

FILE NAME: Colonial Sugar Refinery (CSR)

DATE: 1977

DOC#: CSR060

DOCUMENT DESCRIPTION: Minutes of Meeting RE Wittenoom Claims

Wittenoom claims

Meeting: MGK, RWH, JFB, FNL 8.9.77.

JFB: Wittenoom - asbestosis - many w/c claims - 26 deaths -
all w/c liability with SGIO.

Maas - civil claim - died but widow to "continue" -
backed by some group.

Robinson Cox and W.A. counsel have given apparently
sound advice, but need for advice from someone with
broad view of political and social issues as well as
legal. After discussion with RGJ/DDB, I saw Rothery
and said I wasn't asking for his strategic advice but
for his advice as to choice of a strategic adviser -
but he wouldn't listen to last bit and kept telling
me he would advise on strategy.

RWH:)
MGK:) FNL not involved?

JFB: No - regret should have - apology.

FNL: Don't think necessary - such matters within traditional
responsibility of Industrial Department to exclusion of
Legal Department and I understand question of responsib-
ility was specifically considered and confirmed that it
should be with Industrial Department.

RWH: Anyway, Rothery is a tactician not a strategist.

JFB: Civil claims only covered for part of time of Wittenoom
operation - need to consider what position to take
where uninsured; also whether to rely on limited
liability of Midalco.

FNL: Claim would probably need to rely on negligence -
has opinion been obtained on whether case of negligence?

JFB: Yes - definitely negligent - masks ineffective,
excessive dust levels - will give you file to read.
Will also ask you to consider who would be appropriate
adviser on broad strategy.

RWH: Any doubt about limited liability applying?
Midalco only worth \$100,000.

FNL: I would think no doubt. Can review legal issues and strategies but I think it will come back to the question whether CSR wants to avail itself of limited liability and tell claimants after the first \$100,000 that Midalco has nothing.

JFB: Would like strategic advice anyway. Perth advice seems sound but want a second view from outside CSR and want someone we can go to in Sydney.

FNL: Would like to see advice on negligence question - one possibility is to contest issue even if no confidence of success.

RWH: Settle out of court and avoid publicity?

FNL: Won't necessarily avoid publicity - claimant or supporters can leak it.

RWH: But not binding on question of negligence?

FNL: No, but facts speak for themselves so far as other claimants are concerned.

JFB: Would like you to review file and consider question of adviser on strategy.

RWH: Perhaps Santow.

FNL: Will do, but expect it will ultimately be a question of whether to use shelter of limited liability and lawyers will throw that question back.

MGK
(exiting): Also need to consider implications for Wunderlich asbestos operations in N.S.W. and other States.

JFB, RWH: Red herring - let's stick to Wittenoom.