23 you put something on the pipe so that the guy who 24 was actually doing the work would be guaranteed to 25 see something, true?
Page 302 1 "guarantee"? I mean, what else -- what else -- I 2 guess the question I'd ask myself is, what should we 3 have done differently than what we did do to 4 distribute this product -- this brochure? 5 Q. Sir -- 6 A. Excuse me. I don't know what else we 7 could have done that we didn't do. We had our 8 people out handing it out, we had distributor sales 9 people out handing it out, we put it in the loads, 10 it was advertised in magazines, it was sent out to 11 85,000 different customers, and it was presented at 12 all the local AWWA meetings and all the national 13 meetings. 14 Q. How much did it cost to make a copy 15 of this? 16 A. I have no idea. 17 Q. Was it pennies? 18 A. I have no idea. 19 Q. Was it nickels? 20 A. I have -- sir, I have no idea. 21 Q. Could you have attached this to all 22 the pipe? 23 A. What do you mean, "attached to it all 24 the pipe"? 25 Q. Whenever you sold a piece of pipe,	Page 304 1 MR. EDELL: Objection to the form of 2 the question. 3 THE WITNESS: It was an enhancement 4 we made voluntarily in '79, and we were the only 5 company that did it, by the way. 6 BY MR. PLACITELLA: 7 Q. That was 18 years -- 17 years after 8 you learned that asbestos could cause cancer. 9 A. It was right after we -- we 10 determined that the abrasive disk saw was the 11 equipment that we did not want them to use, and that 12 came in the mid-'70s, and we've already been through 13 when we knew about the reports of different types of 14 cancer. 15 Q. Yes, sir. 16 Now, in 1979 you had another choice 17 to make, did you not? 18 A. What was the other choice? 19 Q. And that was what you were you going 20 to put on the pipe, itself? 21 A. That's correct. 22 Q. You had a choice to tell the user 23 what the real consequence was of cutting the pipe or 24 you could just tell him that it could hurt them, 25 correct?

76 (Pages 301 to 304)

1 A. We didn't tell them either one of
2 those.
3 Q. Well, what did you put on the pipe in
4 1979?
5 A. I'd have to see the warning label,
6 but it says either caution, do not use the abrasive
7 disk saw -- power saw, it may have said -- to cut or
8 machine this pipe, or refer to the recommended work
9 practices that have been supplied to your -- to your
10 supervisor or to your company.
11 I mean, it's right in our
12 Interrogatories, what the wording was.
13 Q. It has a caution label and it said
14 don't use an abrasive disk saw, correct? One part
15 of it.
16 A. That was one part of it, yes.
17 Q. The other part was look at the
18 recommended work practices? That's, presumably, the
19 document in front of you, correct?
20 A. Yes. Refer to the recommended work
21 practices, yes.
22 Q. And if you went back and you looked
23 at the recommended work practices, as somebody who
24 was cutting the product, you would not see the word
25 "cancer," true?

1 A. The word "cancer" is not in there.
2 Q. You would not see the word
3 "respirator"?
4 A. The word "respirator" is not in
5 there.
6 Q. When you saw the caution on the pipe,
7 it did not say "cancer," correct?
8 A. It did not say "cancer."
9 Q. It did not say "wear a respirator"?
10 A. Did not say "wear a respirator."
11 Q. It did not say "Make sure you don't
12 bring the asbestos on this pipe home to your
13 family"?
14 A. All it told you was the proper way to
15 install the product. That's what it told you, sir.
16 Q. It told you not to use a certain kind
17 of saw. That's only thing it told you?
18 A. No. It told you what you could use.
19 It did.
20 Q. What did it say?
21 A. Oh, my gosh, we were through those
22 pages --
23 Q. So the only way you could find out,
24 if you were a laborer in the field is, you'd have to
25 go back, find the brochure, assuming that your

1 employer had it, and read it?
2 A. There is no assumption, sir. I would
3 have to say the employer had it, Number 1; and,
4 Number 2, the employer is the one who is supplying
5 the tools in the field. It's not the laborer
6 supplying his own tools in the field.
7 The laborer doesn't show up with an
8 abrasive disk saw in his hands and say "I'm going to
9 start cutting pipe." He looked to his supervisor or
10 to his company to supply the necessary materials to
11 install the product.
12 Q. Do you know what my question was?
13 A. Yes.
14 Q. What was it?
15 A. I think I do. Why don't you tell me.
16 Maybe I don't.
17 Q. I'm trying to figure out what you are
18 answering.
19 A. Well, I just tried to answer your
20 question, sir.
21 Q. What was my question?
22 A. Well, would you read --
23 MR. EDELL: Let's not play games,
24 okay?
25 MR. PLACITELLA: Okay.

1 BY MR. PLACITELLA:
2 Q. In 1985 somebody in the company made
3 a decision to put the word "cancer" on the pipe,
4 correct?
5 A. That's correct.
6 Q. That was 13 years after the
7 executives at CertainTeed rejected the notion of
8 putting the word "cancer" on the pipe, true?
9 A. Are you talking about the testimony
10 that was given by Mr. Phillips to OSHA?
11 Q. No. I'm asking what you know, sir.
12 A. Well, how do you get 13 years?
13 Q. In 1972 am I correct that the
14 executives at CertainTeed had a meeting and they
15 rejected the idea of putting "cancer" on the pipe?
16 A. I don't know who all got together. I
17 mean, again, I'd have to revert -- refer back to the
18 presentation that was made by Mr. Phillips, and I
19 don't know who all he talked to, but, as I mentioned
20 to you earlier this morning, sir, it was in -- in
21 connection or reference to ingestion. That was his
22 problem -- that was the problem he was trying to get
23 away from, ingestion.
24 Q. Sir, did you talk to Mr. Phillips
25 about this?

1 A. I don't know whether I ever talked to
2 Bruce about this or not. But, I mean, I think it
3 implies in his testimony ingestion, does it not?

4 Q. Did you do any research -- I'm not
5 referring to his testimony.

6 A. Okay.

7 Q. I'm asking you, did you do any
8 research in preparing for this deposition to
9 determine the circumstances under which the word
10 "cancer" was rejected by CertainTeed in 1972? Not
11 what he put in his written testimony.

12 A. That's the only thing I know, what
13 was in the written testimony.

14 Q. Did you talk to anybody, as the
15 person who was going to come here to testify, to
16 find out what led to the rejection of putting the
17 word "cancer" on the pipe in 1972?

18 A. No, I can't remember if I -- who I
19 talked to, but I do know that it was in reference to
20 ingestion.

21 Q. And you know that because you read
22 some testimony? Is that the only basis?

23 A. I don't know. Like I say, I don't
24 know if I talked to anybody about it or not.

25 Q. Well, if I wanted to know what the

1 circumstances were, who would I talk to, who would I
2 ask?

3 A. I have no idea.

4 Q. So, as we sit here today, just to be
5 clear, we don't know and we can't know, from your
6 perspective, what the circumstances were, in terms
7 of discussions at CertainTeed in 1972, about putting
8 "cancer" or not on the pipe?

9 A. I don't know what discussions were
10 held at CertainTeed. I only can refer back to the
11 testimony that Mr. Phillips gave to OSHA in 1972.

12 Q. All right.

13 What changed between 1979 and 1985,
14 in terms of CertainTeed's knowledge of the dangers
15 of asbestos?

16 A. Nothing.

17 Q. They acquired no new or significant
18 knowledge between '79 and '85 --

19 A. No --

20 Q. -- is that what you are saying?

21 A. -- not that I'm aware of, no.

22 Q. But in 1985 a decision was made to
23 put "cancer" on the pipe itself, correct?

24 A. It was an enhancement to the label,
25 yes.

1 Q. That is the first time that
2 CertainTeed ever warned a user or consumer that
3 exposure to asbestos from a CertainTeed
4 asbestos-cement pipe was capable of causing cancer,
5 true?

6 A. The word "cancer" is the first time
7 it's used that I'm aware of.

8 Q. So, from 1962 until 1985 CertainTeed
9 took no steps to warn the consumer or user that
10 exposure to asbestos from asbestos-cement pipe could
11 cause cancer, true?

12 A. Well, CertainTeed -- as I said, sir,
13 CertainTeed has installation instructions out there
14 as to the proper way of -- of installing our product
15 and be within the applicable standards at the time
16 it was being installed. That's what we did during
17 that time period.

18 Q. What was my question, sir?

19 A. Well, you'd have to repeat it. I
20 tried to answer your question, sir.

21 Q. What was the question?

22 A. I don't recall it verbatim. Tell it
23 to me again or read it back to me.

24 Q. At no time, sir, from 1962 up until
25 1985, did CertainTeed take any steps to warn people

1 exposed to asbestos from CertainTeed asbestos-cement
2 pipe about cancer?

3 A. There was never any mention, that I'm
4 aware of, in writing anywhere about the word
5 "cancer," for the reasons that I've told you.

6 Q. And what changed between 1979 and
7 1985 that you decided to put the word "cancer" on
8 the pipe itself?

9 A. It was just a further enhancement
10 that the corporation wanted to make.

11 Q. Something that you could have done in
12 1962, if you wanted to?

13 A. In '62?

14 Q. Yes, sir.

15 A. You can do anything at any time
16 period. It wasn't something we felt was needed in
17 1962.

18 Q. What changed between 1979 and 1985
19 that you thought it was necessary to put the word
20 "cancer" on the pipe?

21 MR. EDELL: Objection to the form of
22 the question.

23 THE WITNESS: It was just a further
24 enhancement and -- I mean, the standards were being
25 lowered and we just wanted to be sure that we were

1 getting all the information out to the people that
 2 we could. It was just a further enhancement.
 3 BY MR. PLACITELLA:
 4 Q. And you could have done that in 1979?
 5 A. We could have put the word "cancer"
 6 on in '79.
 7 Q. And you could have put it on in '77?
 8 A. We could have done anything. We
 9 didn't have to do what we did do.
 10 Q. And, if you wanted to, you could have
 11 put it on in 1962, when you first knew that exposure
 12 to asbestos could cause cancer?
 13 A. In 1962?
 14 Q. Yes, sir.
 15 A. I don't believe that we knew in '62.
 16 I mean, roughly '65.
 17 Q. Sir, do you remember Mr. Horowitz
 18 coming to CertainTeed in 1962, as the safety
 19 director, already having attended meetings about
 20 asbestos causing cancer?
 21 Do you recall that testimony?
 22 A. I recall those letters, sir, where he
 23 said that's what was being reported.
 24 Q. So, when he came to -- when he came
 25 to CertainTeed in 1962 with the knowledge that

1 asbestos could cause cancer, CertainTeed could have
 2 put that on its pipe, correct?
 3 MR. EDELL: Objection to the form of
 4 the question.
 5 THE WITNESS: I mean, they could have
 6 done anything, but they didn't feel -- it wasn't
 7 needed to do it at that point. I mean, our pipe was
 8 just cut infrequently. It was -- it just didn't
 9 have to be cut that often to be installed. And the
 10 way we were recommending it we were well within the
 11 standards.
 12 BY MR. PLACITELLA:
 13 Q. Sir, what changed between 1964, when
 14 you got all the reports from the Selikoff conference
 15 of people dying from mesothelioma, including
 16 children who were exposed to low doses, and 1985,
 17 when you finally put "cancer" on the pipe?
 18 MR. EDELL: Objection to the form of
 19 the question.
 20 THE WITNESS: Nothing happened. It
 21 was just, again, further enhancement on our part by
 22 putting that new label on the products.
 23 BY MR. PLACITELLA:
 24 Q. And you could have done that in 1964,
 25 after you got the reports from the Selikoff

1 conference, true?
 2 A. In 1964 --
 3 Q. Yes, sir.
 4 A. Hold on. I'm trying to answer your
 5 question.
 6 The actual health effects of asbestos
 7 were nowhere near known in '64 as they were later
 8 on.
 9 Q. Let's do that, then. You put the
 10 word "cancer" on in '85, correct?
 11 A. Correct.
 12 Q. When did you acquire the information
 13 that you believe supported the premise that "cancer"
 14 should go on the pipe?
 15 A. Well, there was no information that
 16 we got. As I said earlier, it was just a further
 17 enhancement to a label that we were doing on a -- on
 18 a non-mandatory level. We were not required to do
 19 it. We just did it as a company.
 20 Q. And you had the option of doing more
 21 than OSHA asked for from 1972 forward, did you not?
 22 A. We had the option to do anything from
 23 '72 forward.
 24 Q. And you had the option to include the
 25 word "cancer," before OSHA was passed, on the pipe,

1 didn't you?
 2 A. We had the option to do anything. We
 3 could have put "This pipe is made out of red." We
 4 could have put anything on the pipe.
 5 Q. But you didn't?
 6 A. We did what we felt was needed to
 7 have a safe product. That's what we did.
 8 Q. Sir, tell me everything that you did
 9 from 1962 until 1977 --
 10 (Discussion is held off the record.)
 11 MR. PLACITELLA: I guess that's a
 12 signal that it's an appropriate place to stop.
 13 THE WITNESS: I'd like to answer that
 14 question.
 15 MR. PLACITELLA: I didn't finish the
 16 question.
 17 THE WITNESS: Oh, I'm sorry.
 18 BY MR. PLACITELLA:
 19 Q. Did you ever -- at any point in time,
 20 did you ever place on the pipe a warning that
 21 negligible amounts of exposure could cause cancer?
 22 MR. EDELL: Objection to the form of
 23 the question.
 24 THE WITNESS: Negligible? I mean,
 25 the label is what the label is, sir. We put two

1 labels on our pipe, one in '79 and one in '85, and
2 you know what the wording is.

3 BY MR. PLACITELLA:

4 Q. My question is, did you at any time
5 tell -- put a label on your pipe that said "Small
6 amounts of exposure can cause cancer"?

7 A. We put on our pipe what we've already
8 said we put on our pipe, and those words weren't
9 used.

10 Q. Did you ever use -- did you ever put
11 on your pipe that family members were at risk from
12 exposure to asbestos?

13 A. That was never put on our pipe.

14 MR. PLACITELLA: The defense lawyers
15 are getting allergic to me, so I'll conclude the
16 questions for today. I think we are out of tape
17 anyway.

18 Thank you.

19 THE VIDEOGRAPHER: This concludes Day
20 1 at 5:19 p.m.
21 (5:20 p.m.)

1 C E R T I F I C A T E

2 I, Sean M. Fallon, a Registered
3 Professional Reporter and Notary Public of the
4 Commonwealth of Pennsylvania, do hereby certify
5 that, prior to the commencement of the examination,
6 the witness and/or witnesses were sworn by me to
7 testify to the truth and nothing but the truth.

8 I do further certify that the
9 foregoing is a true and accurate computer-aided
10 transcript of the testimony as taken
11 stenographically by and before me at the time, place
12 and on the date hereinbefore set forth.

13 I do further certify that I am
14 neither of counsel nor attorney for any party in
15 this action and that I am not interested in the
16 event nor outcome of this litigation.

17
18
19
20
21
22 _____
Registered Professional Reporter
XI00840
23 Notary Public of the Commonwealth
of Pennsylvania
24 My commission expires 12-22-10
25

Dated: _____