

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RECEIVED

FEB 26 1990

NESS, MOTLEY, LOADHOLT
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BETTY NASH, Individually and	)	No. 3-89-0805
as Surviving Spouse of LEE	)	Judge Wiseman
R. NASH, Deceased,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
AC&S, INC., et al.,	)	
	)	
Defendants.	)	

PLAINTIFF'S
EXHIBIT
GF-2385

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff, pursuant to Rule 34 of the Federal Rules of Civil Procedure, request that Defendant, GAF Corporation, produce the following documents for inspection and copying within sixty (60) days after service hereof at the offices of Levine, Mattson, Orr & Young, 210 Third Avenue, North, P.O. Box 2708, Nashville, Tennessee 37219-0708, or at such other place as may reasonably be convenient to counsel, and that such documents and things be available for a reasonable period of time.

DEFINITIONS

(A) "Documents" mean by handwritten, typewritten, printed, recorded or graphic matter however produced or reproduced, whether or not in the possession, custody, or control of the Defendant, and whether or not claimed to be privileged against discovery on any ground, including but not limited to, reports, records, lists, memoranda, correspondence, telegrams, schedules, photographs, recordings, catalogs, ledgers, brochures, labels, posters, signs,

x-rays, computer tapes, computer printouts, and written statements of witnesses or other persons having knowledge of the pertinent facts.

If the responding Defendant considers any document called for in this Request for Production to be privileged from production, then that Defendant must include in its response a list of documents withheld from production, identifying each document by date, addressee(s), author, title, and subject matter. In addition, for each document each Defendant should identify those persons who have seen the document or who received copies. Finally, each Defendant should state the ground(s) upon which each such document is considered privileged.

(B) The term "Defendant" will be used to refer to and shall embrace and include counsel for each responding Defendant, all agents, servants, employees, representatives, and others who are in possession of or may have obtained information for or on behalf of the Defendant and shall include all subsidiaries, predecessors, and/or affiliates of the Defendants.

DOCUMENTS TO BE PRODUCED

1. Any and all photographs, drawings, or illustrations of asbestos-containing products, and the packages or containers for these products, which were manufactured, sold, or distributed by the Defendants from 1940 through 1980.

RESPONSE:

GAF objects to this request on the grounds that it seeks information concerning non-thermal insulation products irrelevant to this litigation. Subject to the foregoing objection, see enclosed photographs of asbestos-containing thermal insulation products.

2. Any and all computer printouts of sales records indicating sales of asbestos-containing products in the State of Tennessee from 1930 through 1977.

RESPONSE:

GAF objects to this request on the grounds that it is overly broad, unduly burdensome and vague and ambiguous in that it is not limited in terms of jobsite, city and state. Furthermore, it seeks attorney work product and is therefore outside the scope of discovery.

3. Any and all documents, including contracts, invoices, purchase orders, computer printouts, bills of lading, etc., which list, refer to, indicate or describe sales or shipments of asbestos-containing products to entities or locations within Tennessee.

RESPONSE:

GAF objects to this request on the grounds that it is overly broad, unduly burdensome and vague and ambiguous in that it is not limited in terms of jobsite, city and state.

4. All documents describing, relating to, or referring to any information given to or possessed by Defendant regarding possible health hazards involved in working with, being exposed to, or coming in contact with asbestos or asbestos-containing products, from 1935 through 1977, including any given to Defendant's own employees.

RESPONSE:

GAF Corporation objects to this request on the grounds that it is irrelevant to this litigation as Plaintiff was not employed by GAF nor was he employed in the same capacity as GAF employees. Furthermore, it is not likely to lead to the discovery of relevant admissible evidence.

5. All documents containing information about and/or describing any and all masks, respirators, or similar devices, including manufacturer's name and product identification, which were made available by the Defendant to its employees who worked with or came in contact with asbestos-containing products from 1935 through 1979.

RESPONSE:

See response to Request No. 4.

6. All documents containing, relating to, or referring to any warnings or information given by Defendant to its customers, to its suppliers of raw asbestos fiber, or to the users of its products containing asbestos about the potential health hazards of asbestos, from 1935 to the present.

RESPONSE:

GAF objects to this request on the grounds that it is vague as it relates to "customers or users". GAF did not place its asbestos-containing thermal insulation products into the stream of commerce or sell to the general public. The purchasers of GAF products were "sophisticated purchasers" who had knowledge superior to that of GAF. It was their responsibility to provide for, encourage, respond to inquiries and/or educate the public about the need for safe maintenance, repair, replacement, removal or disposition of asbestos products. Subject to the foregoing objection, in approximately 1964, Ruberoid began placing the following warning label on Calsilite pipe-covering and block:

CAUTION

THIS PRODUCT CONTAINS ASBESTOS FIBER.
INHALATION OF ASBESTOS IN EXCESSIVE QUANTITIES
OVER LONG PERIODS OF TIME MAY BE HARMFUL.

IF DUST IS CREATED WHEN THIS PRODUCT IS
HANDLED, AVOID BREATHING THE DUST. IF
ADEQUATE VENTILATION CONTROL IS NOT POSSIBLE,
WEAR RESPIRATORS APPROVED BY THE U.S. BUREAU
OF MINES FOR PNEUMOCONIOSIS-PRODUCING DUST.

By 1970, GAF placed the following warning label on asbestos
fiber, insulation cements, millboard, rollboard and asbestos
paper products, as well as relocating information for
Calsilite pipecovering and block from the side to the front
of the packaging:

CAUTION

CONTAINS ASBESTOS FIBER. INHALATION IN
EXCESSIVE QUANTITIES OVER LONG PERIODS OF TIME
MAY BE HARMFUL.

AVOID BREATHING DUST. IF ADEQUATE VENTILATION
IS NOT POSSIBLE, WEAR RESPIRATORS APPROVED BY
THE U.S. BUREAU OF MINES FOR PNEUMOCONIOSIS-
PRODUCING DUST.

Pursuant to the requirements of the Occupational Safety and
Health Act of 1970, this warning label was changed to read as
follows:

CAUTION

CONTAINS ASBESTOS FIBERS.
AVOID BREATHING DUST.
BREATHING ASBESTOS DUST MAY CAUSE
SERIOUS BODILY HARM.

In 1978, the above label was also placed on individual sheets
of millboard and asbestos paper products. From 1970 to 1977,
the warning label appeared only on the outer-packaging of
these products.

Until 1972, GAF's use of these warnings followed the lead of
other manufacturers in the industry, which used such
cautionary notices after certain opinions were expressed by
members of the medical profession that there might be a health
risk to certain persons who installed industrial thermal
insulation products containing asbestos fibers over prolonged
periods of time under certain conditions. GAF conducted no

studies, evaluation or analyses prior to the use of the warnings.

All observers of this packaging, whether purchasers, users, handlers or contractors, would have seen and thus received, the warnings as set forth above.

7. All documents containing, referring to, or relating to any information given Defendant by its suppliers of asbestos about the potential health hazards of asbestos.

RESPONSE:

GAF objects to this request on the grounds that it is irrelevant and not likely to lead to the discovery of admissible evidence.

8. All documents containing, referring to, or relating to any information regarding any plan, or possibility of, using a material in substitution for asbestos in products manufactured or sold by Defendant from 1940 to the present.

RESPONSE:

GAF objects to this request on the grounds that substitution materials, for asbestos products are not a issue in this action and therefore, is not reasonably calculated to lead to the discovery of relevant admissible evidence.

9. All documents, including internal memoranda, correspondence, studies, reports, etc., relating to or containing information about the decision made to cease manufacture or sales of asbestos-containing products by Defendant.

RESPONSE:

GAF objects to this request on the grounds that decisions made to cease manufacture or sales of asbestos products are not at issue in this action and therefore, is not reasonably calculated to lead to the discovery of relevant admissible

evidence.

10. All documents containing, relating to, or referring to any information regarding any and all medical examinations, tests, or procedures performed on, or administered to, the Defendant's employees who worked with asbestos from 1935 to present, and all documents relating to claims by any such employees for compensation under any Workers' Compensation Act from 1935 to 1972.

RESPONSE:

From time-to-time, beginning in approximately 1930, GAF called upon local physicians from surrounding cities or towns near its plants to perform routine physical examinations and to administer routine medical treatment when and if necessary. There are no records presently within the possession, custody or control of GAF which reflect the names of these physicians or the professional services performed by them.

11. Most recent annual financial statement.

RESPONSE:

See enclosed most recent annual financial statement.

Respectfully submitted,

ROBERT H. HOOD & ASSOCIATES
P.O. Box 1508
Charleston, SC 29402
(803) 577-4435

By: Mark V. Evans
Robert H. Hood
for G. Mark Phillips
Carl E. Pierce, II

February 21, 1990
Charleston, South Carolina

KENNERLY, MONTGOMERY & FINLEY, P.C.
Suite 1701 Plaza Tower
P.O. Box 442
Knoxville, TN 37901

By: *[Signature]*
R. Hunter Cagle

Attorneys for Defendant GAF
Corporation

March 22, 1990
Knoxville, Tennessee

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing pleading or document has been served upon the following counsel for parties in interest herein by delivery same to the offices of said counsel, or by mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

Richard W. Mattson, Esq.
Levine, Mattson, Orr & Young
P.O. Box 2708
Nashville, TN 37219

Gary M. Disheroon, Esq.
Hutcheson, Moseley, Pinchak, Powers & Disheroon
Suite 600, One Central Plaza
Chattanooga, TN 37402

Thomas Hart, III, Esq.
Ness, Motley, Loadholt, Richardson & Poole
P.O. Box 365
Barnwell, SC 29812

This 23 day of February, 1990.

KENNERLY, MONTGOMERY & FINLEY, P.C.
Suite 1701 Plaza Tower
P.O. Box 442
Knoxville, TN 37901

By: R. Hunter Cagle

R. Hunter Cagle

STATE OF NEW JERSEY)
) SS:
COUNTY OF PASSAIC)

A F F I D A V I T

I, ELEANOR CARLSON, being duly sworn according to law,
depose and say that I am an Assistant Secretary of GAF
Corporation, one of the Defendants herein, and that I am
authorized to make this Affidavit in its behalf, and that the
facts set forth in the foregoing Responses are true and correct
to the best of my knowledge, information and belief.

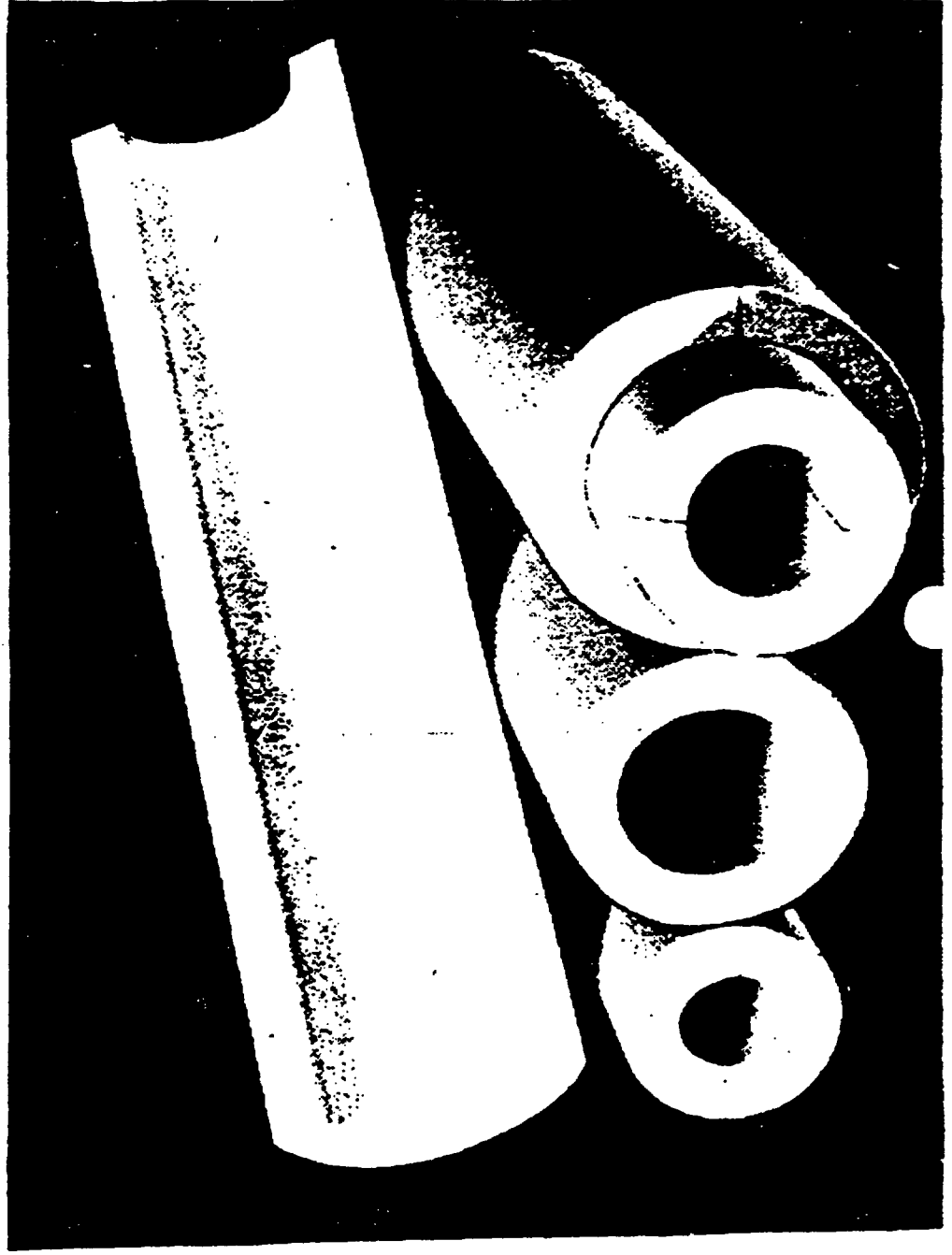

ELEANOR CARLSON

SWORN TO AND SUBSCRIBED
before me, this 14th day
of February 1990.


NOTARY PUBLIC IN AND FOR
SAID COUNTY AND STATE
DOROTHY A. SIHELNICK
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires August 29, 1990

AFFID--2

Calsilite Insulation



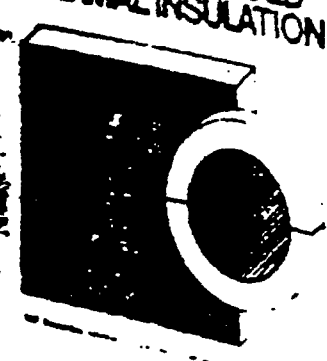


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gaf
CALSILITE
PRESSURE MOLDED
THERMAL INSULATION



CAUTION
DO NOT USE IN CONTACT WITH
FLAMMABLE MATERIALS
DO NOT USE IN CONTACT WITH
OILS, GREASES, OR
ACIDIC MATERIALS

**VERMONT
ASBESTO**

GRAD

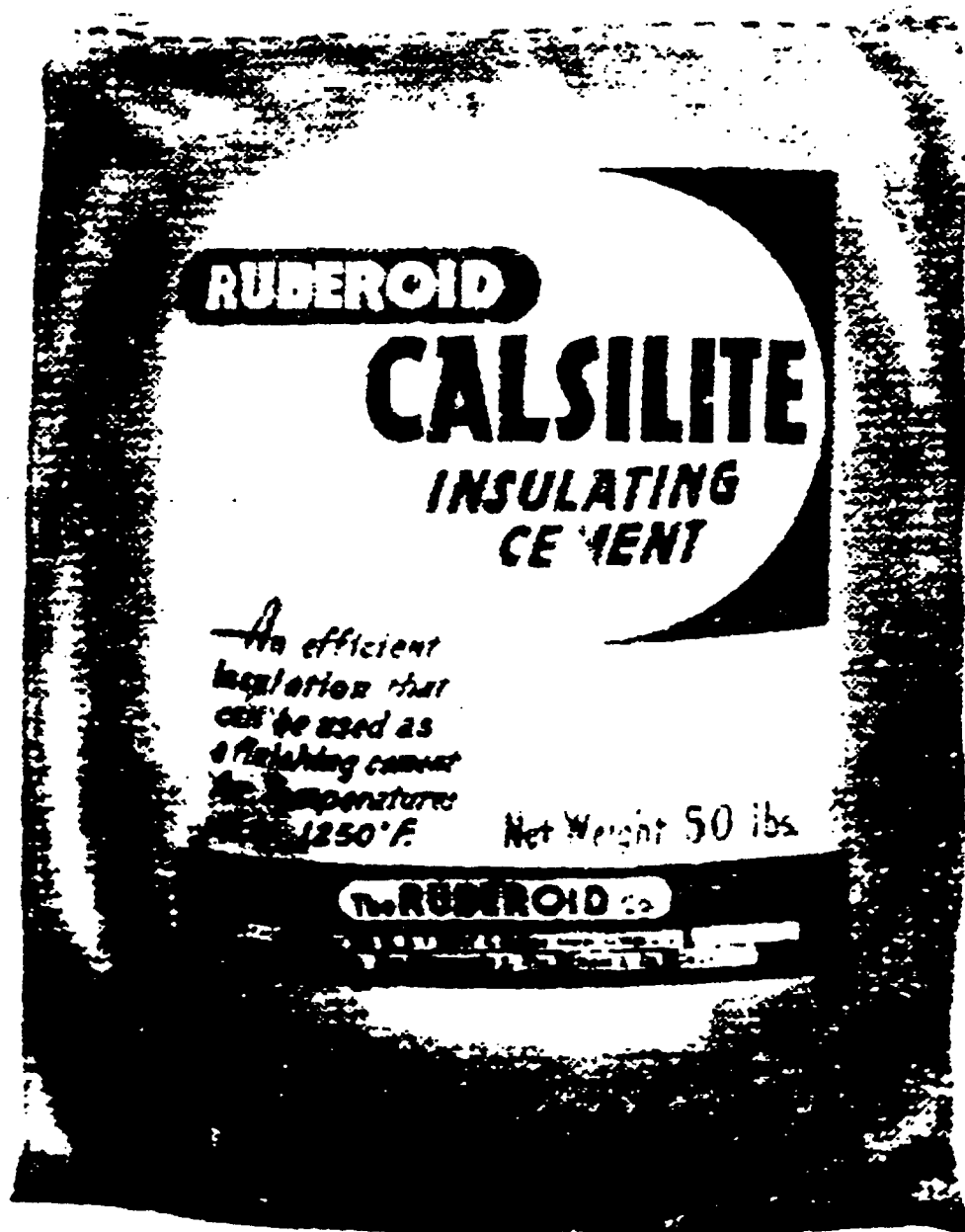
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RUBEROID

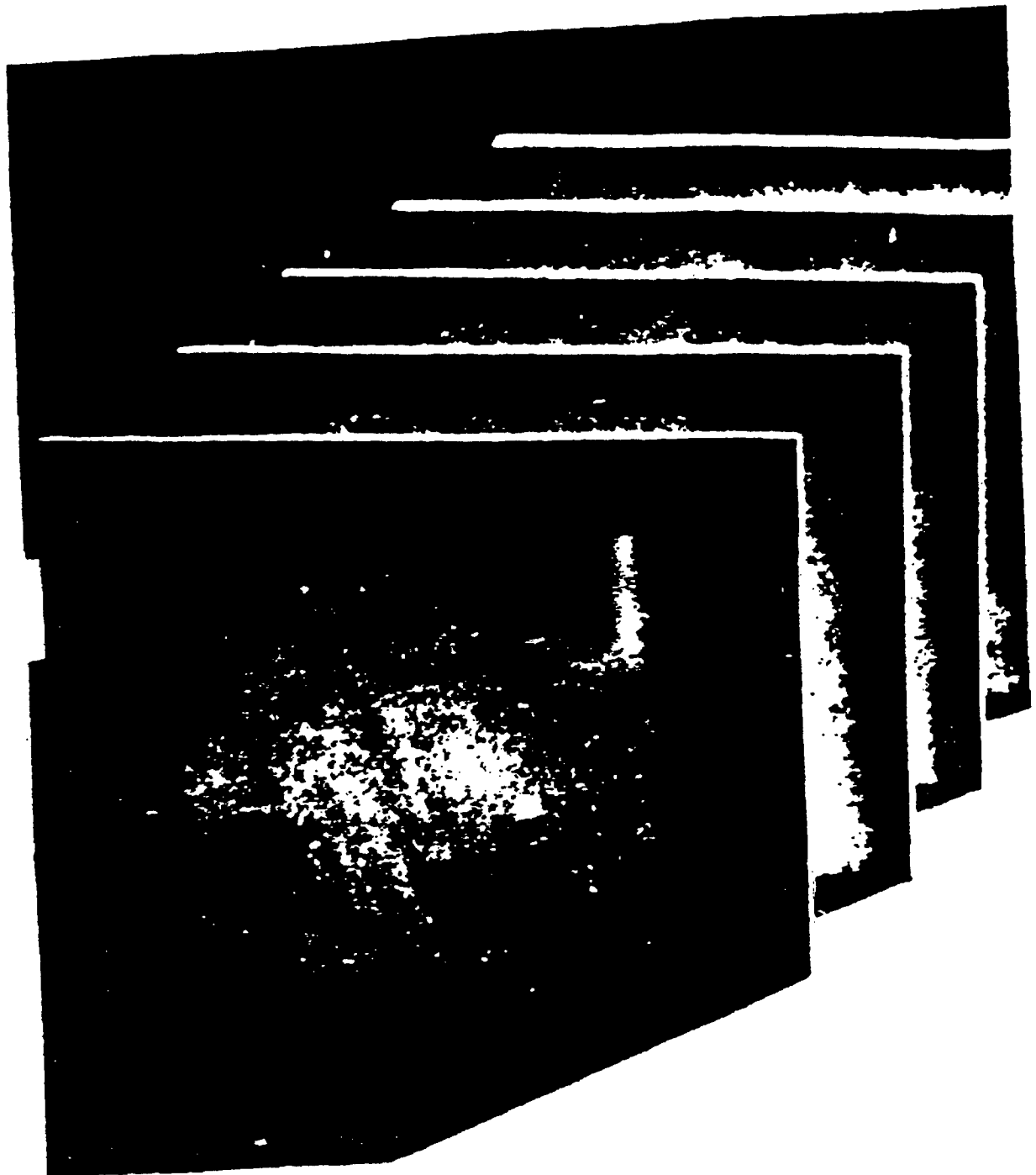
PARK, VERMONT

MADE IN U.S.A.

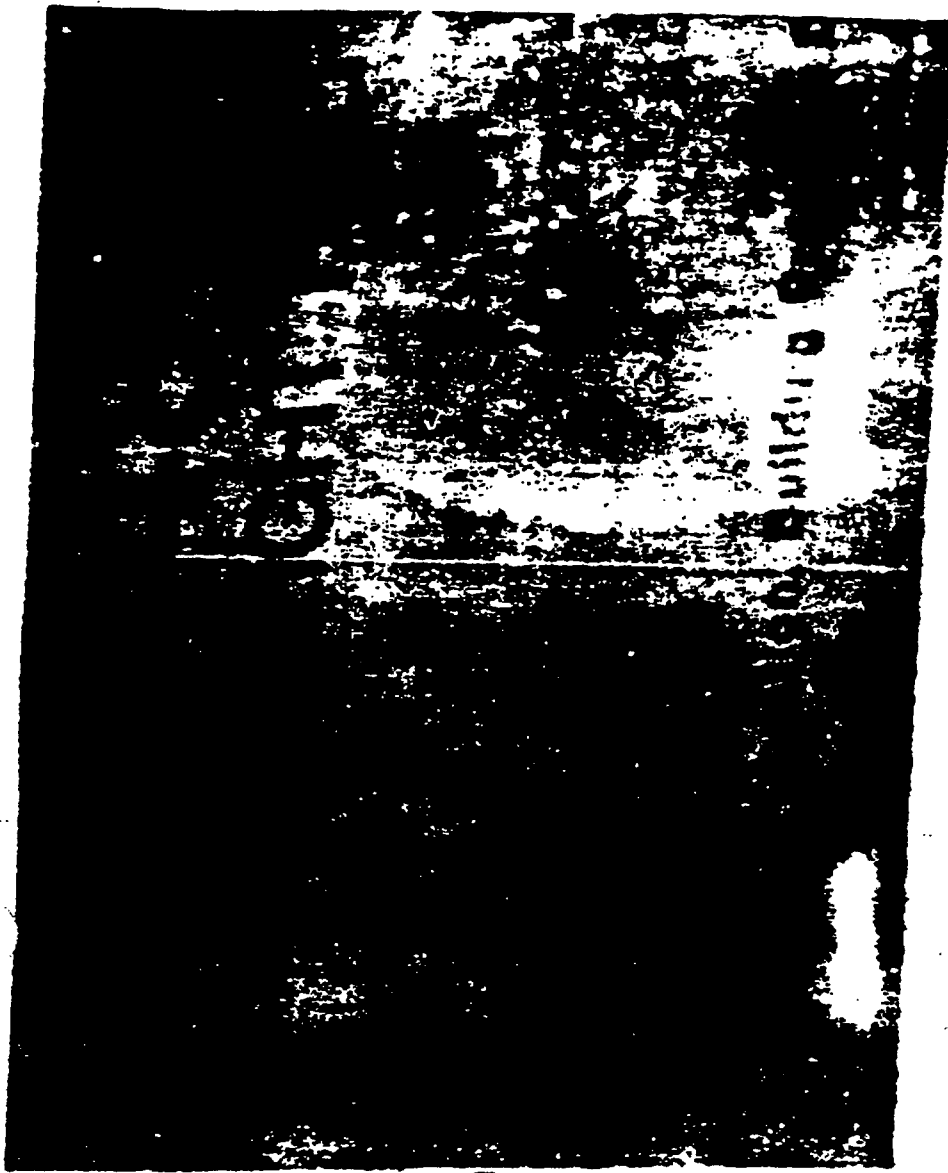
CALSILITE CEMENT



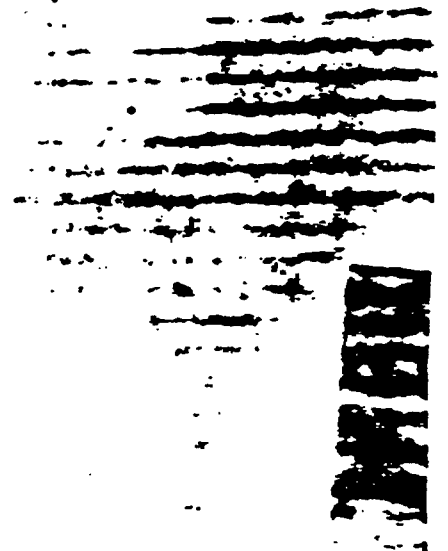
ASBESTOS MILLBOARD



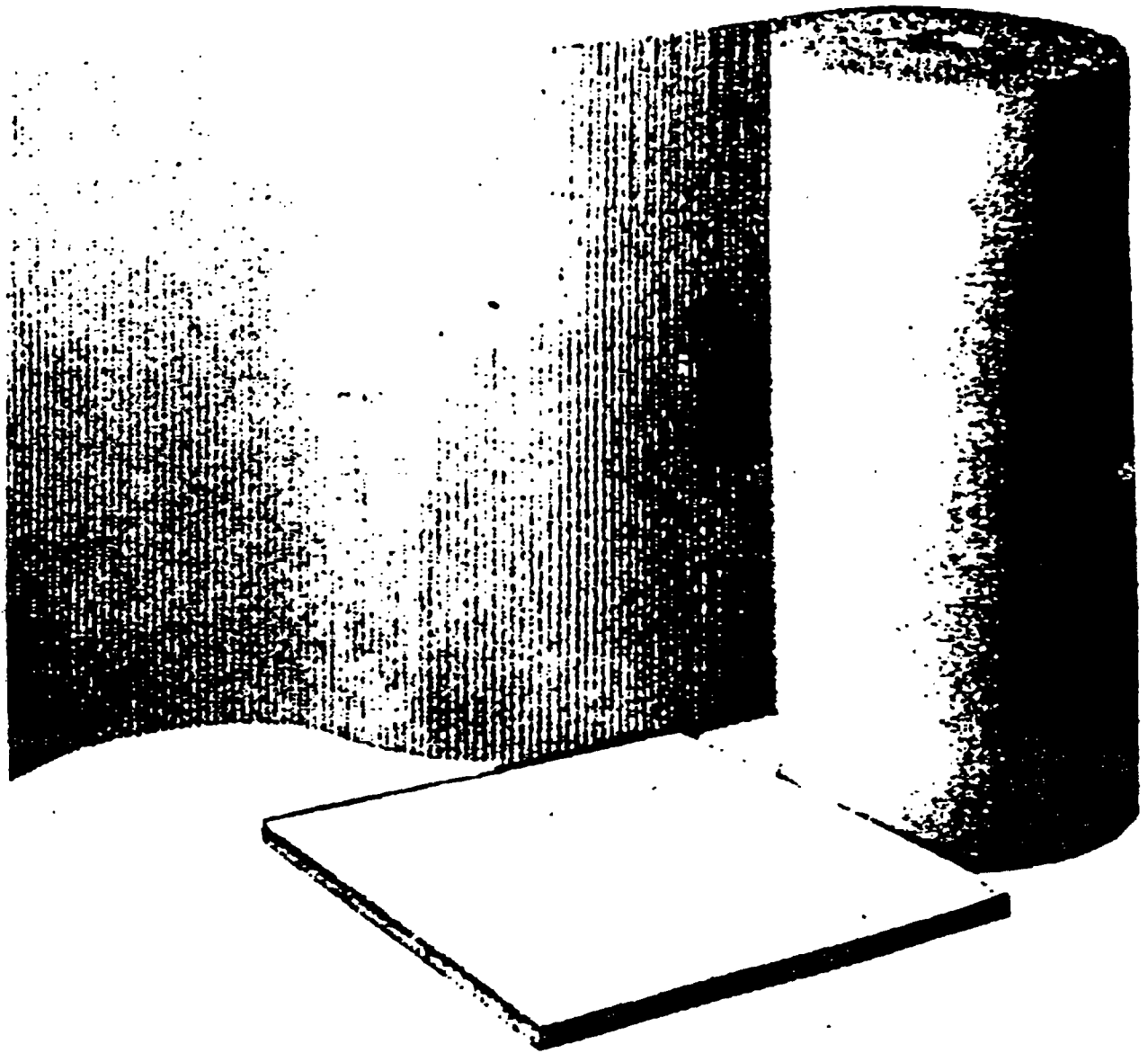
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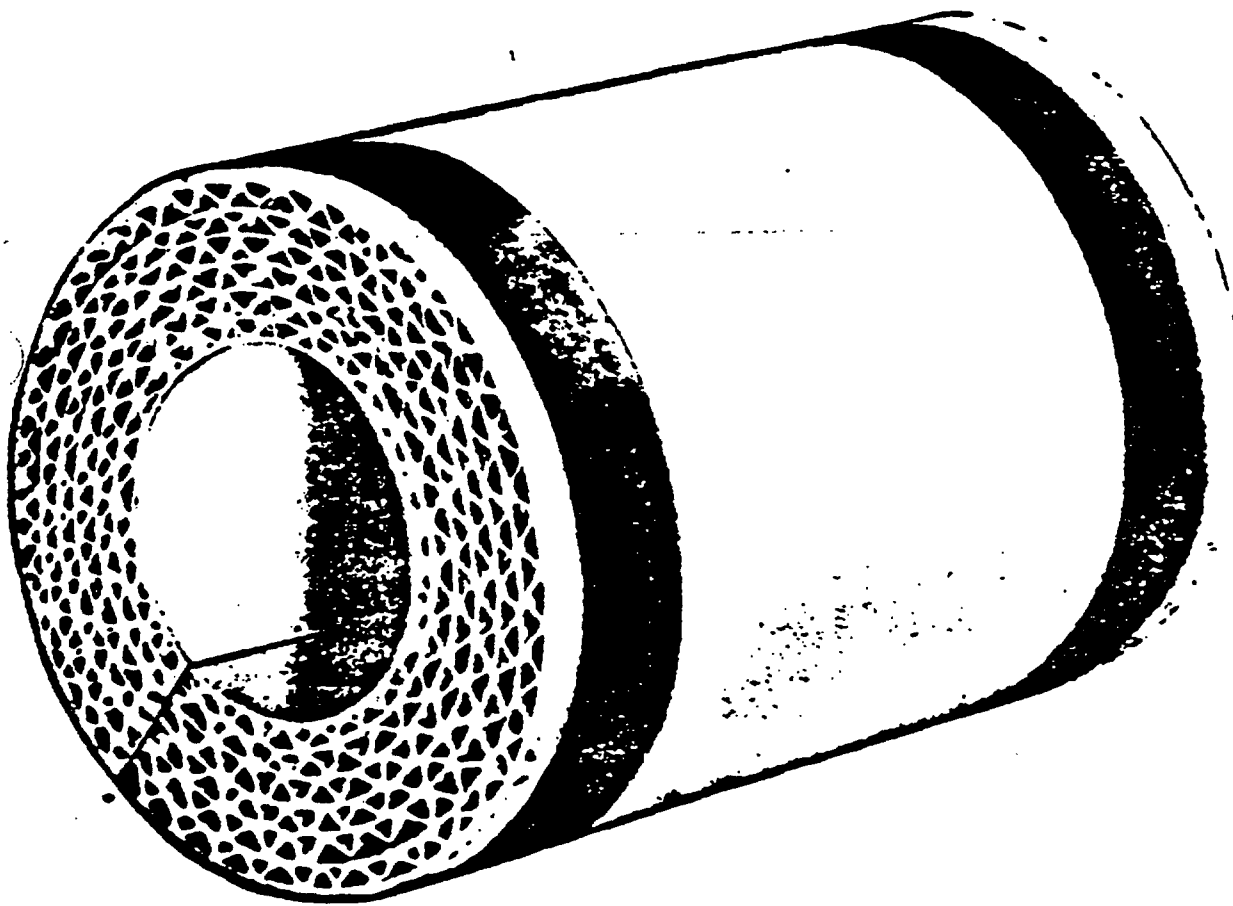
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JAN 10 1964
U.S. AIR FORCE
HEADQUARTERS
WASHINGTON, D.C.



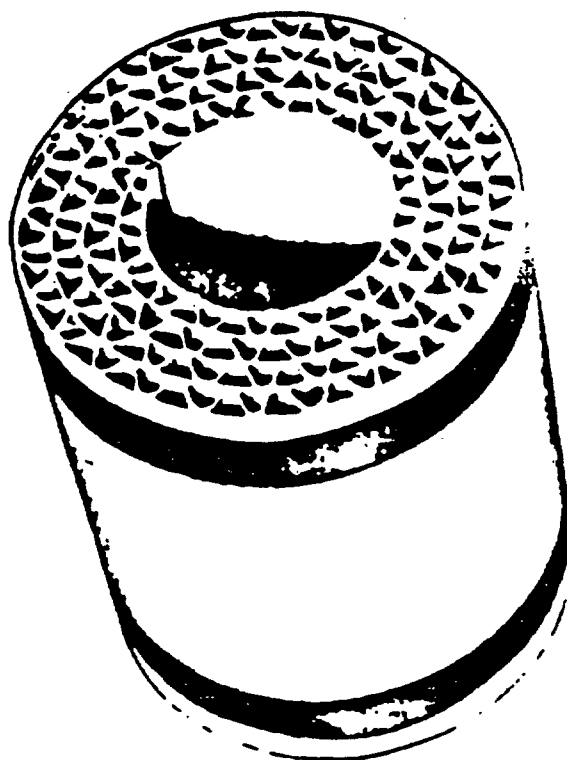
CORRUGATED ASBESTOS PAPER



RUBEROID WATCOCELL



IMPERIAL INSULATION





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