PLAINTIFF'S EXHIBIT WRG-881

GRACE

Construction Products Division

06150585

October 8, 1976

To: R. H. Locke

From: H. A. Brown

Subj: Gregorio Bill

Lynn Farmer in his last monthly report made a comment on the Gregorio Bill. He said this is the first time that he had seen tremolite referred to as a carcinogen. I believe this is a very significant point.

The Gregorio Bill is titled as an act for the regulation of carcinogens. It then lists all of those materials to be regulated with provisions for additions. This list includes asbestos and within the asbestos definition, tremolite. Therefore, the legislation selects tremolite as a carcinogen material.

The OSHA regulation on the other hand selects asbestos and includes tremolite in the definition for control as a hazardous substance. It does not claim that it is a carcinogen. This is a further illustration of how legislation can proceed from one government agency to another so that 1 + 1 + 1 = 6.

It would seem to me that because of the basic purpose of the Gregorio Bill, we should have a substantial basis for arguing that tremolite should not be included. From our searching for information, there is no place that we know of where the government or any legislative body or the State Department of Health can find scientific evidence that would establish tremolite as being carcinogenic. There is in fact only evidence to the contrary.

I realize that a legislative body or regulating body may choose to select a material and consider it carcinogenic simply because there is a possibility of its toxicity. However, it would seem to me they would have to have more evidence than just inference, which is what exists in this case.

I briefly discussed this with Mario and he did agree that the point is a valid on and does put a somewhat different light on our position as it relates to the Gregorio Bill. I think you ought to discuss this with our California counsel. I would also make the same point regarding

06150586

your memo to them on disposal of extremely hazardous waste. This memo says, "Any established carcinogens" are to be classified as extremely hazardous waste. Again, tremolite is not an established carcinogen.

This type of defense coupled with evidence to show that respirable fiber levels are below standards should change the odds on our ability to obtain exemption from the Gregorio Bill. If this can be accomplished, we also have the opportunity to use the same set of arguments with regard to the Marks Bill, plus the others we discussed:

(1) Investigation of initial legislative action was to control commercial asbestos;

(2) The ambiguity of the legislation which by literal interpretation opens up an umbrella to cover any trace materials which were clearly beyond the scope of the bill's sponsors; and

(3) The de minimis argument.

With this kind of defense combination, shouldn't our California counsel be able to develop a defense that would give us odds better than 50-50?

H. A. Brown

HAB/cgr