



ASBESTOS INFORMATION ASSOCIATION

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PLAINTIFF'S EXHIBIT

UC-2239

JUN 5

**& NEWS
NOTES**

RECEIVED

JUN 5 1980

F. J. SHORTS

30 May 1980

**MORE ON CPSC-EPA NATIONAL WORKSHOP
ON SUBSTITUTES FOR ASBESTOS**

As previously reported (N&N Apr.), Consumer Product Safety Commission and Environmental Protection Agency will sponsor a three-day Workshop on Substitutes for Asbestos during July 14-16, 1980. Formal notice was published in Federal Register of May 27. The Workshop will be held at the Sheraton National Hotel, 900 S. Orme St., Arlington, VA. There will be no charge for admission. Advance registration may be accomplished by contacting EPA/(800)424-9065; in Washington, D.C.: 544-1404. Persons who register by early June will receive a background information packet prior to the Workshop.

Stated purpose of Workshop "is to help EPA and CPSC gather information on the current technical and economic issues and potential health hazards relating to substitutes for asbestos and asbestos-containing products." The two major portions of Workshop are described as: (1) technical/economic presentations on substitutes for approximately ten asbestos product categories; and (2) health effects of both fibrous and non-fibrous types of substitutes. Discussion sessions will also be scheduled according to F.R. notice.

The Association has become increasingly concerned about the Workshop format as currently planned. Specific concerns and alternative suggestions were conveyed to EPA and CPSC by letter on May 27. While AIA/NA feels the agencies should be seeking full and accurate information on asbestos substitutes, the format of the draft, detailed program made available to the Association by EPA appears to go beyond collection of information and to conduct a session the purpose of which will be to promote use of such substitutes.

As an alternative approach, AIA/NA has suggested the following guidelines for conduct of the Workshop:

- . The Workshop should not include any Product Review Sessions.

Sufficient time should be allowed for discussion and comment from the audience after each speaker.

The program should be expanded to encompass the many products being developed by the asbestos industry to foster safer use of asbestos.

It was pointed out that the Workshop program does not include development of asbestos-containing products with reduced possibility of hazardous use or mis-use. Such products, and improved methods of use of these products, are "substitutes" for asbestos products of the past. AIA/NA asserted that, only if asbestos and asbestos-containing products and their substitutes are considered jointly, will it be possible for EPA and CPSC to obtain a better understanding of the complex technological, economic and medical issues.

The Association called upon a commitment from the agencies for "a fair and rational evaluation of all issues."

U.S. REGULATORY COUNCIL'S SEMIANNUAL CALENDAR INCLUDES STATUS REPORT ON ASBESTOS STANDARD

U.S. Regulatory Council, by notice in Federal Register of May 30, published its calendar of important upcoming Federal regulations. Of particular interest is Department of Labor section which includes review of OSHA's Standard for Occupational Exposure to Asbestos.

Stated reason for planned revision to current asbestos standard is "to protect workers from the carcinogenic risks and other advance health effects associated with exposure to asbestos." It is said that OSHA's existing permissible exposure limit (PEL) of 2 f/cc was established for the limited purpose of reducing the incidence of asbestosis, rather than cancer. Revised regulation will set a lower PEL for employee exposure to asbestos, and affected industries will have "the opportunity to implement control measures to achieve the PEL for their operations in the most cost-effective manner."

OSHA is considering a range of alternative PELs, including:

- (A) 1 f/cc eight-hour TWA with a 2 f/cc ceiling.
- (B) 2 f/cc eight-hour TWA with a 2 f/cc ceiling.
- (C) 1 f/cc eight-hour TWA with a 2 f/cc ceiling.

For each of above alternatives, other revisions to current provisions for engineering and work practice controls, hygiene facilities, medical surveillance, respirators, training, etc., may be included in proposed regulation. OSHA does not rule out approach of establishing regulations for asbestos on basis of feasibility of compliance for different industries. Specific reference is made to feasibility of various control measures in different industries or processes, such as construction versus general industry. It is stated that OSHA currently has "no preferred alternative."

F.R. notice also includes a summary forecast of benefits and costs from a revised asbestos standard. OSHA has not yet completed a quantitative risk analysis of any of the alternative levels being considered, but asserts that mortality and morbidity reductions are expected to be large. According to notice, further controlling asbestos exposures will stimulate search for asbestos substitutes and for alternatives to asbestos-containing products.

As to costs, increased capital and operating expenses incurred by industry will result in price increases for asbestos-containing products; this is expected to reduce the demand for such products. Notice acknowledges that higher prices for asbestos products will result in switch to presently unregulated substitutes. To the extent that some of the substitutes may have adverse health or safety effects, these will also be costs of a revised standard.

Timetable in notice for revision of asbestos standard is quoted below:

- . Notice of Proposed Rulemaking (NPRM) - fall 1980
- . Regulatory Analysis - fall 1980
- . Final Rule - fall 1981
- . Final Rule Effective - to be determined

It is noted that the F.R. notice does not contain any mention of issuance of an emergency temporary standard as an alternative being considered by OSHA nor does it make reference to an advance notice of proposed rulemaking (ANPRM) as the initial action of a proposed revision to the asbestos standard. However, in statement on Apr. 17 (N&N Apr.), Dr. Eula Bingham, Assistant Secretary of Labor (OSHA), in regard to recent NIOSH recommended level of 0.1 f/cc, said, "I can't tell you yet what permissible level will be proposed or whether we will issue an emergency temporary standard or pursue the proposed permanent standard route." Further, Dr. Bingham said that a proposed revision to the asbestos standard would be developed pursuant to OSHA's cancer policy announced in Jan. Latter remark implies that initial publication would be an ANPRM.

More details and clarification of OSHA's intentions are expected at Association's Board of Directors meeting June 11 (see article below).

ASSOCIATION JUNE MEETINGS

Regular second quarter meeting of AIA/NA Board of Directors will be held June 11 at Ramada Inn, 901 N. Fairfax St., Alexandria, VA, commencing at 9:00 AM. Robert L. Jennings Jr. Esq., Special Assistant to Assistant Secretary of Labor (OSHA) Eula Bingham will be luncheon speaker.

Association Executive Committee will meet on June 10 at Ramada Inn, Alexandria, VA.

EPA PUBLISHES RESOURCE CONSERVATION
AND RECOVERY ACT REGULATIONS

EPA's Office of Solid Waste (OSW), by publication in Federal Register of Feb. 26 and May 19, 1980 has issued the bulk of its cradle-to-grave hazardous waste management system regulations pursuant to Resource Conservation and Recovery Act of 1976. Rules include criteria listing as hazardous some 85 process waste streams and 416 commercial products and chemicals (if discarded). This comprehensive regulation provides requirements for hazardous waste generators and transporters as well as notification requirements for handlers of hazardous waste. Provisions requiring waste containerization, proper disposal sites and manifests to be maintained are also included.

Although asbestos was not listed as hazardous waste in rules as proposed in Dec. 18, 1978 Federal Register, it has been listed as hazardous (toxic) waste in Section 261.33(f) and has been assigned hazardous waste number U013. Substances listed in this section are "commercial chemical products or manufacturing chemical intermediates." This has been interpreted by OSW to include asbestos only as a "pure" material. Manufacturing process waste which contains asbestos is therefore not to be regulated as hazardous waste.

A 1000 kg/month "small quantity generator" exemption applies to category of substances in which asbestos is listed. If total of less than 1000 kg of hazardous wastes from all substances is generated by single plant location in calendar month, such waste is exempted from most regulatory requirements. A generator must still either treat or dispose of waste in on-site facility, or ensure delivery to proper off-site treatment, storage or disposal facility.

For hazardous waste to which small quantity exemption does not apply, i.e. 1000 kg or more per month, requirements for regulation's comprehensive hazardous waste management system would become relevant. These include standards applicable to hazardous waste generators and transporters as well as to treatment, storage and disposal facility owners and operators.

In addition, notification requirements are applicable to persons not qualifying for above exemption. These requirements are established by Section 3010 of the Act and were published in Federal Register of Feb. 26. Any person who generates or transports a hazardous waste or who owns or operates a facility for treatment or disposal of hazardous waste must notify EPA by Aug. 14, 1980. Notification forms are provided in Federal Register publication.

Although this publication by EPA is considered final agency action, status of certain sections of regulation including that portion in which asbestos is listed as hazardous waste, Subpart D, has been denoted interim final. EPA will accept public comments on this portion of rulemaking until July 18, 1980. Entire regulatory package becomes effective on November 19, 1980. Consideration is being given to an Association response.

OSHA PUBLISHES FINAL RULE ON ACCESS TO EXPOSURE, MEDICAL RECORDS

By notice in Federal Register of May 23, OSHA finalized rule requiring employers to make employee exposure and medical records available to employees, their designated representatives and OSHA. Assistant Secretary of Labor (OSHA) Eula Bingham stated that immediate purpose behind new standard is to enable workers to play more meaningful role in their own health management. The rule, which goes into effect Aug. 21, 1980, also specifies conditions under which access is allowed. It applies to each general industry maritime and construction employer who makes, maintains, contracts for or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

Under provisions of the standard, each worker (or worker representative who has received written consent) is permitted to examine and copy an employer's records of exposure to toxic materials, personal medical records, and analyses based on these records. Employers are given flexibility in providing access in a reasonable time, place, and manner, but must comply within 15 days of a request without cost to the employee.

According to regulation, exposure records include records of the employee's past or present exposure to toxic substances or harmful physical agents, exposure records of other employees with past or present job duties or working conditions related to those of the employee, records containing exposure information concerning employee's working conditions, and material safety data sheets.

Medical records contain an employee's medical history, examination and tests results, medical opinions and diagnoses, descriptions or treatments and prescriptions, and employee medical complaints. Exposure records must be maintained for 30 years and medical records for the duration of employment plus 30 years under the new standard.

Dr. Bingham noted that no significant new burdens are imposed on employers as new standard adds no new recordkeeping requirements. It applies equally to medical and exposure records that employers voluntarily create as to those required by specific occupational safety and health standards.

This rule has resulted in changes to the "Records" sections of several individual substance health standards so that those standards will conform to the access to records rule. The asbestos standard has been amended with revisions to certain paragraphs concerning exposure records and records of medical examinations respectively. The current retention period of the asbestos standard for exposure records and medical records, "at least 20 years", remains applicable even though a longer period of retention is provided for in new access rule. In other respects, the asbestos standard is modified so as to conform generally with the provisions of the new access rule. It is expected that upcoming proposal for revision to asbestos standard will extend 20-year retention period.

Although OSHA has been given a right of access to exposure and medical records by the rule, the agency must abide by companion rule on agency practice and procedure also published in May 23 issue of Federal Register. This rule provides that, due to substantial personal privacy interests involved, OSHA authority to gain access to personally identifiable employee medical information will be exercised only after the agency has made a careful determination of its need for this information, and only with appropriate safeguards to protect individual privacy. Once this information is obtained, OSHA examination and use of it will be limited to only that information needed to accomplish the purpose of access.

PROPOSED HAZARD RULE TO CONTROL SCHOOL EXPOSURE NOW IN DRAFT FORM

EPA's proposed rule on control of asbestos-containing materials in schools is being readied for publication. The rule, now in draft form, is first section of a two-part regulatory program to reduce exposure to asbestos in schools. According to draft, proposed rule would be "immediately effective." Second part of effort will be on abatement and assessment program.

Draft rule would require all public and private elementary and secondary schools to identify friable asbestos-containing materials and provide "adequate notice" of their location to school employees. School officials, the draft stated, must inspect all areas of school buildings and take samples of any friable material. School officials then must have the samples analyzed for their asbestos content. This must be done in accordance with two analytical protocols that will be published with the rule.

If the analysis shows the materials contain asbestos, school officials must keep a record of their locations and provide the employees information about how they can reduce their exposure to the asbestos.

All schools must keep records of inspections, samplings, and analyses. Those schools having asbestos-containing materials must submit information about the materials and the school to the appropriate EPA regional office, according to the draft rule.

In Sept. '79, EPA issued an advance notice of proposed rulemaking for asbestos-containing materials in schools. Regulatory plan at that time was in three parts as opposed to current two as described above: identifying and marking friable asbestos-containing materials in schools and assessing problem of exposure to such materials; taking corrective action for those materials whose asbestos content constituted an unreasonable risk; and reviewing, periodically, friable asbestos-containing material. AIA/NA submitted comments on the ANPRM (N&N Nov.).

Best information indicates that publication date of first section of proposed rule has been delayed pending additional work on related health effects support document.

Quebec to Acquire Asbestos Operations Of U.K. Firm on Eve of Sovereignty Vote

By Frederick Ross

Staff Reporter of THE WALL STREET JOURNAL

MONTREAL—Quebec agreed to acquire for \$36.5 million (Canadian) the asbestos-related Canadian operations of Turner & Newall Ltd., London. But the province said it won't drop its long-standing campaign to expropriate the much larger Quebec assets of Asbestos Corp., a General Dynamics Corp. subsidiary.

Yesterday's announcement carried an unmistakable political tone in the midst of a bitter referendum battle over whether to negotiate sovereignty for the province. The political nature of the purchase was underscored by the announcement that the scheduled completion date of the transaction is May 19, a Canadian holiday and the day before the referendum.

Quebec Premier Rene Levesque has used foreign ownership of export-oriented asbestos operations as a symbol of the province's failure to benefit from its own resources.

Quebec officials, however, denied political motivations in the timing. They said the purchase of Turner & Newall's Bell Asbestos Mines Ltd. unit and two smaller fabricating operations will give the provincial government "a good base" in the asbestos industry.

Jacques Parizeau, Quebec's finance minister, and Yves Berube, the minister of natural resources, said the province will continue to pursue expropriation of Asbestos Corp. assets with a view to a merger with Bell and Asbestos Corp. operations. The two companies operate neighboring mines about 100 miles east of Montreal. Quebec's expropriation action is bogged down in legal challenges by Asbestos Corp.

Figures on Purchase

The Bell Asbestos mine, for which Quebec will pay \$32.3 million plus the assumption of undisclosed liabilities, has annual production capacity of about 77,000 tons of cement-grade asbestos fibers. Mine reserves

are equal to about 20 years at current production rates, Quebec officials said. Sales in 1979 totaled about \$36 million. About 600 people are on the payroll.

The purchase also includes \$3.2 million for Atlas Turner Co. and Turner Building Products, other units of Turner & Newall. Based in Montreal and in British Columbia, the units produce pipes and construction forms from asbestos cement. Sales of the two concerns totaled \$27 million in 1979. About 540 people are employed in the operations.

Messrs. Parizeau and Berube said the acquisition of asbestos-products operations is in line with provincial policies to expand asbestos-based industry in Quebec. They said the province plans to triple the amount of asbestos processing in Quebec. About 3% of the fiber mined in the province is used in Atlas Turner's operations, which represent almost the only such industrial use of asbestos in the province.

May Allow Revision

Concerning Asbestos Corp., Messrs. Parizeau and Berube said the purchase of Bell Asbestos may make unnecessary the previous plan to expropriate Asbestos Corp.'s operations at Asbestos Hill in far northern Quebec. The mine, which is paired with a processing mill in Nordenham, West Germany, has been an awkward part of the expropriation plan, because the German operation is beyond the reach of Quebec law. The mine, on the other hand, is of little use without the processing plant.

Maurice Taschereau, president, and chief executive officer of Asbestos Corp., said the company is "surprised" by the planned purchase of Bell Asbestos.

"We are extremely disappointed to hear that the government didn't take advantage of this opportunity to drop their efforts to buy Asbestos Corp.," Mr. Taschereau said, adding, "They've got their mine, why do they need another?"

Asbestos Corp.'s Battle in Quebec Sustains Setback

Court Rejects Mining Firm's Constitutional Challenge Of Expropriation Law

By WALL STREET JOURNAL Staff Reporter

MONTREAL—Asbestos Corp.'s legal battle with the Quebec government sustained a major setback when a Quebec court rejected the mining company's constitutional challenge of a provincial expropriation law.

The decision left General Dynamics Corp.'s 54%-owned subsidiary teetering on the edge of expropriation. Lawyers close to the case said a previously granted injunction against government action may have lapsed, but Quebec officials indicated that the province wouldn't move immediately.

Throughout an eleven-month legal battle, the Quebec government has maintained that it wouldn't undertake a "savage" expropriation under legislation that allows it to take possession of all Asbestos Corp. assets in Quebec and fix remuneration afterwards.

"A Very Sensitive Decision"

In Quebec City, a spokesman for the province's Ministry of Natural Resources said a move to expropriate is "a very sensitive decision" that would be made "at the highest levels" of the Quebec government.

A spokesman for General Dynamics in St. Louis said: "Since we haven't had a chance to study the decision, we have no comment at this time."

Yesterday's decision by the Quebec Superior Court further opens a door that was first put ajar by Quebec Premier Rene Levesque in 1977. In a major speech then the premier said the province would seek direct ownership and control of the asbestos industry within its borders.

Subsequently, the province narrowed its target to the acquisition of Asbestos Corp., the only major asbestos producer in Quebec with publicly listed shares. However, General Dynamics, as the majority holder, refused to sell.

Expropriation Legislation

Quebec passed expropriation legislation last June. That legislation was challenged almost immediately by Asbestos Corp. in a series of complicated constitutional objections.

In his decision issued yesterday, Jules Deschenes, chief justice of the Quebec Superior Court, found that the expropriation legislation is "fully within the powers of Quebec."

Mr. Deschenes struck down Asbestos Corp.'s claim that the provincial law "sterilized" a company incorporated under Canada's federal laws.

In a judgment that adds another twist to Canada's complicated constitutional jurisprudence, Mr. Deschenes wrote that "despite the undeniable effect that an expropriation would have on the company, the (power of expropriation) remains no less within the framework of Quebec's constitutional prerogatives and doesn't encroach on the ground reserved for (the federal) parliament. Despite its federal charter, Asbestos Corp. must submit" to the expropriation.

A spokesman for Asbestos Corp. said the Montreal company will make a statement today. It's expected the company will appeal.

While the legal ground grew rougher, operations looked somewhat brighter for Asbestos Corp. as the company settled an 84-day strike at company facilities in Thetford Mines, Quebec, about 120 miles east of Montreal.

About 1,450 blue-collar workers ratified a three-year contract calling for wage increases tied to the cost of living plus a first year across-the-board boost of 30 cents an hour and 2% and 3% increases in the second and third year.

According to the Quebec-based Confederation of National Trade Unions, which represents the workers, the average hourly wage will climb to about \$10.90 (Canadian) at the end of the first year from \$9.46 at the end of the previous contract.

Separately, office employees went back to work yesterday as the company ended a lock-out that began March 7. However, the 130 inside workers remain without a contract.

THE WALL STREET JOURNAL
Friday, May 9, 1980

THE WALL STREET JOURNAL
TUESDAY, May 27, 1980

Asbestos Pipe Ban Is Sent to Governor

Little concern shown over asbestos pipes

CHICOPPEE — Local and state officials will not call for a halt in the use of asbestos-concrete pipes, despite mounting concern in Connecticut that the pipes could pose a health hazard.

There is no proof that asbestos ingested with water is harmful, according to Robert A. Roudsden, deputy director of water supply for the state Department of Environmental Quality Engineering.

The Connecticut legislature Tuesday approved a moratorium that would ban future installation of asbestos-concrete water pipes. A Connecticut health official today said he was surprised Massachusetts is not also considering a moratorium.

Roudsden said he does not expect a similar moratorium to be imposed in Massachusetts.

Asbestos-concrete piping is used in some areas of the city, including Chittenden Village, new lines in Fairview and a major line that runs from the Chicopee Memorial State Park to Center Street, according to Water Department Superintendent Joseph J. Swallow. The rest of the water pipes in the city are made of iron piping which is more expensive to install, he said.

The department uses asbestos-concrete piping to make repairs in the areas where such piping now is used because of different diameters of the asbestos-concrete and iron pipes, Swallow said.

Asbestos is considered a possible cancer-causing agent. It is inhaled, but there is no proof it causes any problems if ingested with water, Roudsden said. Roudsden and Swallow both said little asbestos gets into the water system even when the asbestos-concrete pipes are used and do not have a vinyl lining.

Richard Woodruff, chief of the Connecticut Health Services Department's water supplies section, said although there is no proof asbestos ingested with water is harmful, there also is no proof it is not harmful.

"Our view is why use it (the asbestos-concrete pipe) until there's a proof it isn't harmful," Woodruff said.

Another problem with the asbestos-concrete pipes lined with vinyl has been discovered in recent weeks. The chemical tetrachloroethylene, known as TCE, is used to apply the vinyl lining and has been found in some water systems, including areas of Chicopee where the vinyl-lined pipe is located. TCE has caused cancer in laboratory animals.

Swallow said testing and line flushing is continuing in the Westover, Airport and Barrett Road areas where the chemical was detected in the water supply.

several Connecticut communities.

The measure adopted Thursday deals specifically with asbestos cement pipes. Although it imposes a ban, effective Oct. 1, 1980, it also allows the state health services commissioner to lift the restriction "if he finds conditions in which the installation (of asbestos cement pipes) makes sense," said Sen. William E. Curry Jr., D-Farmington, a key proponent.

Efforts to outlaw the pipes gained momentum in the legislature recently when evidence of cancer-causing chemicals attributed to the pipes turned up in several local water systems.

Skowronski argued firmly against the ban — both in caucus and on the senate floor — saying the state Department of Health Services, which he said "was waffled" on the issue, now doesn't want the ban.

He also protested that there's been no proof the pipes are a health hazard, that alternative pipes aren't effective and that the senate, in considering the measure, shouldn't make the issue being voted on "whether you're for cancer or not."

Curry contended that the health department had decided to ban the pipe some time ago, but rescinded the decision when threatened with a suit by water companies, leading it didn't have the legal authority to impose the moratorium.

Majority Leader Joseph I. Lieberman cast the deciding vote Thursday that sent legislation banning the installation of asbestos cement pipe in water supply systems to Gov. Cusumano for his signature.

Sen. Eugene A. Skowronski, D-Derby, offered two amendments designed to eliminate the outright ban, but both failed on 18-17 votes, with Lieberman, a New Haven Democrat, presiding the last vote. The bill itself then was adopted unanimously on the consent calendar — a list of items on which the Senate has reached agreement and which is approved in a single vote.

The Senate Thursday also approved unanimously a bill to establish a system of fines, rather than indictments, criminal sentences.

But the chamber amended the legislation so the new system becomes effective July 1, 1981, instead of Oct. 1, 1980. The amendment also alters the way sentence reductions are computed for arrested persons who serve time in jail before they are tried and convicted. These changes send the bill back to the House for further action.

The ban on installation of asbestos cement pipes adopted Thursday is different from a bill given final approval by the House Wednesday.

The latter measure imposes a one-year moratorium on the use of vinyl-lined, asbestos pipes — the type believed to have released a suspected cancer-causing chemical, tetrachloroethylene, into the water systems of

Asbestos use halted at Harborside

Co. at the Inner Harbor and will contain shops and restaurants, but Morgan said the firm and its contractors reportedly did not know the board contained asbestos.

"For protection the workers were using only surgical masks, and apparently they weren't being careful," he said. "They were taking their masks down in the stuff and using them again."

"They were eating and smoking in the area and taking no precautions with their clothes. They were also eating in restaurants, taking their contaminated clothes home. They were spreading it around. It was a pretty bad situation."

James Rouse, chairman of the board of the Rouse Co., which developed and will own Harborside, said Saturday that all asbestos problems would be corrected.

He said, "A construction job is enormous and complex. All kinds of things happen that are out of the ordinary and have to be corrected. . . . If somebody made a mistake we'll see that it is corrected."

Frank Morgan, who heads the state safety agency, said he drafted papers declaring the site an "imminent danger," but withheld them because contractors agreed to stop using asbestos.

Harborside is being built by the Rouse

A threat by state safety officials to halt construction of Harborside Mall because of allegedly careless use of asbestos prompted builders to stop using the potentially hazardous material.

The Maryland Occupational Safety and Health Agency threatened to close the site because it said workers were not taking enough precautions to reduce exposure to asbestos fibers.

But Whiting Turner Contracting Co. and subcontractor John H. Hampshire Inc. agreed Friday to stop using wallboard containing asbestos, which has been shown to cause cancer and lung disease.

Defense Witness for Firm Disputes Man's Claim That He Has Asbestosis

By MYRNA OLIVER
Times Staff Writer

A Philadelphia pulmonary disease expert asserted Wednesday that former Long Beach Naval Shipyard worker Richard J. Hogard has chronic bronchitis caused by smoking and does not have asbestosis as Hogard claims.

Dr. William Weiss offered the diagnosis as the first defense witness for Johns-Manville Corp., the world's largest miner and manufacturer of asbestos, in Hogard's Los Angeles Superior Court trial against asbestos manufacturers.

Hogard claims Johns-Manville and Raybestos-Manhattan Inc. failed to warn him of the health hazards of working with their asbestos insulation products and thus were responsible for his contracting asbestosis.

Questioned by Johns-Manville attorney Fulton Haight about Hogard's physical condition, Weiss said with conviction: "I believe he has chronic bronchitis attributable to heavy cigarette smoking."

Weiss said in answer to Haight's questioning that asbestos dust cannot cause bronchitis. The prime cause of bronchitis, he said, is cigarette smoking.

Weiss' diagnosis was a direct contradiction to that of Dr. Oscar J. Balchum, head of County-USC Medical Center's lung-disease unit, who testified earlier on Hogard's behalf. Balchum said Hogard has asbestosis and does not have bronchitis.

Balchum examined Hogard several times from 1975 to 1977. Hogard left the shipyard with a disability pension in late 1975 after the doctor advised him to get away from asbestos fibers. Balchum, like Hogard's other doctors, also advised him to quit smoking, a feat Hogard testified he has been unable to accomplish.

Weiss, a professor of pulmonary medicine at Hahnemann Medical College, Philadelphia, and former practitioner and researcher at Philadelphia General Hospital, never personally examined Hogard. He made his diagnosis from examining X-rays and results of lung function tests made by Balchum.

Showing jurors an X-ray which still bore Balchum's pencil marks, Weiss said the scarring which Balchum had attributed to asbestosis was actually caused by Hogard's smoking. Lines Balchum had identified on the X-ray as "pleural thickening," another symptom of the irreversible asbestosis, were described by Weiss as mere "muscle shadows."

"This is normal," the manufacturers' medical witness said, "for a man who has smoked a pack of cigarettes a day for 25 years."

One reason Balchum had insisted Hogard had no chronic bronchitis was that tests showed no obstruction of air flow common in the disease. Questioned about that during cross-examination by Hogard's attorney Robert B. Steinberg, Weiss said many people with bronchitis never show such obstruction until the disease advances into emphysema.

Weiss said a high red blood cell count, called polycythemia, helped move the diagnosis away from asbestosis to bronchitis.

"A fair number of people with bronchitis do develop polycythemia," he said. "It never happens in asbestosis."

Disagreeing with other experts, Weiss said asbestosis develops only after about 20 years of constant exposure to asbestos fibers. Hogard worked with asbestos materials about 10 years.

Anyone with asbestosis also should have "crackles," dry crackling noises while breathing, Weiss said, and no test results showed Hogard had them. An asbestosis victim, he added, could only expect to get worse, and Hogard's lung function tests in 1977 actually showed some improvement over those in 1975.

Hogard, 40, has said he smoked one pack of cigarettes a day since he was 15. (Haight insists pre-trial statements by Hogard indicate he regularly smoked two packs a day.)

The asbestos manufacturers have maintained that Hogard's cough, by now familiar to jurors, and lung scarring were caused by smoking and a 1978 bout with pneumonia.

Weiss said X-rays taken in 1979 and 1980 showed an added scar tissue on Hogard's lungs, which he attributed directly to the pneumonia.

As for the effect of asbestos on chances of getting lung cancer, Weiss said he believes the key cause is smoking and that asbestos would be only an "enhancing agent." He said a smoker working with asbestos would have a five times greater risk of getting lung cancer than a smoker in another occupation—an estimate far lower than that of other researchers.

The Hogard case in the courtroom of Judge Earl F. Riley is being watched by litigants across the nation who hope it will establish guidelines for settling their own similar cases out of court. More than 1,000 such suits are pending in the Los Angeles Superior Court alone.

Asbestosis: Johns-Manville view

To the Editor of The Day:

Your Feb. 21 1980 editorial, "Money and morals look to source for cost of asbestosis," is a continuation of the media's regrettable pattern of publishing only those items which sensationalize a subject rather than which tend to inform the public in a balanced report.

I would like to specifically respond to some of the statements in your editorial. You are quite right that knowledge of asbestosis did exist in the 1930s. At that time, however, the disease was thought to be confined to the very intense occupational exposures found in asbestos textile mills. Steps were taken then and afterwards to control the dust exposure and to learn more about the medical aspects of asbestos exposure.

In the early 1930s the asbestos industry and its insurance carriers underwrote medical studies on asbestos-related disease. Seminars, attended by the chief medical officer of the U.S. Public Health Service and his counterpart in Canada, were conducted during these studies. A documented history of continuing industry participation in medical studies can be traced from the 1930s up to today.

Further there are some additional facts about exposures in the shipyards that the media continually chooses to overlook:

- The government specifically required that asbestos products be used for insulation and fire protection in warships.

- The government was responsible for the shipyard work practices in the Navy yards.

- The government followed the U.S. Public Health Service recommended standard for exposure set in 1938.

As late as 1946 the government published a study which indicated that insulation work in the shipyards was not a hazardous occupation.

The association between exposure to asbestos and lung cancer in insulation workers was not confirmed until publication of a study in 1964 by Dr. Irving Selikoff of Mount Sinai School of Medicine. In that same year Johns-Manville began putting a caution label on its asbestos insulation products, seven years before government regulations required such labeling.

From this same study the medical community now agrees that "but for cigarette smoking, lung cancer would not have been a significant disease factor among asbestos workers." It is beyond our understanding why this association between cigarette smoking, asbestos exposure and lung cancer is continually overlooked by the media when they print stories about asbestos-related disease.

Also, asbestos is not the only known cause of mesothelioma. The medical community has identified the existence of mesothelioma in populations exposed to naturally occurring zeolites (a silicate used in water softening and as an absorbent) and in sugar cane workers in Louisiana.

James F. Reis

The writer is director, Asbestos Policy, for Johns-Manville Corp., Denver, Colo.

Asbestosis far from hopeless, expert says

QUINCY — Shipyard workers who are getting results from asbestos-related lung disease tests and being advised to seek medical help may have another problem — finding the appropriate treatment.

Dr. Robert Clubb, medical director of the Boston-based National Asbestos Foundation, maintains the medical profession is not fully aware of how treatable the disease is.

"It is felt by the majority of the physicians that asbestosis is a hopeless disease and that's not true. . . . There are a lot of things that can be done for these people," Clubb said.

Dr. Barney Clifton of Schenectady, president of the Norfolk South District Medical Society, also agrees with that assessment. He maintains most physicians in the county have been apprised of the situation and are prepared to control the disease in their patients.

"Asbestosis was a subject of discussion at one of our more recent meetings," he said.

"You can have a positive test, but it does not mean the life threatening."

Some 300 workers at the Quincy shipyard last week began receiving results of tests done in November by Dr. Irving Selikoff of New York. The study was continued to those who worked at the yard 12 or more years ago.

Selikoff said he could not comment on the specific results until the study is completed.

Earlier reports indicated the results would show more than 80 percent of the workers suffering from scar tissue from asbestos.

But if the calls to the Norfolk County Hospital in Barnstable, which specializes in respiratory diseases, are any indication, the number of positive results is not high.

Kevin Kenny, public relations director for the hospital, said four men called last week saying Selikoff had recommended they seek medical help. Each scheduled appointments.

The disease can't be cured, but the symptoms can be treated, he said. The hospital can prescribe medicine to reduce lung congestion and exercises to increase the capacity of the undamaged sections of the lung.

In some cases the patients will only need to be told to stop smoking and avoid contact with any other dangerous substances that could harm lungs already damaged, he said.

Clubb said other studies showed that 25 percent of those exposed to asbestos develop some type of lung-related disease over time, including lung cancer and bronchitis.

It takes 10 years for the first signs of complications to surface and then the complications become increasingly worse over the next 20 to 40 years.

"But I think that just because there is scar tissue, that does not mean they're going to get cancer, not at all," he said about 10 percent develop cancer of the lungs, while another 20 percent develop other fatal bronchial complications.

But what that really means is that 10 percent won't die from the disease," Clubb said.

He said something must be done to ensure "that these guys do obtain good medical care and means for proper survival. What is going to happen is that when they develop symptoms of breath and can no longer function on the job, then I imagine they will either quit, be fired or retire."

It is up to labor unions, industry and insurance companies to ensure the proper medical treatment, he said.

The facts on asbestos

displace other efforts to obtain information or establish safety. "If further immediate action of a remedial nature appears to be warranted," said Dr. Elgie, "we will not hesitate to act simply because a commission has been appointed to conduct a thorough study of the entire subject."

There is much to be studied, and a number of different opinions to be resolved — among them the selection of a standard of safety in terms of fibers per cubic centimeter of air.

New Democratic Party Leader Michael Cassidy, noting that the Government had been reviewing occupational exposure standards since 1978, said that the current standard of two fibers was much too high and that it should be 2 or 1.

This proposal carries with it the weight of approval U.S. Government endorsement. Earlier this month, Jo Lindhard, an employee with the standards branch of the Occupational Safety and Health Administration in Washington, said that within a year the United States would probably adopt a standard between 2 and 1.

(The standard at present is the same as Ontario's — 2 fibers per cc.)

The royal commission may be able to help make an intelligent choice. The scientific and medical backgrounds of its members encourage optimism: the chairman, Stefan Dupre, has served on the National Research Council; Fraser Mustard is dean of health science at McMaster University; and Robert Uffin is dean of applied sciences at Queen's University, and formerly chief science advisor to the federal Government.

We may not all breathe more easily now that the commission has been set up — but in time we may.

Fifteen years ago, asbestos figured in the news only in terms of the world market for its uses, the price, and whether its applications could be expanded to the general benefit of mankind. Today, we are uncomfortablely aware of waiting on floor tiles made from it, or under ceiling tiles from which tiny, invisible, deadly fibres may be drifting down — to join those that pillow forth from the brake linings of automobiles.

Awareness of hazards to asbestos workers has been fairly well established for some years, officially recognized to a degree by the changed attitudes of the Workers' Compensation Board. The apprehended threat to the general public is a more recent phenomenon, and one that has been marked by chaotic responses. Should this ceiling be allowed to remain? Should that duct be torn out? Would it be wise to close the school altogether? Would paint hold the fibres in place on fire dampers? How many fibres per cubic centimetre can be tolerated? Is there no alternative substances?

In dealing with any threat, it is a fairly sound rule to begin by taking its measure; by assembling the facts from the best known authorities and, if necessary, by commissioning new studies. The Ontario Government has made the right move by setting up a three-man royal commission to look into the hazards to asbestos and to recommend safety standards.

Something of the kind might have occurred sooner (Opposition nagging goes back quite a long way), but the move is welcome nevertheless — doubly so with the assurance of Labor Minister Robert Elgie that the new commission would neither stall nor