



A/C Pipe
Producers Association

Public Affairs Committee
International Affairs Committee

Internal Correspondence

April 20, 1981

TO
FROM *J. F. Welch*
J. F. Welch, Director, Public Affairs

SUBJECT **State of Massachusetts - Legislation on A/C Pipe**
REF: JFW correspondence, same title, February 4, 1981
ACTION REQUIRED: Review for information



BACKGROUND

On February 17, 1981, AACPP held pre-hearing meetings with Environmental Protection Agency - Region 1 water supply branch staff (Chuck Larsen) and legislative counsel for the Associated Industries of Massachusetts (Bill McCarthy). Three candidates for special counsel for AACPP also were interviewed. Staff recommends that the firm of Joyce, Capeless, Kilroy, McNulty and Roddy be retained. This firm has over 45 years experience in special legislative matters, represents major corporations and trade associations, and received high marks from both Associated Industries of Massachusetts and Hollingsworth and Vothe, an asbestos product manufacturer in Walpole, Massachusetts. Should litigation be necessary, Staff would recommend retention of the law firm of Herrick and Smith.

THE LEGISLATURE

Massachusetts law accords citizens a "right of free petition" by which they may personally introduce legislation as long as it is sponsored by their legislator. As a consequence, the General Court or Legislature of Massachusetts handles a huge number of bills every year. By December 3, 1980, over 9,000 pieces of legislation had been introduced to this session.

All bills must be reported on by the third Wednesday of April. This legislative session is expected to last until September and possibly until Thanksgiving. It is useful to remember that in 1980 the legislature considered bans on urea-formaldehyde insulation and Ronald McDonald glasses containing trace amounts of cadmium.

The Committee on Natural Resources and Agriculture, which heard testimony on H.2349, is known as "a very difficult one." Committee Co-Chairman Carol Amick is considered extremely liberal but by no means the "last word" on legislation before the Committee. Co-Chairman Nagle is labeled by some "a rabid environmentalist." The sponsors of the legislation, Howard C. Cahoon, Jr., and Thomas K. Lynch, are Republican and Democrat respectively.

Prior to February 19, 1981, Peter Laughlin, ad hoc legislative counsel to J-M, reported that there was not much support for the bill. Moreover, Laughlin claimed that it was not likely that Senator Amick would ban A/C pipe without proper study. Laughlin felt that Amick would be the strongest single influence on the bill's outcome.

Associated Industries of Massachusetts thought that the views of Commissioner Cortese of the Department of Environmental Quality Engineering (DEQE) would be of prime importance to the outcome. If Cortese opposed it, the bill would die; if not, it had a reasonable likelihood of passage. He believed that the best strategy for killing the bill, if indeed it was reported out of Committee, was to lobby it in the Ways and Means Committee since there is considerable enmity between Senator Amick and the Chairman of Ways and Means. McCarthy's recommendations to AACPP were (a) not to arouse Amick about the A/C pipe issue (considering her historical involvement in the TCE problem, this did not seem possible), (b) be prepared to submit hard hitting testimony in opposition, particularly if there was strong public support for it, (c) not offer any compromises on the first go-around.

PRESENTATION OF TESTIMONY

Testimony on H.2349 was heard on February 19, 1981. Present were the President, Director of Public Affairs, McCarthy, Laughlin, Tom Williams (Certain-teed Sales Engineer with close contacts with Speaker of the House Tom McGee), Bob Osmond (Certain-teed distributor) and Dave Whittaker (J-M).

Legislators were first given a chance to speak in favor or opposition to the 25 bills to be heard that day. The absence of microphones and the poor acoustics made the hearing of testimony extremely difficult. One legislator supported H.2349 without making any specific comments why. Another, whose name sounded like Jim McCarry, recommended that lines 2 and 3 of Section 2 be deleted on the basis of personal conversations with Department of Environmental Quality Engineering (DEQE) officials. He also endorsed the deletion of Section 3 (A/C pipe moratorium) on the grounds that there was no evidence of hazard.

Testimony in favor of the bill was spearheaded by two women from Martha's Vineyard who call themselves "The Pure Water Coalition." Both were well prepared, intelligent and articulate. They stated that the only standards governing A/C pipe were those issued in part by the pipe manufacturers, so they "are hardly without bias." They were irked particularly by the conflicting guidance received from local and state health departments. DEQE received harsh criticism on its role in the TCE situation. One woman (Cindy Maisner) reviewed a list of health studies including the National Cancer Institute research on the carcinogenicity of TCE in laboratory animals, and the ongoing studies with asbestos in drinking water. One of the Committee members asked Ms. Maisner for her definition of "pure water." She replied that it is "water without chemicals."

Both women expressed understandable anger at how they were notified of the TCE problem i.e. by a policeman knocking at their door in the middle of the night. Both endorsed a moratorium on vinyl-lined pipe and un-lined A/C pipe, stating that it was the "moral obligation" of the State. They also endorsed the excavation of all vinyl-lined A/C pipe and replacement at State cost.

Ilyas Bhatti, Chief of the Bureau of Water Supply, supported the intent of the bill, particularly formation of a task force to study the problem. He also recommended that it include the Commissioner of Department of Environmental Quality Engineering. Co-Chairman Amick asked Bhatti's reaction to having A/C pipe manufacturers fund this study. His response was inaudible.

Jerry Parker, Deputy Commissioner, Department of Health, also testified in favor of the bill although he questioned the meaningfulness of another study. After the

hearing, he requested information from AACPP Staff. Neither Bhatti nor Parker opposed a moratorium on the sale of A/C water pipe.

The President submitted testimony in opposition to the bill (see Attachment 1) and answered questions from the Committee. It was emphasized repeatedly that vinyl-lined A/C pipe had been withdrawn from the market, that millions of dollars of federal research had been funneled into the study of asbestos in drinking water, and that the Massachusetts task group would only be reviewing the same information available to the federal government. A position statement from the American Water Works Association was read (Attachment 2) and numerous questions answered.

After the hearing, Staff met with Thomas S. Joyce, Sr. and Thomas S. Joyce, Jr. (Joyce, Capeless, Kilroy, McNulty and Roddy). They agreed to make inquiries with selected Committee members to determine the possible outcome of the bill. (A Committee hears public testimony and then goes into executive session to resolve the reporting of the bill). It was recommended that AACPP be responsive to Deputy Commissioner Parker's request for information. These materials were transmitted on February 23, 1981.

POST HEARING STATUS

On February 28, 1981, Thomas Joyce, Jr. reported that the Committee had not yet discussed the bill and would not do so until Thursday, March 5, 1981. In discussion with Committee members, Joyce sensed that they wanted or expected information supporting AACPP testimony. While selected references had been transmitted to the Committee (via Peter Laughlin) a more comprehensive information package (Attachment 3, studies not included) was delivered to Senator Amick on March 2, 1981.

CURRENT STATUS

On March 4, 1981, Joyce reported that he would meet that week with Committee Co-Chairmen Amick and Nagle, and other "potential allies" on the Committee. The bill was not moving quickly despite the urgings of legislators in problem areas such as Martha's Vineyard and Cape Cod.

On March 5, Joyce reported that the Committee had struck Section 3 (moratorium) and that the bill probably would be reported to Ways and Means Committee.

On March 24, 1981, Joyce reported that the bill still had not been reported out of Committee.

AACPP ACTION PLAN

1. AACPP has retained Tom Joyce, Jr. for the remainder to the 1981 session.
2. Recommendation #1: that AACPP passively support the formation of a study committee i.e., let the bill run its normal course. In discussions with Co-Chairmen Amick and Nagle, Joyce senses strong support for establishing a study committee, possibly under Senator Amick's Special Commission on the Adequacy of Water Supplies. Joyce recommends that AACPP not oppose the study committee. Staff concurs on the basis that opposition may be misconstrued by both the legislators and the general public.
3. Recommendation #2: that through Joyce, AACPP influence the selection of the A/C manufacturing industry representative(s) on the study committee. Staff recommends Joyce take necessary action to suggest amendments to provide for participation by two industry representatives since the committee will study both vinyl-lined and unlined A/C pipe. If Joyce believes that this is not a reasonable expectation, then assurances should be sought from Amick and Nagle that the designated industry representative may bring in a specialist on the health effects of TCE.
4. Nominations for the industry representatives on the task force will be discussed at the April 12, 1981 meeting of the Public Affairs Committee.

If you have any questions, please do not hesitate to call.

JFW/ajb

Enclosures

cc: A. Kahn, Esq.
N. Rahn, Esq.
T. Joyce, Jr., Esq.
B. Hickey, Esq.
M. Greenberg, Esq.
A. Goolsby, III, Esq.
B. Pigg (AIA/NA)
N. Battle

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Attachment 1

TESTIMONY TO
COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
MASSACHUSETTS GENERAL COURT
FEBRUARY 19, 1981

Joseph C. Jackson
President
Association of Asbestos Cement Pipe Producers
Arlington, VA 22209

Senator Amick, Representative Nagle and Members of the Committee, my name is Joseph C. Jackson, President of the Association of Asbestos-Cement Pipe Producers. The Association represents manufacturers of asbestos-cement (A/C) pipe in the United States, Canada, Mexico and nine other countries of the world. With regards to House Bill 2349, the Association questions the need for a task force to study A/C water pipes and vinyl-lined water pipe containing tetrachloroethylene. Such a study would only duplicate the ongoing research of the federal Environmental Protection Agency which is examining the potential health effects of all direct and indirect additives to drinking water.

The resources which EPA will bring to bear during its deliberations transcend those available to Massachusetts or any other state. Therefore, it would be appropriate for the Committee to consider deferring to the federal government's lead on this subject.

With respect to Section 3 of the bill, the industry no longer manufactures lined pipes containing tetrachloroethylene, having voluntarily withdrawn the product in April 1980 as a result of concerns expressed by EPA and state health departments in New England.

The Association opposes that portion of Section 3 which would place a moratorium on the installation of non-vinyl A/C water pipes. Such action should be reserved for imminent and substantial hazards ... which the use of A/C water pipe is not.

If A/C pipe, or asbestos ingested in drinking water, was a proven health hazard, one would expect either the U.S. Environmental Protection Agency or state departments of health would have regulated both accordingly. In point of fact, neither EPA, nor DEQE, nor any of the forty-nine other health departments have taken such action.

None of the animal studies involving the ingestion of asbestos in water or food have proven that such ingestion results in an increased risk of cancer. Test animals have been fed diets containing as much as 6% asbestos without evidence of tumor production. To put this in clearer perspective, using the highest asbestos levels found in drinking water, one would have to drink 3,800,000 quarts of water per day to consume a dose of

asbestos equal to those which failed to cause cancer in animals.

Three weeks ago, the National Institute of Environmental Health Sciences, which is sponsoring a multimillion dollar animal feeding study with asbestos, reported that there were no differences in lifespan and no observation of carcinogenic or cocarcinogenic effect in hamsters receiving the asbestos diet.

Cancer statistics of people living in areas with high levels of naturally-occurring asbestos have been studied extensively. In Duluth, Minnesota, Puget Sound, Washington, the asbestos mining regions of Canada, and Connecticut studies failed to reveal any excess cancer which could be attributed to asbestos consumed in drinking water.

Madame Chairman, Committee Members, I urge you to withdraw H.2349 on the grounds that its need is unsupported by the facts. The Association would be pleased to submit to the record detailed written testimony or any scientific references it has cited.

Thank you.



American Water Works Association | 6555 West Quincy Avenue | Denver, Colo. 80235 | 303 734-7711

ATTACHMENT 2

February 18, 1981

Mr. Harold L. Olson
Johns Manville Sales
Ken Caryl Ranch
Box 5108
Denver, CO 80217

In response to your request regarding the proposed Massachusetts Act H2349 regarding the establishment of a task force to study public health hazards of asbestos-cement water pipes and vinyl lined water pipes containing tetrachloroethylene, we're pleased to offer the following comments.

The first priority in developing regulations should be to establish a health hazard. Review of the scientific literature, however, does not show that asbestos in drinking water constitutes a health hazard. No federal drinking water regulation regarding asbestos or tetrachloroethylene has been established.

We would recommend that Section 3 of H2349 be deleted until scientific evidence to justify such an action has been established.

Please let me know if we may be of further assistance on this matter.

Paul A. Schulte
Deputy Executive Director

PASevmj

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A/C Pipe
Producers Association

1600 Wilson Boulevard,
Suite 1308
Arlington, Virginia 22209
(703) 841-1556

ATTACHMENT 3

February 27, 1981

Honorable Carol C. Amick
State House
Boston, MA 02133

Dear Senator Amick:

The A/C Pipe Producers Association is pleased to enclose testimony submitted in opposition to House Bill 2349.

The Association firmly believes that establishment of a task force to study the health hazards of asbestos-cement (A/C) water pipes and vinyl-lined water pipes containing tetrachloroethylene would needlessly duplicate similar studies which the Environmental Protection Agency and other federal agencies have had underway for many years. Moreover, the imposition of a ban on conventional (non-vinyl-lined) A/C water pipe flies in the face of substantial scientific evidence that the use of this product does not create a public health hazard. The banning of A/C water pipe in light of this evidence and without a rational basis or reconsideration would be arbitrary, unjustifiably discriminatory and unreasonably excessive.

The question of the health effects of the ingestion of asbestos has been studied for at least 10 years, using data bases extending for up to 35-40 years -- well beyond the latency period for cancer -- in Connecticut, Duluth, Minnesota, Canada and the Pacific Northwest where huge amounts of asbestos are present in the drinking waters. All studies appear to be negative. Animal studies do not support the proposition that the ingestion of asbestos is harmful. The EPA and all state health departments known to have considered the question have rejected a conclusion that the use of asbestos-cement water pipe constitutes a public health hazard.

Enclosed are the scientific studies which form the basis for the Association's position. These documents cover the full spectrum of epidemiologic and animal feeding studies as well as the positions of state health departments on the safety of A/C pipe.

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A/C Pipe
Producers Association

Senator Carol C. Amick
February 27, 1981
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Your attention is invited to the recently released results of animal feeding studies being conducted by the National Institute of Environmental Health Sciences. Also enclosed are letters from Environmental Protection Agency Regions 4 and 6 stating their respective views on the safety of A/C pipe.

If you, Representative Nagle or any of the Committee members have questions or require additional information, please do not hesitate to call.

Very truly yours,

A/C PIPE PRODUCERS ASSOCIATION

John F. Welch
Director
Public Affairs

JFW/ajb

Enclosures

cc: A. Kahn, Esq.
N. Rahn, Esq.
N. Battle (L&G)

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