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STATE OF NEW YORK
SUPREME COURT

ST. LAWRENCE COUNTY

WILLIAM M. FULLER and
LILLIAN M. FULLER,

Plaintiffs,

VS

R.T. VANDERBILT INCORPORATED,
GOUVERNEUR TALC COMPANY, INCORPORATED,
ST. JOE MINERALS CORPORATION and
FLUOR CORPORATION,

Defendants.

Deposition of WILLIAM M. FULLER taken on
October 24, 1991 at the Law Offices of Setright,
Ciabotti and Longstreet, 313 Montgomery Street,
Syracuse, New York 13202.

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B-PROP-7

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I N D E X

WITNESS:

WILLIAM M. FULLER

PAGE

Examination by Mr. Ciabotti	3 - 60
Examination by Mr. Vulcano	60 - 90
Examination by Ms. Raphael	90 - 91
Further Examination by Mr. Ciabotti	91 - 92
Further Examination by Mr. Vulcano	92 - 98

E X H I B I T S

EXHIBITS:

MARKED

IDENTIFIED

Exhibit 1	-40-	-40-
Exhibit 2	-40-	-42-
Exhibit 3	-40-	-75-
Exhibit 4	-40-	-40-

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2 (It was stipulated by and between counsel for
3 the respective parties that this Examination
4 Before Trial be held pursuant to the provisions of
5 the Civil Practice Law and Rules, that the signing
6 and filing of the minutes are waived, that the
7 witness may be sworn by Christine M. Tamlia,
8 Notary Public, and that all objections, except
9 those as to form, are reserved until the time of
10 trial.)

11 MR. CIABOTTI: We're going to do the
12 deposition of Mr. William M. Fuller this morning.
13 You have the title of the case, so I don't have to
14 repeat that. This testimony is at our request, it
15 may very well be used at trial so that any
16 objections should be made on the record, including
17 objections to form. We would agree that the rest
18 of the normal stipulations would apply with
19 respect to this deposition and I would like to
20 point out that this morning we have present, in
21 addition to the attorneys for the various parties
22 whose appearance you have noted, Mr. John Kelse
23 from -- and I'd like to identify who your employer
24 is.

25 MR. KELSE: R.T. Vanderbilt Company.

FULLER - CIABOTTI

MR. CIABOTTI: We have or will be taking the deposition of Mr. Fuller shortly I hope, and I want to point that out on the record.

MR. VULCANO: So stipulated.

WILLIAM M. FULLER, called as a witness, having been duly sworn, testifies as follows:

EXAMINATION BY

MR. CIABOTTI:

Q You're William M. Fuller?

A Yes.

Q I might call you Bill throughout this deposition with your permission. I am going to ask you some questions, you will give me the answer the best you can, we have gone over some of the stuff. If I ask you a question and you don't understand, will you tell me?

A Yes.

Q How old are you?

A Fifty-nine.

Q What is your date of birth?

A February 28, 1932.

Q Where were you born, sir?

A Town of Pitcairn.

Q Is that New York?

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A Yes.

Q What County is that?

A St. Lawrence.

Q Now, where do you reside presently?

A 19 VanBuren Street, Antwerp.

Q A-N-T-W-E-R-P. How long have you lived there?

A Approximately twenty-nine years.

Q Are you married?

A Yes.

Q What is your wife's name?

A Lillian.

Q And you reside with her in Antwerp?

A Yes.

Q Does she work outside of the home at the present time?

A No -- pardon me, excuse me, she does have a part-time business, she puts in a few hours each week.

Q What kind of business is that?

A An exercise shop.

Q Did she work outside of the home on a full-time basis?

A Yes.

Q When was that?

A Until she was 55 years old, she retired early,

FULLER - CIABOTTI

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early retirement.

Q From where?

A Sherwood Medical in Watertown.

Q Now, how many children do you have?

A Four.

Q Could you tell me their names and the age of the youngest?

A David is the oldest, Aimee, Thomas, Tammie, she is the youngest, she is 29.

Q Are they all grown and out of the house?

A Yes.

Q Where did you go to school?

A Belmont, New York and then to
Gouverneur High School.

Q Did you graduate from high school?

A No.

Q How far did you go in high school?

A Tenth grade.

Q And then why did you quit, any particular reason?

A No.

Q Then what did you do after that?

A I went into the military.

Q What branch of the service were you in?

A Army.

FULLER - CIABOTTI

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Q What year did you go into the Army?

A 1951.

Q Where were you stationed?

A In Germany.

Q How long did you stay in the Army?

A Three years.

Q What rank did you obtain?

A PFC.

Q Did you serve overseas someplace other than
Germany?

A No.

Q Were you in Korea?

A No.

Q Were you ever injured in the service?

A Just slightly, nothing significant.

Q Did you receive an honorable discharge?

A Yes.

Q Now, when was it you got out of the service,
approximately?

A 1954.

Q Did you -- what did you do then?

A What did I what?

Q What did you do after you got out?

A I went to work for St. Joe's Mineral Company.

FULLER - CIABOTTI

Q When did you get married, approximately?

A '57, '58 somewhere in there.

Q After you got out of the service?

A Right.

Q After you got out of the service, you went to work
for St. Joe's Lead?

A Right.

Q In Belmont?

A Yes.

Q What did you do for that company?

A I was a mucker and grizzlyman underground.

Q What mine was that that you worked at?

A Number 2.

Q Is that anywhere near the mine owned by the
Gouverneur Talc Company?

MR. VULCANO: Objection.

A Within a few feet.

Q You said you were a mucker and a grizzlyman?

A Yes.

Q Let me go back. Within a few feet, can you
describe for me the layout there or tell me what leads you
to that conclusion of a couple of feet?

A On top of a little grade where you go down in the
mine, you go straight down, straight over to the mine

FULLER - CIABOTTI

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Q Had you worked underground in a mine before
St. Joe's?

A No.

Q Now, what kind of ore, if you know, were you
dealing with at St. Joe's?

A Lead iron or a lot of pyrites, zinc.

Q Was there any talc or talc deposits in that mine
that you can think of?

A There was some but you didn't see a lot.

Q You weren't concerned with that?

A No.

MR. VULCANO: Objection.

Q Now, tell me about the conditions of that mine as
it regards to whether or not it was dusty, can you tell
me?

A At St. Joe?

Q Yes.

A Not that dusty, no.

Q Did you have respirators at that mine?

A I can't recall seeing one, I was never required to
wear one.

Q How far underground were you at St. Joe's?

A St. Joe's Lead Company, I worked on 1100 level
most the time I was there.

FULLER - CIABOTTI

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Q Would that be 1100 feet underground?

A Not directly, I don't think. East level is vertical, 200 between each level when it is on an incline. I don't really know.

Q Who was your immediate superior, if you remember, at St. Joe's? Who did you work under?

A The last shift foreman I think I worked for was Bill Kilburn.

Q Is he still alive, do you know?

A Yes, he is.

Q Does he still work for St. Joe's?

A No.

Q Did you ever have any physicals when you worked for St. Joe's, if you recall?

A I can't recall any except to go to work.

Q You had a physical when you went to work?

A Right.

Q Do you know whether or not you had any chest x-rays or not?

A I am pretty sure I did have.

Q Let me ask you this question: How was your health up until the time you, at least up until 1954, when you went to work for St. Joe's?

A Good.

FULLER - CIABOTTI

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Q No problems?

A None.

Q Now, there came a time I guess that you quit work
at St. Joe's?

A Yes.

Q Approximately when was that?

A 1958.

Q For what reason?

A At the time I found a better job.

Q Where did you get this better job?

A Syracuse, New York, Local 1249 IBEW.

Q What did you do there?

A I was a groundman, truck driver.

Q That is driving truck?

A Yes.

Q And how long did you have that job?

A Approximately six years.

Q That was down here in Syracuse?

A All around New York State.

Q Then what did you do?

A I hired out to Gouverneur Talc.

Q Was there any dust or dirt involved in your job
when driving your truck?

A Very little.

FULLER - CIABOTTI

Q And then you went to work for Gouverneur Talc?

A Yes.

Q Approximately when was that?

A 1964.

Q Where did you go to work for Gouverneur Talc?

A Number 1 Mine.

Q Did you get a physical before going to work for the company?

A No, two weeks later.

Q Do you know who gave you that physical, the name of the doctor or any people involved in that?

A No, I am not sure who the doctor was, it was at Gouverneur Hospital.

Q And did they tell you anything about that physical, the results at all?

A Just that I was in good shape.

Q So, you worked in the Number 1 Mine, did you?

A Yes.

Q What did you do when you first started to work for Gouverneur Talc?

A Underground laborer.

Q What kind of laborer? What was your job description?

A Anything, paint, mechanic, if he was putting in

FULLER - CIABOTTI

rails or something in the drifts, you help them, whatever they call you for, just a general laborer, everyone started at that.

Q You worked for Gouverneur Talc for how long?

A Twenty-six years.

Q When did you get through, about 1990, approximately?

A Yes.

Q Now, was all that work underground?

A Within a few days, if I was on temporary or light duty working in the office or something, stock clerk.

Q Which mine was that, the Number 1 Mine?

A Number 1 Mine.

Q Where is that located?

A Belmont, New York. Just out of Belmont, New York.

Q Would you tell me the various jobs you did over the years in the Number 1 Mine?

A I started out as a laborer, then trammer, then I was on drilling, then I went back to and on maintenance for a short while, I went back to trammer and stayed there.

Q Tell us about the trammer. Where was that and what kind of job was it?

A Well, the trammer consisted mainly of moving the

FULLER - CIABOTTI

broken ore in the stopes into your cars and taking it to your transfer station and dumping it.

(An off the record discussion was held.)

Q Now, first tell us, Mr. Fuller, is the trammer some sort of underground train?

A Yes, it is.

Q Runs on rails?

A Right.

Q Electric power?

A Yes.

Q This is the device that's used to move the ore from where you were breaking it, gathering it up to some place to process it?

A Yes.

Q You referred to taking the ore out or in the area of a stope; correct?

A Right.

Q Tell us what a stope is.

A A stope is just an opening underground that a driller makes. The driller will make the opening, he fires rock, breaks it, makes it, you know, opens it up. Like this room, if you want it big, you tear the wall out. They drill the walls and fire it out to make it bigger.

Q The process is that you have a hole underground,

FULLER - CIABOTTI

the first thing that happens in an area that you want the rock out of, you have to fire it?

A Right. If it's too big to go through on a scraper ramp, you have to drill it or fire it and blast it, secondary blasting, that is what was usually done for time element and to make it small enough to go through the hole.

Q When you say small enough to go through the hole what --

A The rock, the ore.

Q A stope is an area where it's an opening underground. Is that an area generally where they already fired or not?

A That's how the opening is there, from firing, drilling.

Q First thing that happens is drilling and firing?

A Right.

Q Does one come before the other?

A Drill first, then fire.

Q Tell us about the drill. Have you ever drilled?

A Yes.

Q How do you that? What do you use?

A Jackhammer that runs that in the air, picks your machine up, puts pressure on it, rotates the drill steel

FULLER - CIABOTTI

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to drill holes in the rock.

Q So, you have got this drill and it's operated with air?

A Right.

Q And it's got a drill steel in it?

A Yes.

Q Is the drill steel always the same length?

A Depending if you were doing development or subdrifting. You start with a small one, short steel and a stope is usually eight foot to ten or whatever length they have, but in a subdrift, it's easier to start a hole. You have to be precise where the hole is, you can't do it with a long steel, you need a short one.

Q Why be precise?

A You're not going to break the ground if it's not right.

Q Do you have a particular rock to drill in as opposed to --

A Whatever they tell you.

Q They lay it out for you?

A Right.

Q You drill with an air power drill?

A Yes.

Q What happens after drilling with the holes?

FULLER - CIABOTTI

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2 A You load them.

3 Q With some sort of explosive?

4 A Right.

5 Q You did drilling, did you?

6 A Yes.

7 Q The drilling that you did, was that a dusty
8 operation?

9 A No, probably the less dust there than any jobs in
10 the ground.

11 Q Why was that?

12 A Because you drill wet.

13 Q Wet meaning that this drill, if I can ask you, had
14 some sort of water apparatus?

15 A Water attached to it running through the machine
16 and through the drill steel.

17 Q Down threw the drill steel?

18 A Right.

19 Q Drill steel has a shovel in the center, water
20 comes out through the drill?

21 A Right.

22 Q Then you drill these holes. Was there any
23 particular number of holes you had to drill before you
24 could fire or would the patterns differ?

25 A Yes, in a subdrift or a main drift, if you drill a

FULLER - CIABOTTI

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2 main drift, you drill more holes because it's a larger
3 area. In a stope, no, whatever you figured it to break to
4 make money, the more you drill, the more you broke, the
5 more you made.

6 Q Let me ask you this question: You were
7 compensated on a base rate?

8 A No, tonage and footage.

9 Q So, the more you drilled, the more rock you got
10 out, the more money you got. Is that a fair statement?

11 A Right. That is the way it's supposed to be set
12 up, yes.

13 Q And you drill these holes, now you said you drill
14 them so that you have to fire them. Did you always have
15 to fire after you drill the holes or could you just break
16 the stuff off by drilling it?

17 A No, you had to fire it. It was done at the end of
18 the shift.

19 Q End of the shift?

20 A Yes.

21 Q Why is that?

22 A Because of the noise, nobody could get hurt and
23 that is about it, unless it be dust, I don't know, well
24 the secondary blasting, they wanted it in the daytime
25 because of the dust.

FULLER - CIABOTTI

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2 Q So, anyway, the first thing you do would be to
3 drill. You want to have some sort of pattern so you could
4 fire it and get the best breakage of rock so you could get
5 it out?

6 A Right.

7 Q Why was that for again?

8 A Because on development you got paid by the
9 footage, if you went four foot, you got so much a foot,
10 naturally if you broke six foot, you were paid more. When
11 you put your pattern in, you had to be percise or the
12 ground wouldn't pull, it wouldn't break, you wouldn't get
13 the footage.

14 Q How did they measure the footage, measure into the
15 rock?

16 A Literally measure from here to the wall. How far
17 is that?

18 Q If you went that far or farther, you got that much
19 more money?

20 A Right.

21 Q That is what you were trying to do, make as much
22 money as you could?

23 A Oh definitely, yes.

24 Q Now, when you drill those holes, how would you go
25 about loading them? What would you load them with?

FULLER - CIABOTTI

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2 A A loading stick, electric caps that you wired in
3 sequence to have them go off the way you want them to.
4 Certain holes in development at certain times, same as a
5 stope hole, they have to be fired ahead of others so you
6 have a shorter delay capacity.

7 Q Did you actually do the firing or load the holes?

8 A Yes.

9 Q How did you learn to do that?

10 A An experienced driller.

11 Q Somebody taught you on-the-job training?

12 A Right.

13 Q So, you would load these holes, then fire them at
14 the end of the shift?

15 A Yes.

16 Q And did you actually do the firing?

17 A Yes. All you done is throw the switch on at the
18 station.

19 Q What is the station? Where is that?

20 A Where you get off to go to the bank.

21 Q So, you wired that back to what?

22 A You have secondary firing lines that run to the
23 stopes, main firing lines in the different -- you attached
24 your wires to them, then you have shunts so they can't be
25 accidentally shut off. You plug them in at the station,

FULLER - CIABOTTI

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throw the switch on to fire.

Q At the end of the shift?

A Right.

Q What shift did you work primarily?

A Days.

Q So, you would fire these things off at the end of your shift?

A Right.

Q Is that the last thing you do on your shift or not?

A Yes.

Q When you came on the day shift, what time would that be?

A Seven o'clock in the morning.

Q Would on occasion somebody have fired a drift or something before you got onto your shift?

A No, not as a rule. If at one time, one point they had a day and night shift, but all drillers were on the day shift with you. When they had the day and night shift, they would be around, a night foreman would check it out, get it to where it goes. They might fire at the end of the night shift, which would roughly be 3 o'clock in the morning and they fired at the end of the shift when the night shift went off.

FULLER - CIABOTTI

Q So, would the last thing that you do on the day shift when you were doing this type of work, would be to set off the charge?

A Right.

Q And could you hear it, feel it, smell it?

A You could hear it, you can feel vibrations.

Q Did that create a lot of dust and smoke?

MR. VULCANO: Objection.

MR. CIABOTTI: You can answer.

MR. VULCANO: Are you asking about dust where he would be or just somewhere?

Q All right. If that's the objection, do you know whether or not that created dust or smoke?

A Yes, it does.

Q What's your knowledge of that?

A Sometimes you could see it, you'd be firing close enough to your work area where you could see it, but not as a rule. Eventually, the smoke came down the drift, you would get an inhale of it, not always.

Q Sometimes you could see it, sometimes not?

A Yes.

Q Sometimes the smoke would come down the drift?

A Right.

Q How long after the rock was fired would workers go

FULLER - CIABOTTI

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back in?

A Well, you get done roughly at 3 o'clock, 3:15, I don't think they could fire until 3:15 roughly when all the people were on the bank. The drillers that did the firing stayed under, they'd fire. The cagemen were the last ones in the mines and then when the night shift come on at 7 o'clock, it would be roughly four hours, somebody would be back into the place working on the night shift.

Q Four hours between the time you fired and the time somebody would be working?

A Right.

Q The last man in, the cagemen, did they operate the elevators?

A Right.

Q Now, were there any other people that were paid by way of production, other than the drillers, you said they go so much?

A Trammers.

Q You worked the tram also on occasion?

A That's what I done most of my employment.

Q Anybody other than the trammers or the drillers being paid, we will call it piece work.

A It's a bonus system, yes, the cagemen, the hoistmen and the crushermen.

FULLER - CIABOTTI

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2 A Right.

3 Q And suppose it wasn't that size?

4 A You broke the edge with a sledge hammer, you
5 drilled or fired it or used secondary blasting. That is
6 what was normally done for time element and to produce.

7 Q Well, all right. If you had to secondary blast,
8 would that mean you might make less money?

9 A Well, in the long run it depends if it was too
10 big, if it was like this table, yes, you would. You'd
11 have a hard time getting out so many cars, your bonus
12 would be down off the contract.

13 Q Tell me about the secondary blasting.

14 A You pulled the chunk out, get as many as you can
15 ~~to go where you don't cut off, you use a timer code, a~~
16 small rock on it, string it out along, hook up just one
17 electric blasting cap, you hook it to a secondary line,
18 you plug it in the trammer, a switch sets it off.

19 Q You blow up those rocks?

20 A Right.

21 Q Did that have to occur during any period on your
22 shift or when you needed to?

23 A As a rule, when you needed to.

24 Q You did that on occasion?

25 A Pretty near every day.

FULLER - CIABOTTI

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Q Did that create any dust or smoke?

A Yes.

MR. VULCANO: I just object.

MR. CIABOTTI: Why?

MR. VULCANO: Dust or smoke where?

MR. CIABOTTI: Where he blasted.

WITNESS: You'd have to go right back in there.

Q So, when you blasted it, obviously you blew it up?

MR. VULCANO: Object to form.

A Right.

Q When you blew it up, would it be dusty?

A Dusty and smoky.

~~Q Then did you have to come in that area to work?~~

A As soon as you could see.

Q What do you mean?

A As soon as you could see to go up and down the drift. When you see that you could run the slusher in the stope.

Q Was it that dust that made it difficult to see?

A Certainly.

MR. VULCANO: Objection. Are you talking about right after the blast?

MR. CIABOTTI: Yes.

FULLER - CIABOTTI

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Q Now, how -- what did you use for lighting under there?

A You have a spot bulb, some of them depend on the size of the stope, you might have some at the top of the stope shining on the other so you had better visibility. You had one down by your ramp to where it shines back in the stope.

Q You had one on your hat, did you?

A That didn't help but yes.

Q After this blasting, secondary blasting, it was difficult to see?

A Right.

Q Then what did you do with the ore, after you came in and did the secondary blasting?

A Then you put it in the car.

Q And where did it go from there?

A To the station out to the shaft, you have a transfer station, dumping point, it has what they called a camel back. The cars have a dump wheel to go on this incline, it goes back down, the car dumps the ore into the shaft, it has draw pockets where they hoist it up to the surface.

Q This secondary blasting, what was the title of the person who did that job?

FULLER - CIABOTTI

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2 A A trammer.

3 Q And how many years was it that you did tramming?
4 Was that most of your job?

5 MR. VULCANO: Objection.

6 Q Well, you tell me.

7 A Twenty-three, twenty-four years, anyway.

8 Q When you did tramming, did you work alone or with
9 somebody else?

10 A Both ways.

11 Q How did it work when you worked with somebody
12 else?

13 A Well, when I was on tramming working with somebody
14 else, I was always the slusher operator, I loaded the cars
15 and the guy working with you just took them to the station
16 and dumped them.

17 Q And the slusher operator, tell us again what he
18 did.

19 A He moved the broken ore out of the stope, put it
20 through the hole and into the cars.

21 Q Let me ask you this question: If you didn't have
22 to secondary blast, was there any dust in the area,
23 assuming that you didn't have to secondary blast?

24 A Certainly. When you removed the broken ore.

25 Q Now, did you have, first let me ask you this

FULLER - CIABOTTI

question: How far underground generally were you when you worked?

A I worked several years on the 500 level, then I worked another several years -- no, most of the time I was on the 500 level, the majority in the later years I worked awhile on 700, then 900 and 1100 level.

Q What's the temperature underground?

A Approximately 47 degrees, I think.

Q Was that fairly consistent year round down there where you were?

A Except in the winter months.

Q What happened in the winter?

A The upper levels get cold enough they freeze up.

~~Q Was there a ventilation system in the mine?~~

A Yes.

Q Could you tell me how that worked or where it was?

A Old American Shaft, they had a big fan that forced air into the mine, then they had other respiratory holes that they drill from the bank, small holes down, then they put -- got a reamer bit to where it was open underground. All right, then they put a big reamer bit on it and it pulled it back out, it created a three foot hole.

Q Like a chimney?

A Yes.

FULLER - CIABOTTI

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Q In the Old American Mine, they had a ventilating fan?

A Pushed air in the mine.

Q One or more?

A Just one.

Q Did they leave that on all the time, winter, summer?

A Until it got cold in the winter.

Q What did they do then?

A Shut it off.

Q No ventilating fan in the winter?

A No.

Q Now, the mine you said at different levels you worked, was it always in one area or along one passage or were there different passages even at the same level?

A Different passages on each level.

Q For instance, I look at it as fingers going out from a main shaft. Would that be a fair description?

A Yes.

Q I take it if, you correct me if I am wrong, if you worked at one level, you'd work at various fingers?

A Several, you might work in more than one each day.

Q How did you determine where you would work even if you were on a particular level?

FULLER - CIABOTTI

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A Your foreman told you where to go.

Q Do you know where he got his information?

A Well, from the superintendent or the mine captain.

Q Do you know the reason for that?

A Different types of ore.

Q So, there were different types of ore in these different fingers?

A Right.

Q Who was your -- I know you worked for a number of years, but who was your foreman?

A Last foreman was Ward Bacon.

Q And when you say different types of ore, had you ever heard the term fibrous?

A Yes.

Q Were there different types of fibers in these different areas?

A So they say. I am not a geologist, I don't know, I know you could see the difference in different ore.

Q You could see the difference in fibrosity?

A No.

Q But you could see different types of ore?

A Right.

Q And did the ore in someplaces react any different to your firing it or working with it?

FULLER - CIABOTTI

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A Sure.

Q Tell me about that.

A Some of it was dustier when you fired it, especially the soft ore. Some of the harder ore broke hard. Again, there was soft ore that broke hard instead of cracking apart.

Q I take it it was different in those respects at least?

A Right.

Q Now, did they ever, when you put the ore in the trammer, where did it get dumped again?

A At the station out to the shaft in the vicinity of the main shaft or up and down in the mine or past the dump, it gradually tips the car over and ore falls out into the other pass, which is nothing more or less than a stope.

Q Where did it stock pile there?

A That goes into a shoot that is located right on the edge of the shaft, they hoist it, drop it below, open the gate, let the ore fall into the shoot, the bucket takes it to the bank.

Q Where did it take it, to a higher level?

A No, always below.

Q Did any process of ore occur underground?

FULLER - CIABOTTI

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A They crushed it, made it smaller.

Q How many stations or areas were there underground where they crushed the ore?

A Two, seven and nine.

Q How did they crush it?

A Just below nine I guess.

Q Was there some type of machinery they used?

A A swing jaw crusher.

Q Did you ever work on or around that area?

A Yes.

Q Was that dusty around there?

A Yes.

Q Can you describe a swing jaw crusher for me?

~~A Two jaws opening come together, one is a mesh jaw~~
and the other is a swing jaw, come like that. That's what keeps putting pressure on it back and forth and breaks it.

Q After the ore passed through that crusher, what was the size of the ore, approximately?

A Oh, probably like that big.

Q Maybe --

A Sometimes you get a thin slab that they had a problem with.

Q So, six or eight inch rocks?

A Four to six as a rule, smaller than that maybe the

FULLER - CIABOTTI

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size of the cups.

Q The styrofoam cups we have on the table?

A Right.

Q Where did it go from there, the ore?

A The ore passed into the shoots, that's where they
hoisted it up to the shaft.

Q Out of the mine?

A Right, to a surface crusher.

Q A crusher on the surface?

A Right.

Q What side of the road was that?

A On the mine side.

Q Then from there where did it go?

A ~~Across a conveyor belt to a crusher system on the~~
mill side.

Q What is that road called?

A The road?

Q Yes.

A Route 58.

Q Is that the road that caved in?

A Yes.

Q Still caved in?

A Yes.

Q They won't fix it, do you know?

FULLER - CIABOTTI

MR. VULCANO: Objection.

A They're going to.

Q Did you ever hear why they won't fix it?

MR. VULCANO: Objection. Who won't fix it?

MR. CIABOTTI: The State, New York.

A They shouldn't have to.

Q Now, you told me that the temperature was in the 40's?

A Right.

Q How did you have to dress or tell me how you dressed to do your work.

A Usually, I wore one to two pairs of work socks with steel toe boots, thermal underwear and regular overalls and a Carhardt jacket, plaid shirt, something like that, sweatshirt.

Q And did you have a mask of any sort, respirator?

A Yes, we were provided a mask.

Q How did they work? Could you use them all right?

A You could use them until you had to do real physical work, then you couldn't breath with it.

Q Was that your experience with them?

A Yes.

Q Did you have to take them off on those occasions when you did the physical work?

FULLER - CIABOTTI

MR. VULCANO: Objection.

A Yes.

Q Did you or did you not take them off?

A Yes, you couldn't do it.

Q Would you say most of your work was manual physical work that you did?

MR. VULCANO: Objection.

A At times, other times, no.

Q What other types of machinery did you operate underground?

A An Emico.

Q Tell us what an Emico is?

A What?

Q Tell us what an Emico is.

A Air operated shovel that runs on tracks like a railroad track.

Q What does it do?

A It picks up broken ore and dumps from the front to the back, just like a loader, a tractor loader, but it dumps straight over into your cars.

Q And how long did you operate that kind of equipment?

A Whenever it was required, when I worked alone on the 900 and 1100 area, that's what I did alone, 900 for a

FULLER - CIABOTTI

year, year and a half, two years mostly alone and I have done it before which wasn't -- you might do it once a week or two, three times a week, it was never -- depends on if that was where the ore was that they needed, you know.

Q This Emico machine, it was air operated?

A Right.

Q It was a shovel-type machine?

A Right.

Q And you would normally operate that alone when you run an Emico?

A Yes.

Q How big a rock did that pick up? How big were the pieces?

~~A They had two size Emcos, a 21 and 24. The 24 if~~
you could run an Emico, you could pick one up bigger than this table.

Q What do you mean?

A If you were a good operator.

Q I couldn't go down and run an Emico?

A You might.

Q But it took some training I take it to operate this machine?

A Right.

Q Somebody showed you how to do that?

FULLER - CIABOTTI

1
2 A Right.

3 Q On-the-job training?

4 A Yes.

5 Q When you were in the Emico, was your pay in anyway
6 bonus related with respect to the Emico?

7 A Yes.

8 Q How did that work?

9 A Same as the trammer, so much per tonage, paid the
10 same, no difference between Emico and the slusher.

11 Q But it was by the tonage?

12 A Right.

13 Q Now, were there any other machines that you
14 operated?

15 A I operated an underground hoist for a little
16 while, not very long.

17 Q The underground hoist did what?

18 A They were sinking a shaft, temporary shaft, to get
19 under the main shaft and then they were going to come up
20 underneath it, same thing as in any shaft, you lowered the
21 men and the equipment that they want into --

22 Q Do you remember what year that was?

23 A No, I don't.

24 Q Is there some machine called a scraper?

25 A That's a slusher.

FULLER - CIABOTTI

Q Have you told us about most of the machines that you operated or all of them?

A Yes.

Q Now, I want to mark some masks here.

MR. CIABOTTI: I am going to have these marked, Sam, Exhibits 1 through 4.

(WHEREUPON EXHIBITS 1-4 WERE MARKED FOR IDENTIFICATION.)

Q You told us, Mr. Fuller, that you wore a mask when you could?

A Right.

Q I have marked some, actually two different types of masks and a couple boxes. Could you tell me what kind of mask that you wore, if any of those?

A I wore them all.

Q You wore all of these masks, for example, Exhibit 4 appears to be a mask of some sort. You wore that type?

A Yes.

Q We have a clear plastic bag with some other little masks in it with straps around them, some have yellow straps.

MR. VULCANO: There are two masks in there?

WITNESS: Two different types.

Q Two with a yellow strap and one with a gray strap.

FULLER - CIABOTTI

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2 A No.

3 Q Who is they?

4 A Your foreman.

5 Q Who might that have been?

6 A The last foreman was Ward Bacon.

7 Q He is still there?

8 A As far as I know.

9 Q Did anybody ever say to you -- Strike that.

10 Anybody tell you what was in that dust that you
11 shouldn't breath?

12 A No.

13 MR. VULCANO: Objection.

14 Q Now, these masks and the boxes, do you know where
15 they came from?

16 A Gouverneur Talc.

17 Q And the numbers on them, do these apparently have
18 anything to do with Gouverneur Talc?

19 A Stock room number.

20 Q 2850 and 2849?

21 A Stock room number.

22 Q Do you know whether or not these exhibits,
23 Exhibit 2 and Exhibit 1, are the boxes that those types of
24 masks that you wore came in?

25 A Yes.

FULLER - CIABOTTI

Q Where did you get the masks when you wanted to get them?

A Dining room underground.

Q By the way, let me ask you about that. Where did you eat on your shift?

A In the dining room underground.

Q Tell me what was it. What did it look like, was it an actual room?

A Just in the rock, they cut out an opening enlarged big enough to accomodate a certain amount of people and it had tables.

Q You were actually underground in the mine?

A Right.

Q You call it a dining room. It's just a piece of the mine really?

A Right.

Q What did you bring to lunch, a lunch pal or bag?

A Lunch pal.

Q Describe that area. Was it clear from dust?

A Depending on which level you were on.

Q Generally speaking, how was it?

A 6, 700, 900, 1100, they were all dusty. You had to dust your dinner pals, you had to wipe them off before you opened them up and in the dining room, everything was

FULLER - CIABOTTI

covered with dust.

Q Did you have to dust off a table before you ate?

A You bet.

Q Was this true all throughout your work history in the mine?

A On the lower level, not on the upper levels, no.

Q Upper levels being what?

A 500, 300.

Q Now, as you worked in the mine, what was your work experience? Did you miss any work, did you have any sicknesses or illnesses during your work?

A No.

Q Did you ever receive any injuries on the job?

A Several.

Q Tell us just briefly what they were.

A Broken ribs, broken ankle, broken arm, broken wrist, that's at Gouverneur Talc. I broke a toe two or three times at St. Joe's.

Q Recovered from those more or less?

A Oh, yes, except one toe.

Q Now, were you given any physicals?

A Yes.

Q Would you tell me about that?

A Well, just listen to your lungs and heart with a

FULLER - CIABOTTI

stethoscope, look at your teeth, look in your ears, say ah and that's about it for general physicals.

Q How often did you receive a physical?

A Supposably every year or every two years. I am not sure which, but I think it was every year.

Q Did you get one every year?

A No.

Q Did you get one every two years, do you know?

A No, there was a period of time they had Dr. Dodd from Edwards for several years.

Q Dr. Dodd?

A Right.

Q He gave you physicals on occasion?

A Right.

Q Did you do or have done any chest x-rays?

A He didn't do any, no.

Q Did he send you somewhere?

A Gouverneur Hospital.

Q Did Dr. Dodd say anything to you, either before or after or at any time, anything about the results of your physical?

MR. VULCANO: Objection.

A Good shape.

Q Did he ever say to you anything other than you

FULLER - CIABOTTI

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Q Do you remember approximately what year that was?

A No, I don't.

Q Were you a smoker?

A Yes.

Q And for how long were you a smoker?

A Probably, roughly 30 years.

Q What did you smoke and how much?

A Winstons, probably averaged a pack a day.

Q Could you smoke down in the mine if you wanted to?

A Yes.

Q Did anybody ever tell you not to smoke?

A There were certain places you couldn't smoke, yes.

Q Was that for safety reasons?

A Right.

Q For fire --

A Explosives.

Q Anybody tell you you shouldn't smoke and work in
the mines, that that was bad for you that combination?

A No.

Q Other than for safety reasons, were you restricted
in the areas where you could smoke?

A No.

Q Do you still smoke?

A No.

FULLER - CIABOTTI

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Q When did you stop?

A I think '89, I think that is when it was.

Q Did there come a point in time when you didn't feel good?

A Yes.

Q When was that?

A Friday before the 28th of February, 1989, I think that's the date.

Q Tell us what happened that gave rise to your physical problem that occurred about that time.

A I went to work, changed my clothes, went underground, I was working alone on 1100. I started work and I broke a cable and in order to repair that cable, which normally took me five to ten minutes, took me way over two hours, I couldn't breath.

Q What did you do, did you continue your shift?

A I continued my shift.

Q Did you pass out, do you know, at all?

A Not that day, no.

Q Then what happened, Mr. Fuller?

A What?

Q Then what happened, what did you do?

A I went to the doctor as soon I could. I think it was the very next day -- I went to a doctor on a Monday, I

FULLER - CIABOTTI

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think it was on my birthday, I am not sure.

Q This was on a Friday that it occurred?

A Right.

Q Then the next Monday, you think you went to the doctor, as best you recall?

A I think it was the 28th, I think I went right on my birthday.

Q Which doctor was that?

A Dr. Taylor in Watertown.

Q Did he examine you?

A Yes.

Q And do you recall what your complaints were at that time, what you were experiencing?

A ~~It just didn't seem like I could get any air at all to breath.~~

Q Did you have any cough or flem at that time?

A Yes.

Q Did you report that to him?

A Yes.

Q And what did Dr. Taylor tell you?

MR. VULCANO: Objection.

A He prescribed medicine and I was off a month and he told me -- I went back, he told me to go to work. I went to work and I was no better.

FULLER - CIABOTTI

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2 Q Still having difficulty breathing?

3 A Same.

4 MR. VULCANO: Just for the record, who told
5 him to go back to work?

6 THE WITNESS: Dr. Taylor.

7 Q How long did you work?

8 A I worked from then until December 7th when I was
9 totally disabled by Dr. Lax.

10 Q Was that 1990, December?

11 A No, it was '89.

12 Q '89 you think?

13 A I have been off two years this December.

14 Q Now, you saw a Dr. Lax in Syracuse?

15 A Yes.

16 Q What were your complaints when you saw him?

17 A Same thing.

18 Q This difficulty in breathing, we will call it
19 shortness of breath, if that's okay with you?

20 A Yes.

21 Q Did you have any problems sleeping?

22 A Yes.

23 Q Tell me about that.

24 A Well, for the better part of a year, I slept in a
25 chair, I couldn't lay down flat on my back at all or on my

FULLER - CIABOTTI

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2 side.

3 MR. VULCANO: Can I get the time frame?

4 Q This was after '89 when this occurred?

5 A Right, when it first took place. Then
6 approximately for a year I slept in the chair.

7 Q And do you still have to do that on occasion?

8 A I sleep quite often on the floor.

9 Q For what reason?

10 A I am more comfortable.

11 Q Anything to do with your breathing?

12 A Yes.

13 Q Do you have to use more than one pillow?

14 A Two to three.

15 Q ~~Has anybody prescribed any medication for you?~~

16 A Yes.

17 Q Can you tell me just, I don't care about the
18 names, just generally, if you can remember the names,
19 that's fine. What kind of medication and how often?

20 A Dr. Taylor, I have taken Theo-Dor twice a day.

21 Q What is that for?

22 A Breathing. Atrovent is an inhaler, two puffs,
23 four times a day. Proventil two puffs, four times a day.
24 Azmacort two puffs, four times a day.

25 Q Are those for your breathing?

FULLER - CIABOTTI

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A Yes.

Q Do they help?

A Yes, one really helps.

Q Which one is that?

A Proventil.

Q Do they have any side effects?

A Not that I know of.

Q Can you go up and down stairs okay? Do you have shortness of breath?

A I take my time.

Q Have you done any work -- have you been employed in any manner since you got through at Gouverneur Talc?

A No.

Q What do you do on a daily basis?

A Get up and drink coffee for hours, play solitaire.

Q Have you always been an active fellow up until you were sick?

A Yes.

Q Did you do your own repairs around the house?

A Yes. I try to do things, I have a son that's very good, he helps.

Q That is now?

A Yes.

Q Did you use to do that before?

FULLER - CIABOTTI

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A Yes.

Q Were you kind of a handyman, Jack-of-all-trades?

A Yes.

Q Can you do some of those things?

MR. VULCANO: Objection. Which things?

Q Let me ask it this way: Did the things that you did around the house call for physical exertion?

A Yeah, mow my lawn, I have to take three, four hours, stop and rest.

Q How about if you had to climb the roof and do roof repairs?

A I don't go on the roof, no.

Q Now, when was the last time you had been to the doctors, approximately?

A Four months, three and a half to four months.

Q Which doctor was that?

A Dr. Frank Rhode.

Q What kind of doctor is he?

A Outside of general practitioner, I do not know.

Q Where is his office?

A The doctors have offices next to the House Of Good Samaritans in Watertown in a complex, he's in there with Dr. Taylor.

Q You told me that you worked mostly the day shift?

FULLER - CIABOTTI

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A Yes.

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Q Did you also work some night shift work?

4

A Yes.

5

Q When was it you worked the night shift?

6

A When I first went on tramming, we'll say approximately '66 to the end of the early 70's, they had two shifts, night and day. As far as the tramming, you alternated one week of nights, one week of days.

7

8

9

10 Q Was your job when you were nights, was it about
11 the same as days?

12

A Same thing.

13

Q What hours was the night shift?

14

A Same as the day shift, 7 to 3:15.

15

Q Well, 7 at night until --

16

A No, excuse me, it changed. I think it was
17 3 o'clock, you left 15 minutes earlier on the night shift,
18 but you got the same hourly pay.

19

Q What time did you start?

20

A Seven o'clock.

21

Q At night?

22

A Right.

23

Q Until 3 --

24

A In the morning.

25

Q How far from the mines do you live?

FULLER - CIABOTTI

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A Sixteen, seventeen miles.

Q You live over in Antwerp?

A Right.

Q And you go down -- what road do you go down to
your house?

A Springfield Road to the Farmer Mart Road through
Route 58 to Belmont.

Q Does that go past waste beds?

A Yes.

Q Whose beds are those?

A St. Joe's.

Q Where is the Arnold Open Pit in relation to the
mine and mill?

A Well, instead of turning on 58 to go towards the
Number 1 Mine, you go straight ahead and take a right and
it bears right back in the same general direction.

Q About how far as the crow flies, do you have any
idea?

A Half, three quarters of a mile, maybe.

Q Have you ever seen this fellow, Mr. Kelse, at the
mine or mill at any time?

A Not to my knowledge.

Q That is up until the time you were through?

A Right.

FULLER - CIABOTTI

Q You don't have any idea what his job is with the company?

MR. VULCANO: Which company?

MR. SETRIGHT: With any company.

Q Have you ever heard the name?

A I think so.

Q Did you know, up until the time that you stopped working, had you ever heard of his name?

A I had heard of it, yes.

Q Do you know what his job description was?

A Not really.

Q All right. Now, did you ever see anybody from the R.T. Vanderbilt Company at the mines?

A Yes.

Q Who was it that you saw?

A Hugh Vanderbilt.

Q Do you remember about when it was that you saw him there?

A Probably three and a half years ago, in that vicinity, maybe four years ago, I am not sure.

Q Do you know why he was there?

MR. VULCANO: Objection.

Q Did he tell you -- did you have meetings?

A Yes, we had meetings.

FULLER - CIABOTTI

1
2 Q Where did you have meetings?

3 A In the carpenter shop at Number 1 Mine.

4 Q Who was there?

5 A Every employee from the mine and the mill that
6 wasn't off on disability or compensation or some reason or
7 another, that were working that week.

8 Q Did Mr. Vanderbilt speak to the employees?

9 A Yes, he did.

10 Q Do you recall what he looked like?

11 A A very distinguished gentleman.

12 Q Did he have a suit on?

13 A Yes.

14 Q Didn't have any mining clothes on?

15 A No.

16 Q And --

17 MR. VULCANO: I will object to the last two
18 questions.

19 Q Was he with anybody else that had suits on?

20 MR. VULCANO: Objection.

21 A I don't recall them.

22 Q You mean suits, dressed like we are with a tie and
23 jacket, that is what you mean by suit?

24 A Right.

25 Q He was dressed different than you were?

FULLER - CIABOTTI

MR. VULCANO: Objection.

A Right.

Q Did he say anything to you?

A Yes, he described --

Q What did he say to you?

A He described his litigation that was going on over the process of determining the size factor of labeling the talc as asbestos and stuff like that and how much money that he had spent in litigation.

Q What did he say he spent the money for, if he said anything about why he spent the money?

A To prove his point that he believed it wasn't asbestos.

Q Was not asbestos?

A Right.

Q Did he tell you that it wasn't?

A Yes.

Q Did he tell you how much money he spent?

A Sixteen million or in excess.

Q Sixteen million dollars?

A Right.

Q Did he tell you anything else?

A Yes, he did.

Q What else?

FULLER - CIABOTTI

A He mentioned something coming up in litigation, if that doesn't work, I have a senator in my hip pocket, he literally patted his pocket.

Q Did he tell you the name of the senator he had in his hip pocket?

A No, he did not.

Q Well, I guess we will have to find out.

MR. CIABOTTI: I make a demand, I want to know the name of the senator. That's all I have. Do you want to take a break?

(A short recess was taken.)

MR. CIABOTTI: There is one other question I forgot to ask.

~~Q Mr. Fuller, I forgot to ask you whether or not it~~
was required that you wear safety glasses.

A Yes, it was.

Q And did the combination of safety glasses and a mask present any difficulty as far as your ability to do any work?

A Your glasses would steam up and you couldn't see.

Q What would you have to remove, the glasses or the mask?

A You best remove the mask and use the glasses, it was strictly enforced.

FULLER - VULCANO

1
2 Q In other words, you had to have your safety
3 glasses on?

4 A When you left that part to get on the cage
5 underground, you were supposed to have them on before you
6 got on the cage.

7 Q Was there a lot of stuff that would injure your
8 eyes?

9 A No.

10 Q Was it dust or dirt that got in your eyes?

11 A I don't know.

12 Q But they enforced the safety glasses?

13 A Right.

14 MR. CIABOTTI: Nothing further.

15 EXAMINATION BY

16 MR. VULCANO:

17 Q Mr. Fuller, you just mentioned a meeting that was
18 held up at the Gouverneur Talc premises that involved
19 Mr. Hugh Vanderbilt?

20 A Yes.

21 Q You were at that meeting?

22 A Yes.

23 Q Do you remember whether or not Mr. Kelse was at
24 that meeting?

25 A I don't recall.

FULLER - VULCANO

Q Do you know if he spoke at that meeting?

A No, I don't.

Q I think you testified that Mr. Vanderbilt in his remarks in sum and substance, he did not believe there was asbestos in the minerals being mined at Gouverneur Talc; is that a fair statement?

A Yes.

Q I think you said he was a distinguished looking man?

A Yes.

Q Did he seem sincere about that statement?

A Yes.

Q It seemed that he believed what he was saying?

A I believe.

MR. CIABOTTI: That's an opinion.

A That's my opinion that he believed.

Q I think you said he spent sixteen million dollars to establish what he believed; is that correct?

A Right.

Q Sir, you live in Antwerp; is that true?

A Yes.

Q You said it's about 16, 17 miles from the Gouverneur Talc mines?

A Right.

FULLER - VULCANO

Q Sir, do you claim to have ever -- Strike that.

Do you claim that any dust migrated from the mines to your home other than let's say on your clothing?

A I don't believe so.

Q So, as far as you know, there has never been a cloud of dust from the Gouverneur Talc Mine to your residence?

A No.

Q When you were in the Army, what did you do?

A I was an Infantryman.

Q You were in the Army for three years?

A Yes.

Q Did you work with any kind of machinery or construction-related equipment in the Army?

A No.

Q You were just a straight Infantryman?

A Right.

Q You said you had a slight injury?

A Working around an old bomb building in Germany and it caught my arm, it's a big scar, it was nothing more than a flesh wound.

Q Did you do a lot of work in and about damaged buildings when you were in the Army?

A No.

FULLER - VULCANO

Q Now, for a period of time I think back in roughly 1958 you worked as a truck driver for a local union here in Syracuse, New York?

A Yes.

Q Okay, through a local union. Who did you work for, who was your employer?

A Different contractors.

Q What specifically would you do?

A Well, if you worked on wood construction, you hauled up material to the lineman on the pole or whatever needed to be done on the ground. Steel work, you would help put steel towers together. If you drove a truck, you maintained the truck, kept equipment straight.

Q You drove the truck part of the time?

A Right.

Q You carried the particular equipment?

A Right.

Q You worked on the ground as well?

A Right.

Q What kind of construction materials do you recall working with on the ground yourself?

A You have a real long handled shovel to dig out a little bit in a hole, to set a hole, one a spoon, one a spade, just different shapes, basically the same thing and

FULLER - VULCANO

a regular shovel to back fill the hole in.

Q I am referring, sir, more not really to the tools you would use but construction material. You mentioned wood poles, steel?

A Regular poles you see along the highway here.

Q Steel poles?

A Right.

Q Was it that type of work that involved poles and steel towers that you worked with?

A Right, that's all it consisted of.

Q Mr. Fuller, when did you begin smoking?

A Probably 18, 19 years old, somewhere in there. After I was in the service.

Q And I believe you said you stopped smoking in 1989, is that true?

A Yes.

Q How old were you in 1989?

A Fifty-seven.

Q So, you smoked almost 40 years; is that true?

A No, there were several years, you know, I quit several times in a period of my lifetime and in the mines, there was a period that everyone was chewing and I used coal, you don't smoke any. There were days I never smoked a cigarette.

FULLER - VULCANO

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2 Q Let's go back to when you were 18. That's when
3 you started, roughly?

4 A Right.

5 Q Did you always smoke Winstons when you smoked?

6 A Not back then. Probably Chesterfield, I have
7 smoked -- I have smoked different ones, Lucky Strikes, I
8 have smoked them.

9 Q I think you testified here that on average you
10 smoked a pack a day?

11 A Right.

12 Q Would that be seven days a week when you were
13 smoking?

14 A Probably, I guess if you take an average of
15 everything, I would say probably, yes, sir.

16 Q Were there times you smoked more than a pack a
17 day?

18 A No.

19 Q You have been treated by Dr. Lax; is that true?

20 A Yes.

21 Q You have talked to Dr. Lax; is that true?

22 A Yes.

23 Q When you first talked to Dr. Lax, did he ask you
24 about your smoking?

25 A Yes.

FULLER - VULCANO

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Q When was that?

A I had quit prior to that.

Q Did you tell him that you had smoked?

A Right.

Q Did he ask you how much you smoked?

A I don't know, I have been asked so many different times over the years. When you get a physical, they always ask you that.

Q Pretty much every time you saw a doctor they'd ask you about your smoking?

A Right.

Q That'd go way back?

A Right.

Q How old would you have been when a doctor first asked you about smoking?

A In my 20's, I don't really know.

Q Did you have an understanding why you were being asked about your smoking?

MR. CIABOTTI: Object to the form.

A No, not really. It wasn't cancer causing back when I first had doctors mention smoking, it wasn't -- your cigarettes weren't labeled.

Q Well, when did you first learn that cigarette smoking might be bad for your health?

FULLER - VULCANO

MR. CIABOTTI: I will object. There is no foundation for that. If you want to ask a proper question.

Q Sir, if -- as you sit here today, have you ever learned that cigarette smoking is bad for your health?

A Have I actually learned it?

Q Yes.

MR. CIABOTTI: Object to form.

A No, I really can't say that I know that.

Q So, as you sit here today, you don't know whether cigarette smoking is bad for your health?

A I can't say they are or not.

Q Have you ever been told by anybody?

A Several people.

Q Who is the first person who ever told you that?

A I can't recall.

Q When were you first told that?

A I can't recall exactly, no.

Q How old would you have been, roughly?

A Probably 50, maybe.

Q Prior to that time, had you been asked by more than one doctor whether or not you smoked?

A I'd have to say yes.

Q But you didn't have any idea why they were asking

FULLER - VULCANO

1
2 you that?

3 A Doctors would tell you it's not good for you.

4 Q Do you remember about how old you were when a
5 doctor first told you cigarette smoking wasn't good for
6 you?

7 A Not really.

8 Q Would you have been in your 30's?

9 A Probably.

10 Q And what did you do when you were first told that
11 by a doctor with regard to cigarette smoking?

12 A I might have thought about it, I didn't quit. I
13 won't say I quit at that specific time.

14 Q You continued smoking?

15 A Right.

16 Q Did you ever tell Dr. Lax that you smoked a pack
17 and half a day?

18 A I won't say I did, I won't say I didn't. I don't
19 recall, it's possible.

20 Q Well, today in response to a question by
21 Mr. Ciabotti you indicated that you smoked about a pack a
22 day; is that true?

23 A Yes.

24 Q Would a pack and a half a day also be a fair
25 estimate upon what you smoked, when you did smoke?

FULLER - VULCANO

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2 A I won't say I never smoked a pack and a half a day
3 but I never did on a regular basis, no.

4 Q As you sit here today, a pack a day is really a
5 better estimate than a pack and a half?

6 A Yes.

7 Q Does your wife smoke?

8 A Yes, she does.

9 Q Do you know how long she has smoked?

10 A No, I know she was in her late 20's.

11 Q How old were you when you were married, sir?

12 A Twenty-three, twenty-four, somewhere in there.

13 Q Was your wife also in her 20's when you were
14 married?

15 A Yes. She is a few months younger than me.

16 Q Does your wife still smoke today?

17 A Yes, she does.

18 Q You and your wife lived in the same premises all
19 your life; is that true?

20 A Most, not all, no.

21 Q Subsequently, most of the time?

22 A Yes.

23 Q Does anybody else live with you and your wife,
24 today?

25 A No.

FULLER - VULCANO

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Q Over the course of the years, did anybody else
that ever lived with you and your wife ever smoke?

A Yes.

Q Who would that have been?

A One son and one daughter.

Q Which son is that, sir?

A Youngest son, youngest daughter.

Q How about their names?

A Thomas and Tammy.

Q Sir, when did you first experience the shortness
of breath that you told us about here today?

A I can't give you the date, all I can tell you is
it was a Friday before the 28th of February. I think it
was '88, even the years got me twisted around, just prior
to going to Dr. Taylor.

Q I think you might have said 1989. It might have
been '88 or '89?

A It's one of the two.

Q But prior to that day, whatever it might be --

A I had no problems whatsoever.

Q Any coughing, any repetitive coughing, prior to
that date?

A No.

Q Had you ever experienced any shortness of breath

FULLER - VULCANO

prior to that date?

A Nothing that I wouldn't assume would be normal, like if I run a long ways or something like that, I realized my age, you tire quicker but I'd get out of work, and do things faster than people at 25 years old would do, even at that age.

Q On this particular date that you have identified the best you can, you had a sudden onset of shortness of breath while you were fixing a cable; is that true?

A Yes.

Q That is when you went to see Dr. Taylor?

A Dr. Taylor.

Q Then eventually you saw Dr. Lax?

A Right.

Q Did Dr. Lax tell you whether in his opinion your shortness of breath was related to your smoking?

A Primarily dust in the mines.

Q My question is: What -- in his opinion, was your smoking the cause of your shortness of breath?

A I don't recall him --

MR. CIABOTTI: He just answered that.

A I don't recall him saying that it was from smoking.

MR. CIABOTTI: I object to the form of that

FULLER - VULCANO

question.

MR. VULCANO: I didn't think he answered it.
He can answer it.

MR. CIABOTTI: Read the question back.

(Court reporter read back last question and answer.)

Q Let me ask it again, because I disagree. You have told me your understanding with regard to dust in the mines. My question is with regard to smoking. In his opinion, your smoking was a cause of your shortness of breath?

A I don't recall him telling me that, no.

Q Sir, some exhibits have been marked here, two of which you identified as types of respirators you would use from time to time while working at Gouverneur Talc; is that true?

A Yes, but there is actually three different ones.

Q You're right, three different types of respirators that are two exhibits. Is there one of these three types of respirators that you used more than the other?

A Yes.

Q Which one would that be?

A The throw away.

Q The two types in the bag that are marked as Exhibit 3; is that true?

FULLER - VULCANO

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A Right.

Q Who would supply you with these respirators?

A Gouverneur Talc.

Q How did you get them?

A In the dining rooms on each level of the mine.

Q Was there a box of them that you would just take one when you wanted it?

A Right.

Q Did somebody -- Strike that.

Was there any limit on how often you could take a respirator?

A No.

Q So, if you wanted to go in there every time you were in the dining room and take a new respirator, you could?

A That is right.

Q How often would you change respirators?

A Three, four times a day.

Q Do you remember, sir, when the types of respirators that are in the bag marked Exhibit 3, were first made available to you?

A I would say probably six, seven years ago, I am not positive.

Q Okay. Roughly?

FULLER - VULCANO

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2 A It would be that long, I assume.

3 Q Prior to the time they were made available to you,
4 was there another type of respirator made available to
5 you?

6 A This one.

7 Q What exhibit is that?

8 A Four.

9 Q How would you get a respirator such as the one
10 marked Exhibit 4?

11 A You'd go to the stock room and they'd issue you
12 one.

13 Q Now, the respirator such as Exhibit 4, do they
14 have a place for filters?

15 A Yes, they do.

16 Q And those are changeable?

17 A Yes.

18 Q If you wanted to change a filter on the
19 respirator, where would you do that?

20 A In the dining room again.

21 Q Would there be a box in the dining room?

22 A Yes.

23 Q Was there a limit on how many times you could
24 change the filters?

25 A No.

FULLER - VULCANO

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Q How often did you change yours?

A Probably not as much as the others for the simple reason when you did real physical work, you can't wear them as long as the others, they restrict more air.

Q You're saying that when you did real physical work you couldn't wear a respirator, such as Exhibit 4, as long as you could wear a mask such as Exhibit Number 3?

A Right.

Q But at any rate, back in the days when you used a respirator, how often would you change the filter?

A Probably two to three times a day.

Q Now, was there another type of respirator made available to you?

A There was at one time.

Q What type?

A Same as Exhibit 4, it had a single filter on the front.

Q As far as you know, it operated in the same way as Exhibit 4?

A Yes.

Q Other than that, was there any other?

A Yes.

Q What type?

A An air stream, in the later years.

FULLER - VULCANO

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2 Q When you say in the later years, can you give me
3 an idea?

4 A Last four, five years.

5 Q The last four, five years you worked?

6 A No.

7 Q The last four, five years from today?

8 A Right.

9 Q Describe that type of respirator for me.

10 A Just like something similar to a football helmet
11 but more streamline, longer. You probably seen them, they
12 had a fan that forced -- draws in air and they work, they
13 work good.

14 Q So, you actually used one of those respirators
15 yourself?

16 A I did not, I had one issued to me. They cost too
17 much money, they didn't pass them out like those.

18 Q You did get one?

19 A I did.

20 Q But you didn't use it?

21 A Some of us would catch a cold constantly, I
22 couldn't use it.

23 Q Did that particular type of respirator -- what did
24 you call that type of respirator?

25 A What?

FULLER - VULCANO

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2 Q What was the name for this respirator with the fan
3 in it, what did you call it?

4 A Air stream.

5 Q You were issued an air stream at some point in
6 time?

7 A Right.

8 Q Did it have an air filter?

9 A I can't tell you much, they had a fan that forced
10 air, it blows the dust so you're not breathing it in.

11 Q Did you use it at all?

12 A Yes. I tried it, but I caught a cold every time I
13 tried it.

14 Q So, you don't know whether or not there was a
15 change of filter regarding that respirator?

16 A No. I take it -- I have seen them change them.

17 Q Where?

18 A Underground and in the dining room.

19 Q Once again, would there be a box of those filters
20 available?

21 A I don't really think so. I think they called the
22 surface and they sent them down.

23 Q You didn't really work with one that much
24 yourself?

25 A Right.

FULLER - VULCANO

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2 Q Any other type of respirator that you remember
3 working with that we haven't talked about?

4 A No.

5 Q Now, the respirators that are in the bag labeled
6 Exhibit 3, what was your name for those? Do you have a
7 name for those or no?

8 A Face mask.

9 Q When you were wearing Exhibit 3 type face mask,
10 were you able to do physical work?

11 A Not very long, very, very short periods of time.
12 You could sit behind a slusher and wear it no problem, you
13 could run an Emico and run it with no problem, but you
14 couldn't pull cables, you couldn't shovel. Where it took
15 real physical exertion, you couldn't do it.

16 Q Why?

17 A You couldn't get the air, it rejected air.

18 Q Now, I think you said there were some signs in
19 some location that had to do with wearing a respirator?

20 A Right.

21 Q Where were the signs?

22 A Underground crushers all had signs that they will
23 be worn at all times.

24 Q The signs said respirator will be worn at all
25 times?

FULLER - VULCANO

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2 A Right.

3 Q Did anybody tell you to put a respirator on when
4 you didn't have one on?

5 A No. In those areas?

6 Q Right.

7 A No. I had to wear them, I took it off and you
8 knew you couldn't do it, they knew as well as I knew that
9 you couldn't do it. After you got in, you put the mask
10 back on, you dropped it down and pulled it back on, simple
11 as that.

12 Q You worked in the mines at Gouverneur Talc I think
13 you said twenty-eight years; is that right?

14 A Twenty-six years.

15 Q ~~When you first started working there, was there~~
16 any type of respirator available?

17 A Not that I recall. I wouldn't say there wasn't,
18 but I don't recall them.

19 Q Sir, you worked in the mines for twenty-six years
20 you said. Is there a certain amount of dust in talc
21 mining that is unavoidable?

22 MR. CIABOTTI: Object to the form.

23 Q Do you know what unavoidable is?

24 MR. CIABOTTI: Well, for him or management?

25 MR. VULCANO: I am asking him if there is a

FULLER - VULCANO

certain amount of dust that is unavoidable in mining talc.

MR. CIABOTTI: Unavoidable for what machinery, equipment, people.

MR. VULCANO: Well, are you objecting to the form?

MR. CIABOTTI: Yes.

MR. VULCANO: Are you directing him not to answer?

MR. CIABOTTI: No, I don't think the form is right.

MR. VULCANO: You may be right.

Q You can answer that question, my question.

A What was that?

Q My question to you, sir, you were in the talc mines for 26 years. Is there a certain amount of dust involved in the talc mining process, no matter how you do it?

A I would have to assume there would be a certain amount, regardless of how you did it. I could think of several ways to improve it.

Q Over the years you worked at Gouverneur Talc, did the process improve?

A As far as in ventilation and dust in the mines,

FULLER - VULCANO

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2 none whatsoever, worse. The mine was bigger and deeper,
3 it wasn't improved.

4 Q So, it's your testimony that the dust level in the
5 mines, let's say in 1989, were worse than when you worked
6 in previous years?

7 A 1964.

8 Q You described your various jobs in the mines. I
9 think you said you were a trammer, driller, what other
10 jobs?

11 A Underground hoist man.

12 Q As far as jobs, as far as underground jobs go,
13 were the jobs that you were engaged in the dustier jobs?

14 A The tramming end of it was the dustiest, yes.

15 Q ~~So, at least based upon your experience --~~

16 A That's not saying that some days somebody could be
17 on a crew working in a certain area where there was not as
18 much dust, I won't say that because you could be in a
19 place that was really dusty, too.

20 Q I am just asking you in a general manner,
21 underground trammer was the dustiest?

22 A Yes.

23 Q That is what you did most of the time?

24 A Right.

25 Q I don't know if you can you give me a percentage

FULLER - VULCANO

of the time you were a trammer.

A What percent of the time? Probably 90 percent.

Q That was mostly your job for most of the time?

A Right.

Q Sir, I just want to make sure I have your history of your employment. You talked about the Army, driving a truck at the local union.

A Right.

Q You worked at St. Joe's?

A Yes.

Q I think you said you were exposed to a slight amount of dust, but not much.

A St. Joe's?

Q Yes.

A There was not much dust.

Q Whatever dust you were exposed to, where would that have been?

A Once in awhile if you were helping, I wasn't a trammer, I was a grizzlyman, you'd help the trammer pull the shoots, you'd get a little dust or ore there, but the dust was gone. They had a pressurized system, the dust was gone. It was different, entirely different system than Gouverneur Talc had.

Q They were mining the different ore?

FULLER - VULCANO

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2 A Right.

3 MR. CIABOTTI: I am going to object to that.

4 Q After you worked at St. Joe's, did you work
5 anywhere else before you went to work with Gouverneur
6 Talc?

7 A No -- oh, St. Joe's, yes. That's where I went
8 before 148 IEBW.

9 Q Let me ask you this way. Are there any other
10 jobs, other than St. Joe's, the IEBW, Gouverneur Talc and
11 the Army, I know that is not really a job, that we have
12 talked about.

13 A I worked in a paper mill for two and a half, three
14 months.

15 Q Where was that?

16 A Gouverneur Natural Dam.

17 Q What did you do at the paper mill?

18 A I was called a fourth hand on a paper machine.

19 Q Can you tell me what that is?

20 A Well, the paper would wind up, the big spools cuts
21 off, you have a cart that wheels them over, then you put
22 it on an elevator.

23 Q Was there dust?

24 A Some, not much.

25 Q What was the dust from?

FULLER - VULCANO

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A The paper.

Q Any other jobs we didn't talk about?

A No.

Q Sir, when you were working for the IEBW driving a truck and some construction work, did you ever work with any cement?

A No.

Q You mentioned having certain physicals over the years at Gouverneur Talc or related to Gouverneur Talc. Did you participate in any type of physical programs in 1990 at Gouverneur Talc or was that after you had gone?

A That was after.

Q Now, you testified with regard to the respirators being worn in the mines, that people would get warning slips from time to time if they were not wearing them?

A Yes.

Q Did you ever get one?

A No.

Q Can you tell me who could have gotten one?

A I don't know names, they were given out.

Q How did that work, would somebody come up and say here?

A No. Any warning slips would be on your card on the rack when you punched out that night or the next

FULLER - VULCANO

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A Just outside of Edwards.

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Q And I think you said that was deer hunting?

4

A Yes.

5

Q Do you plan on going this season?

6

A I am going to try to.

7

Q Do you fish?

8

A Not a whole lot, I haven't been in years.

9

Q What else do you do for recreation besides hunt?

10

A That's about it, I go visit my children.

11

Q Where do they live?

12

A I have two that live in the village, one at

13

Edwards and the other is down below Gouverneur towards

14

Rexville.

15

Q Do you bowl?

16

A No.

17

Q Any type of activities such as that that you do?

18

A No.

19

Q Did you ever bowl?

20

A No, never cared to.

21

Q What recreational activities have you engaged in

22

over your life?

23

A Hunting, fishing primarily and I have a son that's

24

into heavy weightlifting, I used to go to meets and see

25

him. I spend a lot of time with my grandchildren.

FULLER - VULCANO

Q Sir, do you still see Dr. Lax?

A Do I still see Dr. Lax?

Q Yes.

A Not unless he requested it.

Q How many times did you see him?

A Twice, three times.

Q I think you said you still do see Dr. Taylor or his office?

A Dr. Rhode.

Q He's in Dr. Taylor's office?

A Right.

Q How often do you see him?

A It used to be once, twice a week, then I graduated up to now maybe three and a half, four months, I guess. I take the same medicine.

Q And the medicine you told us about already are prescribed by Dr. Rhodes or Dr. Taylor's office?

A Right.

Q Does he -- are those ongoing prescriptions or does he reissue them?

A Not every time, the last four, five months as a rule, sometimes you can have them refilled.

(An off the record discussion was held.)

MR. CIABOTTI: Ask questions from testimony

FULLER - VULCANO

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2 of anybody from the Compensation, whether it be
3 Dr. Davin or Dr. Lax or whoever testified at the
4 Compensation Hearing. I am going to ask that you
5 show us the records because, for instance, you
6 said that Dr. Lax said one and a half packs. That
7 is not what he said at the Compensation Hearing.

8 MR. VULCANO: Dr. Lax didn't say that?

9 MR. CIABOTTI: No, he did not.

10 Q Sir, did you file a claim for
11 Worker's Compensation?

12 A Yes.

13 Q When was that, approximately? Was it in 1989?

14 A Yes, right after I was totally disabled, yes.

15 Q ~~And as a result of that claim, are you receiving~~
16 compensation benefits?

17 A Yes.

18 Q What do you receive?

19 A \$300.00 a week.

20 Q Did you appear down at a Worker's Compensation
21 board meeting?

22 A Yes, several.

23 Q Was that here in Syracuse?

24 A Yes.

25 Q Did you testify at one or more of those hearings?

FULLER - VULCANO

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A Yes.

Q Before that compensatin claim we just talked about in 1989, did you ever file a Worker's Compensation claim?

A Yes.

Q More than once?

A Yes.

Q You told Mr. Ciabotti that you had broken your arm and a rib and a couple other bones?

A Right.

Q Is that what your prior compensation claim's related to?

A All related to that. Gouverneur Talc was the only place I drew compensation.

Q Have you filed for a disability award, a social security disability award?

A Yes.

Q And has that been decided yet?

A I draw social security.

Q How much do you draw?

A It's 900 something a month, I am not sure.

Q 900 and some cents a month?

A Right.

Q Sir, did you ever have any lung tissue removed or a biopsy?

FULLER - RAPHAEL

A No.

(A short recess was taken.)

MR. VULCANO: I am all set.

EXAMINATION BY

MS. RAPHAEL:

Q Mr. Fuller, I just have really one or two questions. Just to clarify something, you said you started working for St. Joe's after the war. Do you have a date?

A Started working at St. Joe's I think it was June 1954. I worked prior, excuse me, I can go back. I went to work for them in probably March, I worked a very short period of time, I quit and I went to the paper mill, that is when I worked at the paper mill. I think it was June of the same year that I went back, that is how long I worked in the paper mill. I went to the other mill, Number 2 Mine at St. Joe's.

Q You were originally in which mine for St. Joe's?

A When I first went for a short period of time, it was Number 3 Mine, then when I went back, it was Number 2 Mine.

Q So, in March it was Number 3, then after that it was Number 2 Mine when you went back in June?

A Right, Number 2 Mine.

FULLER - CIABOTTI

Q And then how long did you work for St. Joe's after that?

A Until 1958, I think that was June, I think it was right around four years.

Q You worked full-time?

A Yes.

Q Also, you said you were only collecting Worker's Compensation and --

(An off the record discussion was held.)

Q You're receiving benefits from Worker's Compensation from whom, which company?

MR. CIABOTTI: Last employer, Gouverneur Talc. That is the law.

~~Q I'd like him to answer that, please.~~

A Gouverneur Talc.

MS. RAPHAEL: No further questions.

EXAMINATION BY

MR. CIABOTTI:

Q Mr. Fuller, you were asked about whether the mine was dustier or less dustier now than it used to be. Do you remember those questions?

A Yes.

Q Did they ever take dust samples in the mine?

A Yes.

FULLER - VULCANO

Q Did they take the samples in the area where the mine was dusty or where it wasn't dusty?

MR. VULCANO: Objection, foundation.

A Usually, where it wasn't that dusty, they didn't send you to that workplace.

Q Where did they send you?

A To a place where they could use the ore that was less dusty, that is when Emshaw (ph) conducted the test.

Q Any other dust samples, any tests that you recall?

A I don't recall any being taken but your Federal Inspectors.

Q And they sent you where it wasn't dust you say?

A That is right.

EXAMINATION BY

MR. VULCANO:

Q Mr. Fuller, what was your role in the dust sampling?

A You wore -- they had little machines attached to you with vials of stuff, you wore them, certain ones, not all.

Q I am talking about you personally, did you wear one of those?

A Yes.

Q And when was the dust testing that you're

FULLER - VULCANO

referring to conducted?

A When?

Q Yes.

A I don't think there is any specific time, I'd say periodically. I think maybe the Federal Inspectors had certain periods that they were required, I don't know, to take them.

Q On how many occasions do you remember being involved in one of these dust sampling procedures?

A Probably once or twice a year.

Q And over how many years?

A I couldn't tell you what year.

Q Did they do this five years, ten years, one year?

~~A They have done that approximately ever since they~~
started, it's periodically, it's not a weekly thing or anything like that, not a monthly thing, it might be three, four months, I don't know.

Q I guess what I am trying to find out, sir, I am asking you if you remember what you participated in. What I am asking you is, do you remember over what period of years you participated in this sampling procedure?

A I would have to say the last ten years of my employment, I don't really know.

Q I think you were saying that maybe once or twice a

FULLER - VULCANO

1
2 year you were given something to wear?

3 A Right.

4 Q You'd go and do your work?

5 A Right.

6 Q Is it your testimony that you were sent to a
7 different location on the day that you wore the dust
8 sampling device than let's say the day previous?

9 A Yes, but not every time.

10 Q How many times?

11 A Several, more often than not.

12 Q Who would send you on that particular day?

13 A Your foreman.

14 Q When is the last time you recall that happening?

15 A ~~I will have to say at least three years ago, I am~~
16 not sure.

17 Q Well, do you have a specific recollection of that
18 happening?

19 A I can remember that it happened several times but
20 I couldn't specifically say how many times or when, but I
21 do know that they do it.

22 Q Well --

23 A Where you normally day after day you were in
24 drawing in some place, then you're in another place they
25 don't draw for six months.

FULLER - VULCANO

Q Is it fair to say it's an assumption that you're going on --

A That's all I can.

Q Let me finish the question. You're making an assumption on where you had been working on the day the dust sampling device was taking place at a particular location?

MR. CIABOTTI: No, he described dust. I object to that because foundation was not included. In what part of the mine?

Q Sir, do you know how many employees would wear a dust sampling device when a procedure was going on?

A I would have to assume there was probably --

Q I don't want you to assume.

A Do I know exactly how many?

Q Yes.

A No.

Q Do you know --

A I would imagine everyone.

Q Again, I don't want you to imagine.

A Well, I would say everybody that worked underground wore them.

Q I am asking you on any one particular dust sampling occasion, would everybody wear them every time

FULLER - VULCANO

they sampled?

A No.

Q Would only people working in a certain area wear them?

A Not necessarily.

Q So, on the occasions that you wore a dust sampling device, do you know each and every area that other individuals wearing dust sampling devices were working in?

A I can't answer that exactly. Getting back to --

Q That is the answer? I want to know when you --

A If I was working with a partner, sometimes it would be Charlie, I would wear one, he wouldn't, maybe the next time he would and I wouldn't.

Q But you don't know whether someone else was, other than you or Charlie?

A The fellows on the same level.

Q There might be somebody on another level wearing one?

A There definitely was.

MR. CIABOTTI: Once again, we asked for that information, we still do not have it. As far as I know it, if you have it, if you know of it, do you have it, Sam?

MR. VULCANO: I am not sure what information

FULLER - VULCANO

you mean, Vic.

MR. CIABOTTI: Dust sampling.

(An off the record discussion was held.)

MR. CIABOTTI: I am going to ask you, if it's in several places, where it is.

MR. VULCANO: As you know, Vic, we have got an ongoing case, we're under Court Order and Judge Duskis (ph) is supplying disclosures. We will respond to that the way Judge Duskis (ph) has asked us to.

MR. CIABOTTI: My point is it --

MR. VULCANO: I object to this being on the record.

~~MR. CIABOTTI: It's relevant, you asked him~~
for dust sampling, we have asked you for his dust samples as well as everybody else. My complaint to you, which I wrote to you in writing, you ought to know where the dust samples are. Why can't we have them? You folks have dust samples with you, delivered them at various times and places, why can't you send them to me?

MR. VULCANO: I ask that your statements be sent in a separate transcript.

MR. CIABOTTI: I did, in a letter.

FULLER - VULCANO

MR. VULCANO: I ask you to ammend them to another deposition, they're not appropriate in this form.

MR. CIABOTTI: It's not testimony, sure, but we continue to ask for this information, it's been years. To tell me I have to paw through it, I am not happy about that. I want to see it in black and white.

MR. VULCANO: We told you for three years to get it, it was in Connecticut and at Gouverneur up until a month ago, you hadn't looked at it, so --

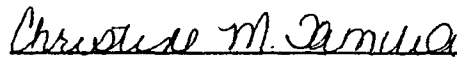
MR. CIABOTTI: I don't know of any information that you saw in Connecticut with respect to dust samples. You tell me it's in a number of places, I don't want to guess, Sam, I am not going to.

MR. VULCANO: All right.

(Proceedings were concluded)

C E R T I F I C A T I O N

I, Christine M. Tamlia, Court Reporter, do hereby
certify that I attended the foregoing proceedings,
and took stenographic notes of the same, and that
the foregoing typewritten matter is a true and
accurate transcript of the same, and of the whole
thereof, to the best of my knowledge and ability.



Christine M. Tamlia

DATED: November 6, 1991