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Attached Statement - The Handling of Asbestos in the Port of London

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15th June 2001

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Dear Terry

**RE: HANDLING OF ASBESTOS IN THE ENCLOSED DOCKS OPERATED BY
THE PORT OF LONDON AUTHORITY**

You rang me recently about aspects of the handling of asbestos in the enclosed docks. I set out below my responses to your points as follows:-

You asked for supporting evidence of my statement made in 1995 that "the PLA did no stevedoring work at the Royals, Surrey Docks or Tilbury, only at West India & Millwall and London & St.Katharine Docks". Your particular concern was the situation at the Royal Docks. I enclose an extract from a Port Dossier prepared by the PLA in 1969 for the National Ports Council. This sets out the conditions under which cargoes were handled at each of the Authority's docks and I enclose the details for each dock, including the Royals. Please note that because London & St.Katharine Docks had closed by 1969, no details were given for those docks in the dossier. I have highlighted the relevant sections for each dock, and I think that it can be clearly seen that in essence the PLA responsibility for ship discharge was confined to West India Docks. Ship discharge at Millwall Docks was performed by stevedoring companies, not the PLA, so that my 1995 statement needs to be amended in that respect. At the Royals, the labour force at all berths operated under quay and shed space agreements was contracted out to stevedoring companies. At multi-user berths, imports only passed into the custody of PLA staff once they were landed on the quay, the labour being provided by the stevedoring companies.

It is interesting to note the figures for the number of rdws employed at each of the docks. Only at West India Docks did PLA labour outnumber those employed by the stevedoring companies. Elsewhere, where the PLA did not perform stevedoring work, PLA rdws are heavily outnumbered by those employed by the stevedoring firms. This is further supporting evidence for my 1995 statement.

Please reply to: Docklands Library & Archive, Unit C14, Poplar Business Park, 10 Prestons Road, London E14 9RL
Telephone 020 7515 1162: Fax 020 7538 02

You already have a copy of the official PLA Handbook produced c) 1963, which states on page 54 that "...at London, West India and South-West India Docks the Authority perform the discharging service.."

I am sure that statements contained in a dossier prepared by the PLA for the NPC, and in an official handbook, can be regarded as authoritative.

You also asked me to check to see if asbestos was included in the Hazardous or Dangerous Goods Schedules, which would mean that it could only be discharged overside, and not across the Authority's quays. I can confirm that asbestos is NOT listed as a hazardous or dangerous commodity in the Schedules for such cargoes. Indeed, I have looked at several PLA Schedules of Import Rates for goods, and asbestos in all its various forms is listed along with hundreds of other commodities. I enclose a couple of representative copies for your information.

It is my understanding that in practice imported asbestos was rarely landed across the Authority's quays, most of it being discharged overside to craft. It follows that most claims will arise from rdws employed by stevedoring companies working in the ships holds who encountered split bags, and from lightermen who had damaged bags placed in their barges.

Lastly, I enclose an extract from the "Port " newspaper for 12th May 1967, which featured a double-page spread on asbestos. Note the saga of the "Baltic Merchant" at Surrey Docks, where stevedores refused to handle bags of asbestos which were leaking dust- the vessel sailed to Leningrad with the asbestos still on board. Note also the statement made by the three medical doctors to the effect that, if asbestos was properly packed, no special protective measures were needed. The wearing of respirators was recommended only in cases where spillages were being dealt with. This helps to confirm the notion that asbestos was not regarded as inherently hazardous or dangerous, provided that it was properly packed and stowed. The same could be said for many other cargoes regularly handled in the enclosed docks.

I hope that this information is of help.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Aspinall', with a long horizontal stroke extending to the left.

R.R.ASPINALL
LIBRARIAN, DOCKLANDS
LIBRARY & ARCHIVE

The Handling of Asbestos in the Port of London

Summary

The first asbestos related claim was received by the Port of London Authority (PLA) in 1971, the second in 1974 and the third in 1980. The number steadily increased through the 80's and 90's and is currently running at approximately 8 new cases per year. The total number of claims received to the end of 2001 was 115 with a further 6 claims received to date (16 September 2002) in the current year.

The vast majority of the claims are from former Registered Dock Workers (RDW's) who were exposed to asbestos dust when handling imported raw asbestos in hessian bags during the 40's, 50's and 60's. There have been five claims from former PLA engineers and fitters, relating to exposure whilst working on PLA craft, (removal of pipe lagging etc.) and quay cranes, (changing brake linings on clutch assemblies).

The importation of raw asbestos in bagged form ceased around 1969/70.

As at the 31 December 2001 the total of payments made was £3,074k with a further accrued liability of £723k.

The Post – 1945 History of Dock Labour in the Port of London

In 1947 the National Dock Labour Board (NDLB) was established. All casual dock labourers were required to be registered under the scheme and were guaranteed a fall-back wage if they complied with the scheme and attended for work. Within the Port of London there were numerous employers of RDW's including private wharves, stevedoring companies, shipping companies, lighterage companies and the PLA. From 1947 onwards in London, the London Dock Labour Board (LDLB) was responsible for the registration, training, payment and allocation of labour to employers. However, Over 75% of London's RDWs were never permanently employed, remaining casual and allocated to employers on a daily basis as the work dictated.

In 1955 the number of RDW's in London was 32,000, in 1965 there were 25,000 but by 1975 the number had reduced to only 10,000.

A number of port employers had RDW's allocated to them on a permanent basis – in the Authority these men held PLA 'A' Preference Tickets and would work for the majority of their employment in the docks for the PLA. They would only be allocated to another employer by the NDLB through its agents, the (LDLB), if the PLA had no work for them. The PLA also took on labour from the general pool as required.

Those workers who were not permanently attached to an employer were required to report for work each day and would be selected as needed by the employers' representative. Those not selected would claim their fall-back money from the NDLB.

This arrangement continued until 1967 when, following one of the principal recommendations of the 1965 Devlin Report all RDW's were allocated to a permanent employer. The PLA, being one of the largest employers, received a proportionately high percentage of the previously unattached labour force.

Also around this time the method of shipping cargo was beginning to change with the introduction of palletised and containerised cargoes. Over the next ten years many of the employers ceased trading and when they did the labour allocated to them was redistributed to the remaining companies with the PLA always taking the highest percentage. Through the 1970's the PLA took over the operations of a number of the larger stevedoring companies and their labour force. From 1968 a voluntary severance scheme operated in the industry and large numbers of RDW's left under the scheme. Many of the RDW's can be traced as being PLA employees for just a few weeks or months from the time they were re-allocated following the demise of their previous employer until taking advantage of the severance scheme,

Asbestos in the PLA Enclosed Docks

Within the Port of London there were five main groups of docks under the Authority's control – London & St Katharine Docks, India & Millwall Docks, Surrey Commercial Docks, Royal Docks and Tilbury Docks. The labour arrangements for the discharge and loading of vessels within the five enclosed dock systems were quite complex but only at London, West India and South West India Docks was the discharge of vessels undertaken by labour directly employed by the Authority. Elsewhere private stevedoring companies contracted to the shipping lines carried out ship discharge.

Asbestos was imported in fibre form in hessian bags. There are three different types of asbestos fibre namely Crocidolite, Amosite and Chrysotile.

Records of cargo movements dating back to these times no longer exist. Claims have been received from RDW's from each of the dock groups.

The description of work performed in most claims is that of handling bags of asbestos in the ship's hold, making up sets for discharge. The claimants describe how the bags would split and asbestos dust would be thick in the confined space of a ships hold.

The majority of the claims made against the PLA are from former RDW's who worked in the West India Docks. Some are from men who held 'A' Tickets, and for these a personnel record can usually be found. The remainder are from men who claim to have handled asbestos whilst working in the West India Docks. They may have been employed by the PLA on a casual basis, under the NDLB scheme, but, for them, no PLA personnel records exist. The claims are usually settled, on the basis that the PLA were responsible for ship discharge within the dock.

Other claims are from men who worked in one or more of the other dock groups. These claims are contested more vigorously although not always successfully. Exposure whilst working in the Royal Group of docks account for most of these. Occasionally the claim is made against one or more stevedoring companies as well as the PLA. The claims are disputed on the basis that the PLA did not undertake ship discharge within the Royal Group. The claimants cannot always remember whom they were actually employed by. Often the sufferer has died and a member of his family makes the claim in which case details of former employment can be very vague. The claim is directed at the PLA either as the owner of the docks or, mistakenly, as the successor to the LDLB. The claims are refuted and depending on the information available the claim deferred to the likely employer. However, the PLA have settled claims where there is no firm evidence that the claimant was directly employed by the PLA when exposed, but neither is there evidence to link him with any other employer.

Health & Safety

Within the Port industry in the years prior to 1965, the handling of asbestos in hessian bags was not regarded as dangerous in any way. Rather the commodity was looked upon as being a dusty one only, as were many others at that time. The first instance of an awareness of any risk was in 1954 when one of H. M. Factory Inspectors visited the motor vessel 'Dunnottar Castle', which was discharging asbestos in hessian bags in the King George V Dock. His report stated that although the Asbestos Industry Regulations did not cover dock working he would recommend that face masks be issued to dockers handling bagged asbestos. Thereafter, light Martindale facemasks were made available for dockers use if requested.

Indeed masks are referred to in many of the claims made including statements to the effect that they were often discarded because they were ineffective, uncomfortable and slowed down the piecework rate.

By 1965 the awareness of the dangers of working with asbestos was growing and in June of that year stevedores refused to handle consignments of bagged asbestos from a Russian vessel discharging a general cargo in Surrey Commercial Docks. The local H M Factory Inspector visited the vessel and recommended that the commodity could be worked safely if the men were issued with heavy-duty facemasks.

In August 1965 the Regional Medical Officer for the NDLB stated, "to the best of my knowledge I have never known of any dock worker to be certified as suffering from asbestosis".

Concern continued to grow and in 1967, following a long inquiry into all aspects of the problem a statement was released signed by the Medical Advisor to the T U C, the PLA Medical Officer and a Consultant Physician to the London Hospital, who was an expert on toxic diseases and the effect of toxic dust on the lungs. The statement read:

"We have met and discussed the implications of the above commodity as a source of injury to health. We have taken due count of published medical opinion and of official statements by H M Chief Inspector of Factories as well as reports by the Pneumoconiosis Panel and all other relevant information available to us.

Our inquiries have found no cases of injury to the health of a dock worker in the Port of London that could have resulted from employment there with asbestos cargoes; and we have no knowledge of any cases of asbestosis occurring otherwise in the docks industry in this country as a result of dock work.

We have examined the methods of packaging used by the shipper, and have visited and inspected the methods of stowage in ships, as well as the procedures followed in the Port of London Authority for handling asbestos packaged cargoes, and we are satisfied that with asbestos packaged according to the requirements explained to us, namely in impervious lined bags, the future risk should be negligible and no special protective measures should be need in the docks.

In the event of sub-standard packaging being met with among cargoes received, we would recommend that the rate of discharge should be controlled by local agreements more particularly if bursting of bags occurs. Respiratory protection would then be advisable during clearing up operations, using approved respirators.

We are fully satisfied, so far as the docks industry is concerned, that no unacceptable risk at present exists and that provided the currently approved requirements and methods of work are followed, dockers may proceed with confidence in the handling of asbestos cargoes.

We are at the same time of the opinion that there is a need for continuing vigilance by the Port authorities to ensure the exclusion of developing hazards and for this purpose we recommend the regular inspection of cargoes of asbestos together with proper supervision of the health of dock staff".

At about the same time the Deputy Senior Medical Inspector of Factories for the Ministry stated, "It was important not to make too much of the situation. As many people died of lung cancer in 12 hours as from mesothelioma in a whole year. We don't think dockers are heavily exposed to asbestos – certainly not so much as workers in industries who are working continuously with the material. A docker may work a cargo for a few hours and then not touch it again for weeks or even months. We are, however, going to tighten up the docks regulation to make certain that asbestos is carried in containers or properly sealed bags". He added, that pressure from the dockers had undoubtedly contributed to the improvement that had already taken place. By 1970 the importation of blue asbestos (crocidolite) was banned and the PLA would not allow any other form of asbestos to be landed on its quays.

PLA Policy

PLA policy has been to settle claims out of court and only two cases have been contested in court. In December 1987 (Parkes v PLA) the Authority disputed that Parkes had died from lung cancer caused by exposure to asbestos. He had been a heavy smoker and the PLA were advised by their medical consultant that smoking probably caused the disease. The judge ruled in favour of the evidence of the plaintiff's consultant. In February 1988 (Walker v PLA, Ben Line, Clan Line and other shipping companies) the PLA contested liability and also attempted to argue contributory negligence by the shipping companies who carried asbestos as cargo. This was a test case fought in the High Court and the PLA lost on both counts. Walker had been employed by the PLA in West India Docks between 1960 and 1972 and it confirmed opinion held at the time that earlier cases would have had the same result had they been contested. The attempt to prove contributory negligence was also unsuccessful, the judge taking the view that the shipping lines as carriers of the commodity could not be held liable.

All subsequent claims have either been refuted successfully or settled out of court.

Early claims were dealt with by the PLA's own legal department. Between 1989 and 1993 Fitzpatrick's acted for the Authority but in 1993 Davies Arnold Cooper were engaged and to date continue to act for the PLA.

Insurance

The claims are not covered by insurance. Prior to 1976 the PLA maintained its own insurance fund. In 1986 an attempt was made by the PLA Legal Department to argue the case that asbestos claims should be covered by insurance taken out for the year in which a claim was received. The argument was rejected, Employers Liability insurance being effective only if carried during the period of causation.