NO. 95-04-1728-D

MANUEL P. GONZALES, ET AL, Plaintiffs,	)	IN THE DISTRICT COURT
VS.	)	CAMERON COUNTY, TEXAS
OWENS-CORNING FIBERGLAS CORP., ET AL, Defendants	)	103RD JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT B&R-82

VIDEOTAPED DEPOSITION
OF
JOHN E. HODGES

ANSWERS AND VIDEOTAPED ORAL DEPOSITION OF JOHN E. HODGES, a witness produced at the instance of the Plaintiffs, taken in the above styled and numbered cause on the 23rd day of September, 1997, at 2:15 p.m., before MICHELLE McDANIEL, a Certified Shorthand Reporter in and for the State of Texas, at the offices of MEREDITH, DONNELL & ABERNETHY, located at 6850 Texas Commerce Tower, 600 Travis Street, in the City of Houston, County of Harris, State of Texas, in accordance with the Texas Rules of Civil Procedure, the stipulations hereinafter set forth and pursuant to Notice.

deposition. B&R

1 A P P E A R A N C E S

2

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Dallas, Texas 75208
5
APPEARING FOR PLAINTIFFS
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MR. JAMES V. HEWITT
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APPEARING FOR DEFENDANT
11 BROWN & ROOT, INC.

12

13 MR. R. HARDING ERWIN, JR.
MATTHIESEN & CHASE, L.L.P.
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APPEARING FOR DEFENDANT
16 ARMCO

17

18 MR. JUAN GONZALEZ (via telephone)
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APPEARING FOR DEFENDANTS
21 W. R. GRACE and PITTSBURGH-CORNING
CORPORATION
22

23

24
ALSO PRESENT:
25 DANIEL PARIS, VIDEOGRAPHER

1 I N D E X

2

3 WITNESS: JOHN E. HODGES

4

5 Examination by Mr. Waters . . . . . Page 7

6 Examination by Mr. Gonzalez . . . . . Page 164

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12 Witness' Signature . . . . . Page 184

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14 Reporter's Certificate . . . . . Page 187

15

16 EXHIBITS:

17 (No exhibits were marked.)

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1 A G R E E M E N T S

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3 AS PER RULE 11, the following agreements were
4 agreed to by and between the parties thereto, through
5 their respective attorneys appearing herein:
6 IT IS HEREBY agreed by and between the parties
7 hereto, through their attorneys appearing herein, that
8 any and all objections to any question, except as to
9 form, or answer, except as to responsiveness,
10 contained herein may be made upon the offering of this
11 deposition in evidence upon the trial of this cause
12 with the same force and effect as though the witness
13 were present in person and testifying from the witness
14 stand.
15 IT IS FURTHER agreed by and between the parties
16 hereto, that an objection made by one counsel for the
17 respective parties shall be considered good for all
18 other counsel present.
19 IT IS FURTHER agreed by and between the parties
20 hereto, through their attorneys appearing herein, that
21 this deposition may be signed before any Notary Public
22 and thereafter returned into Court and used upon the
23 trial of this cause with the same force and effect as
24 though all requirements of the Rules and Statutes with
25 reference to signature and return had been fully

1 complied with.

2 IT IS FURTHER agreed by and between the parties

3 hereto, through their attorneys appearing herein, that

4 if the deposition is not signed and filed prior to any

5 hearing in this cause, that said deposition or a

6 certified copy thereof may be used on the trial of

7 this cause with the same force and effect as though

8 the same had been read and signed by the said witness.

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1 PROCEEDINGS
2 * * *
3 MR. WATERS: Has he been
4 designated with respect to any particular
5 areas?
6 MR. HEWITT: Yeah. Mr. Hodges, I
7 think you'll see from the deposition
8 testimony, was out at the plant really for
9 a limited period of time with respect to
10 safety in the early Eighties.
11 MR. WATERS: Okay.
12 MR. HEWITT: And then for a short
13 period in the Seventies. And then beyond
14 that, you'll get his -- you'll have to ask
15 him questions regarding his involvement.
16 MR. WATERS: All right. Fair
17 enough.
18 MR. HEWITT: But he is being -- he
19 is a Brown & Root employee. He's being
20 produced pursuant to the Court's
21 instructions.
22 THE VIDEOGRAPHER: We're on record
23 at 2:15 p.m. This is the videotape
24 deposition of John Hodges in the matter of
25 Manuel P. Gonzales, et al, versus

1 Owens-Corning Fiberglas Corporation,
2 et al.
3 Today's date is September 23rd,
4 1997. This deposition is being taken at
5 Meredith, Donnell & Abernethy, 600 Travis,
6 Suite 6850.
7 The videographer is Daniel Paris
8 with Diana Henjum Court Reporting
9 Services. Would counsel please announce
10 their appearance for the record.
11 MR. WATERS: Andy Waters for the
12 plaintiff.
13 MR. ERWIN: Harding Erwin for
14 Armco.
15 MR. HEWITT: Jim Hewitt for
16 Brown & Root USA, Incorporated.
17 * * *
18 JOHN E. HODGES
19 was called as a witness and, having been first duly
20 sworn by the court reporter, testified as follows:
21 * * *
22 E X A M I N A T I O N
23 * * *
24 BY MR. WATERS:
25 Q. Could you state your full name for the

1 record, sir?
2 A. John Edward Hodges.
3 MR. ERWIN: Not to interrupt; but,
4 Mr. Waters, can we have the same agreement
5 we had previously, that an objection by
6 one defendant is good for all defendants
7 present?
8 MR. WATERS: Yes.
9 MR. ERWIN: Thank you.
10 Q. (BY MR. WATERS) I'm sorry. Did you say
11 John Edward?
12 A. That's correct. E-d-w-a-r-d.
13 Q. Got you. All right. How old a man are
14 you, sir?
15 A. 48.
16 Q. How are you presently employed?
17 A. I'm employed by Brown & Root.
18 Q. In what capacity?
19 A. As a health safety and environmental
20 manager.
21 Q. How long have you had that title and
22 position?
23 A. At this particular title, about nine
24 months.
25 Q. All right. Since late --

1 A. Since January.
2 Q. January of 1997?
3 A. Correct.
4 Q. All right. Have you ever given a
5 deposition previously?
6 A. Yes.
7 Q. Okay. Did that in any way relate to
8 asbestos or the hazards of asbestos?
9 A. No, sir.
10 Q. Fair enough. Did it involve other health
11 and safety matters with Brown & Root?
12 A. Yes, sir.
13 Q. You understand, then, that I'm going to be
14 asking you a series of questions, correct?
15 A. Yes, sir.
16 Q. If for any reason, you don't understand
17 one of my questions, doesn't make sense to you, or
18 whatever, would you stop me and ask me to rephrase it
19 or repeat it?
20 A. Yes, sir.
21 Q. Okay. Prior to becoming manager -- let's
22 see. Is it health safety and environmental
23 management?
24 A. Yes, sir. That's correct.
25 Q. Prior to that position, what was your

1 title?
2 A. Division safety manager.
3 Q. Division safety manager?
4 A. That's correct.
5 Q. And what division was that?
6 A. Forest products.
7 Q. Forest products? That was also for
8 Brown & Root?
9 A. That's correct, yes, sir.
10 Q. Does Brown & Root manufacture Forest
11 products?
12 A. No. We build paper mills, pulp mills,
13 plywood mills.
14 Q. Okay. So, that's the -- the construction
15 of the facilities that manufacture forest products?
16 A. Yes, sir. Yes, sir, that's correct.
17 Q. And how long were you the division safety
18 manager for forest products?
19 A. Basically since 1980.
20 Q. 1980 until January 1997?
21 A. That's correct.
22 Q. Does that -- did that work involve both
23 Brown & Root new construction, that is to say, of new
24 facilities; or did it also involve what I call
25 maintenance work or repair work to facilities that

1 were already in existence?
2 A. It would also involve what we call capital
3 improvements, what you're talking about, maintenance
4 facilities.
5 Q. Okay. Did, as part of that work, safety
6 manager -- division safety manager of forest products,
7 involve traveling on your part?
8 A. Yes, it did.
9 Q. Tell me some of the places that -- where
10 you would travel to -- to do that type of work.
11 A. Georgia, South Carolina, Canada,
12 California, Nevada, New Mexico, Arizona, Louisiana,
13 Alabama, Arkansas, Czech Republic.
14 Q. All right. So, Brown & Root would have
15 you travel throughout the United States as well as
16 overseas to perform your duties and responsibilities?
17 A. That's correct.
18 Q. And can you describe in a nutshell for me
19 what your duties and responsibilities were as division
20 safety manager for forest products 1980 to 1997?
21 A. I was a liaison between upper management
22 and the field safety person. I was also there to
23 provide guidance to the field safety person and be a
24 resource for him.
25 MR. HEWITT: Let's go off the

1 record.
2 THE VIDEOGRAPHER: It is 2:20 p.m.
3 We're off record.
4 MR. GONZALEZ: This is Juan
5 Gonzalez appearing for W. R. Grace and
6 Pittsburgh-Corning Corporation. Please
7 proceed.
8 THE VIDEOGRAPHER: It is 2:22 p.m.
9 We're back on record.
10 Q. (BY MR. WATERS) So, you would be the
11 person -- the person between the safety people in the
12 field and at these particular sites and corporate
13 safety folks here in Houston?
14 A. That's correct.
15 Q. All right. And who was your immediate
16 superior in the time frame 1980 to 1997? If it
17 changed, you can just explain that to me.
18 A. My immediate superior would have been
19 Emil Zerr.
20 Q. Emil who?
21 A. Emil Zerr, Z-e-r-r. He was the division
22 president.
23 Q. And that's in the whole time frame, '80 to
24 '97?
25 A. No. It would have changed to John Redmond

1 (phonetic) in probably the last two years.
2 Q. Okay. As the division safety manager, did
3 you have responsibility that addressed environmental
4 matters?
5 A. Yes, sir.
6 Q. Okay. Did you do any work with
7 Mr. Drysdale or Mr. Gaines?
8 A. Yes, sir.
9 Q. Okay. Where would -- where would they fit
10 into the structure? Would they be above Mr. Zerr or
11 Mr. Redmond, or is there some way you could describe
12 that?
13 A. They were part of our corporate industrial
14 hygiene department. And they would be -- it's a --
15 it's a corporate group that's separate from the
16 business units, but all business units use their
17 services. So, they had no reporting responsibilities
18 to Zerr or Redmond or vice versa.
19 Q. Okay. So, in terms of your involvement
20 with those fellows, would that be if you needed advice
21 concerning an environmental problem or something like
22 that?
23 A. That's correct.
24 Q. Okay. Let's find out a little bit about
25 how you got into this. When did you start working for

1 Brown & Root?
2 A. March the 12th, 1971.
3 Q. Okay. And where was that?
4 A. 4100 Clinton, Houston.
5 Q. Is that --
6 A. That's the corporate headquarters.
7 Q. Corporate headquarters? And what was your
8 title at that time?
9 A. I believe it was administrative assistant.
10 Q. Were you involved with safety or
11 environmental matters at that time?
12 A. No, sir.
13 Q. When did you first become involved with
14 safety or environmental matters?
15 A. Probably two weeks after initial
16 employment.
17 Q. Okay. And what did -- what did -- what
18 did your title become?
19 A. I was still doing administrative --
20 Q. All right.
21 A. -- assistant duties.
22 Q. So, still back in 1971, you began to
23 have some responsibilities for health and safety
24 matters?
25 A. That's correct.

1 Q. All right. Could you describe what the
2 nature of your duties and responsibilities were when
3 you began to do that health and safety work in the
4 Spring of '71?
5 A. The Brown & Root upper safety management
6 personnel were reviewing the Occupational Safety and
7 Health Act for testimony to congress, and I was
8 involved with that portion of it.
9 Q. Brown & Root was reviewing the proposed
10 regulations at that time?
11 A. Right. The regulations were out. They
12 were just -- they had been put out for comment, for
13 review and comment.
14 Q. Okay. But they hadn't yet been finalized?
15 A. That's correct. They hadn't yet gone into
16 effect. That's correct.
17 Q. Okay. And Brown & Root was reviewing
18 those with an eye towards what kind of impact it might
19 have on their operations?
20 A. That's correct, yes.
21 Q. Okay. Was it recognized at Brown & Root
22 that the regulations could have a significant impact
23 on you-all's operations?
24 MR. HEWITT: I object to the
25 speculative form of the question.

1 specific duties and responsibilities, let's say,
2 during 1971?
3 A. Yes.
4 Q. What would those have entailed?
5 A. All of this -- I still had the
6 administrative duties of the safety department.
7 Q. Okay. What -- what -- would have been
8 involved with administrative duties of the safety
9 department?
10 A. Paying the bills, processing safety class
11 orders, that sort of thing.
12 Q. Okay. So, you had general duties and
13 responsibilities of an administrative nature, and then
14 you had the specific assignment that dealt with the
15 OSHA -- the new OSHA regulations?
16 A. That's correct.
17 Q. All right. Did you understand that there
18 had been regulations in place -- or strike that.
19 Did you understand that there had been
20 threshold limit values in place before OSHA for
21 limitations on how much asbestos people should be
22 exposed to?
23 A. I was not aware -- I'm not aware of it.
24 MR. HEWITT: I object to the form
25 of that last question to the extent it's

1 overbroad, vague, and assumes facts not in
2 evidence.
3 Q. (BY MR. WATERS) Has it -- was it your
4 experience that Brown & Root was aware of and
5 interested in and concerned about regulations that
6 applied to it's work and to its facilities?
7 MR. HEWITT: Objection; speculative
8 and overbroad.
9 A. I -- I don't know. I don't understand the
10 question.
11 MR. WATERS: Can you read the
12 question back to him, please?
13 (The requested portion of the
14 record was read by the
15 reporter.)
16 MR. HEWITT: I also object to the
17 question on the grounds that it's
18 compound.
19 A. Well, I would say they were concerned,
20 yes. That's --
21 Q. (BY MR. WATERS) And, for example, from
22 your own personal experience, they were concerned
23 enough about the impending OSHA regulations that
24 they had you and Mr. Nystrom working on this project?
25 A. I -- I don't know how Keith got involved

1 in working on the project. I don't know if it was
2 from orders from Brown & Root or if it was because he
3 was on a committee. I don't know.
4 Q. Okay. Well, if he was on a committee for
5 Brown & -- you mean he might have been something
6 outside of Brown & Root?
7 A. That's correct, yes.
8 Q. Okay. Is there any reason you can think
9 of why Brown & Root, under any circumstance, would not
10 be aware of regulations that applied to its
11 construction and other businesses?
12 MR. HEWITT: Object to the
13 overbroad, vague, speculative form of the
14 question.
15 Q. (BY MR. WATERS) You can answer.
16 A. No, I'm not aware of anything.
17 Q. In the time frame that you've been with
18 Brown & Root, has it been your experience that they
19 have been aware of commitments and requirements and
20 obligations that may be stated in State or Federal
21 regulations?
22 A. Yes.
23 Q. What was Mr. Nystrom's position or title,
24 if you can recall, when you started?
25 A. I believe he was assistant safety manager.

1 Q. Okay. Other than yourself and
2 Mr. Nystrom, was there anyone else at that time who
3 had a significant amount of responsibility for keeping
4 up with or understanding or taking a position about
5 the regulations?
6 A. Yes, there was.
7 Q. Who would that have been?
8 A. Tommy Chadwick was the safety manager.
9 Q. How do you spell that last name?
10 A. C-h-a-d-w-i-c-k.
11 Q. Is Mr. Chadwick still alive?
12 A. I believe he just died.
13 Q. Did, in fact, Brown & Root and you and
14 Mr. Nystrom come up with a Brown & Root position or
15 comments about the OSHA regulations pertaining to
16 asbestos?
17 MR. HEWITT: Objection;
18 speculative.
19 A. I believe Mr. Nystrom did. I did not.
20 Q. (BY MR. WATERS) Okay. Mr. Nystrom would
21 have come up with some kind of a policy statement or
22 comments that could have been provided to the Federal
23 government during that time frame?
24 A. That's correct, yes.
25 Q. All right. Did you ever -- have you ever

1 seen any such document that --
2 A. No, sir. No, sir.
3 Q. -- indicated -- okay. Did you attend any
4 hearings in Washington or anywhere else concerning
5 whether or not the regulations should come into play?
6 A. No, sir.
7 Q. Okay. Do you recall Brown & Root's
8 position on the various regulations?
9 A. You know, we -- we were for some and
10 against some.
11 Q. All right. Okay. Fair enough. That's --
12 is it fair to say that there were certain provisions
13 of the proposed regulations that Brown & Root -- that
14 Brown & Root felt were unnecessary?
15 MR. HEWITT: Objection;
16 speculative, overbroad, and vague.
17 A. Yes.
18 Q. (BY MR. WATERS) Okay. And Mr. Nystrom --
19 or Brown & Root through Mr. Nystrom would have made
20 their position, whatever it was, concerning the
21 various parts of the regulations, would have made that
22 position -- put that position forward to the
23 U.S. government?
24 A. That's correct.
25 Q. Did Mr. Nystrom attend any hearings in

1 Washington or anywhere else?
2 A. Yes.
3 Q. And did -- did he stay involved in that
4 process, or did you stay involved in that -- let's
5 start over.
6 Did you stay involved with that process
7 with Mr. Nystrom on into '72, '73, that type of
8 thing?
9 A. No, sir.
10 Q. Okay. Did you understand as of 1971 that
11 the regulations called for a -- a reduction in the PEL
12 or permissibility exposure level that would take place
13 in 1975? Do you remember that?
14 A. Permissible exposure level to what?
15 Q. Of asbestos.
16 A. Yes.
17 Q. Okay. Did you understand or do you recall
18 from your review of the OSHA regulations with
19 Mr. Nystrom that they required that monitoring be done
20 to determine if there were unsafe -- potentially
21 unsafe levels of asbestos in the air?
22 A. Yes.
23 Q. And do you recall that that was an initial
24 requirement and that if, in fact, the levels were
25 above the PEL, that then there were a bunch of other

1 requirements that you had to follow to make it -- make
2 the environment as safe as possible?
3 A. Yes, sir.
4 MR. HEWITT: Object to the
5 overbroad form of that last question.
6 Q. (BY MR. WATERS) Could you restate your
7 answer, because I -- it may have gotten crossed over.
8 A. Yes.
9 Q. Did you have any involvement in the early
10 1970s with actual implementation -- that is to say,
11 putting into effect -- for Brown & Root or
12 Brown & Root facilities the OSHA asbestos regulations?
13 A. Yes.
14 Q. And where would that have been?
15 A. It would have been at Southland Paper,
16 Sheldon Texas.
17 Q. Sheldon?
18 A. Sheldon.
19 Q. Where is that?
20 A. Out by Channelview. It's northeast part
21 of Houston.
22 Q. I knew about a Southland Paper Mill out
23 near Lufkin.
24 A. Same family.
25 Q. Same family but different plant?

1 A. Correct.
2 Q. Okay. Was Brown & Root involved with the
3 construction process at the Channelview plant?
4 A. That's correct.
5 Q. Okay. Was that new construction, or was
6 it more in the nature of repair or maintenance work?
7 A. It was mostly new construction.
8 Q. Okay. And what was your involvement with
9 implementing the OSHA -- or using the new OSHA
10 regulations out there?
11 A. We had to remove some transite siding to
12 tie the two buildings together.
13 Q. Okay. And did you understand that that
14 transite siding was an asbestos material?
15 A. We understood that it contained asbestos,
16 yes.
17 Q. All right. And when would this have been,
18 still in '71; or have they moved on to '72?
19 A. That would be 1973.
20 Q. '73. Okay. Up until 1973, had you had
21 any involvement with implementing or applying the OSHA
22 regulations?
23 A. No, sir.
24 Q. And speaking with Mr. Nystrom or any of
25 the other safety -- Mr. Chadwick or any of the other

1 safety people that were there when you got there in
2 '71, did you understand that the new OSHA regulations
3 were going to require a whole new way of doing
4 business with respect to asbestos?
5 A. No, I didn't.
6 Q. Okay. Did you understand that there had
7 or had not been regulations in place previously that
8 applied to the use of or work around asbestos?
9 A. I -- I can't get specific to the asbestos
10 part of that. I know that they had a safety program
11 before OSHA came out. To what extent they were
12 dealing with -- with asbestos, I'm not sure.
13 Q. All right.
14 MR. HEWITT: To that last question,
15 I object on the ground it assumes facts
16 not in evidence and it's overbroad.
17 Q. (BY MR. WATERS) The -- you said about two
18 weeks you did -- you were an administrative assistant
19 and then you got this particular assignment to work
20 with Mr. Nystrom?
21 A. Yes, in addition to the administrative
22 duties.
23 Q. Right.
24 A. Correct.
25 Q. Okay. When you started this assignment

1 with Mr. Nystrom, was that the first time you learned
2 that asbestos was a hazardous or a regulated
3 substance?
4 A. Regulated, yes.
5 Q. Okay. Did you understand that it was
6 regulated because it was considered to be hazardous?
7 A. That's correct.
8 Q. And did -- did Mr. Nystrom or anybody else
9 at the facility tell you about some of the hazards or
10 some of the diseases that asbestos could cause?
11 A. No, sir.
12 Q. Okay. Did you understand, for example,
13 that it was known that asbestos exposure could cause
14 lung cancer?
15 A. Yes.
16 MR. HEWITT: I object to the form
17 of that question on the grounds as it's
18 phrased, it's overbroad and assumes facts
19 not in evidence when you say "known."
20 Q. (BY MR. WATERS) Okay. Can you -- I'm
21 sorry. Can you repeat your answer?
22 A. Yes.
23 Q. Okay. Do you know if you learned that
24 information after you arrived at Brown & Root?
25 A. No, sir, I did not.

1 Q. You knew that beforehand?
2 A. Yes, sir, I did.
3 Q. Okay. And -- and how was it that you
4 learned before getting to Brown & Root in March of
5 1971 that asbestos could cause lung cancer?
6 A. I don't know.
7 Q. Okay. I mean, that's fair. Let's --
8 let's talk a little bit about your educational
9 background. That may help clear it up.
10 A. All right.
11 Q. Where did come -- how did you get to
12 Brown & Root?
13 A. I graduated from the University of
14 Southern Mississippi and moved to Texas on my way to
15 another job and went to work for Brown & Root
16 temporarily.
17 Q. And just never left?
18 A. Never left.
19 Q. Okay. University of Southern Mississippi,
20 when did you graduate?
21 A. 1971.
22 Q. '71? Did you spend any time in the
23 military?
24 A. No, sir, I did not.
25 Q. Okay. What was your draft status, do you

1 recall?
2 A. I was 2-S from 1967 to 1969, and then I
3 was 1-A.
4 Q. Okay. 2-S is a student deferment?
5 A. Correct.
6 Q. Okay. And then you were 1-A after that,
7 but you managed to dodge the bullet?
8 A. I was -- I was in the first lottery, but I
9 drew No. 353.
10 Q. Okay. What was your course of study at
11 the University of Southern Mississippi?
12 A. I have a bachelor of science in business
13 administration.
14 Q. Did you have any courses that related to
15 industrial hygiene or industrial safety?
16 A. I had some health courses. I don't -- I
17 don't recall it -- no industrial safety courses.
18 Q. Just sort of a more general health
19 courses?
20 A. Correct.
21 Q. Do you believe that it's more likely than
22 not that you would have learned, for example, the
23 information about asbestos in one of those health
24 courses?
25 MR. HEWITT: Objection;

1 speculative.
2 A. That's possible.
3 Q. (BY MR. WATERS) Okay. Is there anywhere
4 else other than those courses where you think you
5 might have picked up that information about asbestos
6 and cancer?
7 MR. HEWITT: Objection;
8 speculative.
9 A. Possibly the news media.
10 Q. (BY MR. WATERS) Okay. When you arrived
11 at Brown & Root in March of 1971, you had that
12 knowledge, limited though it may have been, already,
13 correct?
14 A. Correct.
15 Q. Okay. Did you understand from speaking
16 with people like Mr. Nystrom and Mr. Chadwick that
17 they were also aware of the fact that one of the
18 hazards of asbestos is that it can cause lung
19 cancer?
20 MR. HEWITT: Objection; speculative
21 and assumes facts not in evidence.
22 A. I don't remember them speaking
23 specifically about asbestos.
24 Q. (BY MR. WATERS) Well, you recall them --
25 you recall, obviously, having conversations with

1 Mr. Nystrom about asbestos with the -- in the context
2 of the regulations, correct?
3 A. I recall going over the regulations
4 totally with Mr. Nystrom. None of them really stick
5 out in my mind as being specific.
6 Q. Fair enough. Fair enough.
7 MR. HEWITT: To be fair to the
8 witness, just to -- obviously, the OSHA
9 standards involved much more than asbestos
10 that was promulgated --
11 MR. WATERS: Right. And I --
12 MR. HEWITT: That's --
13 MR. WATERS: Right.
14 Q. (BY MR. WATERS) And I should tell you
15 that when -- when I'm asking you these questions,
16 I'm specifically asking about the asbestos
17 regulations.
18 Was your -- were your efforts on behalf of
19 Brown & Root and this idea of giving comments to the
20 government, were those restricted to asbestos
21 regulations; or did they cover a broader --
22 A. The whole 1926 standards.
23 Q. All right. All right. Let me ask because
24 I asked the question before a more general way, and
25 you may have interpreted it that way.

1 With respect to the asbestos regulations
2 themselves, is it -- is it your recollection that --
3 that Brown & Root's position was some of those may not
4 have been necessary?
5 A. No.
6 Q. Okay. Do you have any recollection one
7 way or another as you sit here today about -- about
8 what Brown & Root's position -- official position was
9 about the asbestos regulations?
10 MR. HEWITT: Objection;
11 speculative.
12 A. I'd like clarification, please. In 1971?
13 Q. (BY MR. WATERS) Yes, sir.
14 A. No, sir. I'm not -- I don't have any
15 recollection at all.
16 Q. Okay. How about in '72 or '73?
17 A. I know that -- that the company wanted us
18 to follow the regulations.
19 Q. All right. As of March or April 1971,
20 you recognized, because you already knew about this
21 cancer connection, you recognized that the
22 regulations -- the purpose of the regulations was to
23 reduce or eliminate injuries resulting from exposure,
24 correct?
25 A. Illnesses, yes.

1 Q. All right. Illnesses. Fair enough.
2 Did you ever take any -- any seminars or
3 have any other kind of training while at Brown & Root,
4 let's say up until 1980, concerning the diseases that
5 could be caused by asbestos?
6 A. Specific to asbestos, no.
7 Q. All right. Was there anybody at
8 Brown & Root who was responsible for providing
9 educational materials or seminars or anything like
10 that concerning safety matters generally?
11 A. Yes.
12 Q. Who would that have been in the early
13 1970s?
14 A. It would have been Tommy Chadwick.
15 Q. Tommy Chadwick. All right.
16 A. Or his designee.
17 Q. All right. Do you have a specific
18 recollection of any of the subject areas that
19 Mr. Chadwick or whoever he appointed would -- would
20 provide this kind of information or seminars or
21 training?
22 A. Well, they would just schedule us in
23 different seminars. And it might be National Safety
24 Council; it might be other organizations.
25 Q. Okay. But insofar as your personal

1 the office?
2 A. Yes.
3 MR. HEWITT: Objection;
4 speculative.
5 Q. (BY MR. WATERS) You can answer.
6 A. Yes, we did.
7 Q. All right. Do you remember, for example,
8 a publication called the National Safety News? And if
9 you don't, that's fine.
10 A. No, I don't recall the title.
11 Q. Was it your understanding from working
12 with other people in the safety department that
13 Brown & Root had been a member of the National Safety
14 Council for many years?
15 MR. HEWITT: Object to the
16 speculative form of the question. It's
17 also overbroad and vague. You're asking
18 the witness to speculate.
19 A. I don't recall anyone ever saying how long
20 we had been.
21 Q. (BY MR. WATERS) Okay. Certainly you will
22 agree with me that Brown & Root was a member of the
23 National Safety Council well before 1995.
24 MR. HEWITT: Objection;
25 speculative, overbroad.

1 A. Yes.
2 Q. (BY MR. WATERS) Okay. And if
3 Brown & Root were to state under oath that it first
4 became a member of the National Safety Council in
5 1995, you would agree with me that that would be flat
6 out untrue?
7 MR. HEWITT: I object to the form
8 of the question. It's misleading.
9 Q. (BY MR. WATERS) You can answer.
10 A. As far as I know, we are a member. Yes.
11 Q. And have been at least since 1971?
12 A. That's my understanding, yes.
13 Q. Did you ever attend any of the National
14 Safety Council -- what are they called -- annual
15 meetings in Chicago?
16 A. Yes, I did.
17 Q. On how many occasions, approximately, have
18 you done that?
19 A. Maybe three.
20 Q. Did you do that in the early 1970s?
21 A. Yes, that's correct.
22 Q. Was that something that you looked forward
23 to? It was kind of a change of pace, something fun to
24 do?
25 A. Yes, sir.

1 Q. And did Mr. Nystrom or Mr. Chadwick
2 attend those, as well? And I apologize. I'm not
3 asking if they went specifically with you, but did
4 they generally -- were they attending those, as well?
5 A. I -- I don't recall either one of those
6 gentlemen attending.
7 Q. Okay. Do you recall anybody else at
8 Brown & Root who attended that you can recall, in the
9 early 1970s?
10 A. Yes.
11 Q. Who would that be?
12 A. Frank Thompson.
13 Q. Who was Mr. Thompson?
14 A. At the time, he was a safety coordinator.
15 Q. Okay.
16 A. They -- and that's a similar title to what
17 I have. I mean, similar responsibilities to what I do
18 now.
19 Q. All right. Is he still with Brown & Root?
20 A. Yes, that's correct.
21 Q. Where -- is he employed here at the
22 Downtown -- in -- what is the name of the street,
23 again? I'm sorry.
24 A. Clinton Drive.
25 Q. Clinton Drive?

1 A. Yes.
2 Q. He's over there? And when did
3 Mr. Thompson start with the company?
4 A. In the Sixties sometime. I'm not sure.
5 Q. Before you did?
6 A. Yes.
7 Q. All right. And how old a gentleman is he,
8 if you could venture a guess?
9 A. I would say mid to late 50s.
10 Q. Okay. Was he involved with the safety or
11 health department in 1971 when you arrived?
12 A. Yes, sir.
13 Q. Did you have any dealings with him on
14 the -- the issue of the hazards of asbestos or the
15 dangers of asbestos in the early 1970s?
16 A. No, sir.
17 Q. What did you understand his duties and
18 responsibilities to be when you arrived in 1971?
19 A. He was the safety coordinator for the
20 highway and paving department and Southwestern Pipe.
21 Q. What was Southwestern Pipe?
22 A. It was a pipe mill that Brown & Root
23 owned.
24 Q. That Brown & Root owned?
25 A. Uh-huh.

1 Q. Where was that located?
2 A. Directly behind 4100 Clinton.
3 Q. And I'm sorry. It was called "Southwest
4 Pipe"?
5 A. Southwestern.
6 Q. Oh, I apologize.
7 When -- was that facility closed at some
8 point in time?
9 A. Yes.
10 Q. When -- when was that, approximately,
11 Eighties?
12 A. No, I'm thinking before then. Late
13 Seventies, probably.
14 Q. Did you ever spend any time in that
15 facility, you, yourself?
16 A. Only after it closed.
17 Q. Do you recall if there were any steam
18 piping systems or boilers in that facility?
19 A. No, I do not.
20 Q. Have you ever done any work at the -- what
21 was Southland Paper plant out in Lufkin?
22 A. Yes, I have.
23 Q. Okay. When were you most recently at that
24 facility?
25 A. I believe I was there in 1996, Spring of

1 A. Wallace Campbell.
2 Q. And was Mr. Campbell a safety member of
3 the safety team for Brown & Root?
4 A. He was the safety -- site safety
5 supervisor at Armco.
6 Q. Is he still employed by Brown & Root?
7 A. No, sir. Mr. Campbell died in 1990.
8 Q. Do you know what he died of?
9 A. Yes, I do.
10 Q. What was that?
11 A. Ruptured esophagus.
12 Q. Was that as a result of a workplace
13 accident or --
14 A. No, sir, it was not.
15 Q. Was it related in any way to cancer?
16 A. No, sir, it was not.
17 Q. Well, you've raised my curiosity; but I
18 don't really think it's any of my business. So, I
19 won't ask you what it was.
20 What did you do -- what were your duties
21 and responsibilities in that two-week period where
22 you replaced Mr. Wallace Campbell in the Spring of
23 '72?
24 A. The same duties that the site safety
25 supervisor would have, and that's to monitor the --

1 the work that's going on for safety and health
2 concerns.
3 Q. Okay. And did -- did you spend your two
4 weeks there walking around or going from location to
5 location within the facility to observe the
6 Brown & Root work practices?
7 A. Yes, I did.
8 Q. Do you have any specific recollections as
9 you sit here today of the nature of the work that was
10 on -- ongoing at any of those specific sites?
11 A. Yes, I do recall some of the work.
12 Q. Tell me what you recall.
13 A. I recall them pouring some concrete.
14 Q. Okay.
15 A. I recall them erecting some steel, and I
16 recall them erecting a -- either a smoke stack or a
17 tower of some sort.
18 Q. All right. Do you believe, as you sit
19 here today, there was probably other work going on
20 that you just can't recall?
21 MR. HEWITT: Objection;
22 speculation.
23 A. No.
24 Q. (BY MR. WATERS) As you sit here today,
25 you are certain that that is the only work you

1 observed?
2 A. Yes.
3 Q. Okay. How do you know that?
4 A. Well, because I remember what I was doing.
5 Q. Okay.
6 A. And that was --
7 Q. All right. And approximately how many
8 Brown & Root employees were there at the facility at
9 that time that you were responsible for as -- on the
10 relief safety job?
11 A. I would have to guess at that, and I would
12 say between 150 and 200.
13 Q. Okay. All of the work that you observed
14 in that two-week time frame was new construction as
15 opposed to repair or maintenance work?
16 A. That's correct, yes.
17 Q. Do you have any recollection of there
18 being any work involving asbestos or any involvement
19 with asbestos at that time?
20 A. No, sir, there was not.
21 Q. When did you next visit the Armco
22 facility?
23 A. No response.
24 Q. Let me -- let me ask you this question,
25 first: How long a period of time did you continue to

1 be classified as an administrative assistant with
2 these safety duties?
3 A. Probably up until early 1972.
4 Q. Okay. So, by the spring of '72 when you
5 had this Armco visit, you would have been
6 reclassified?
7 A. That's correct.
8 Q. And what would your position have been
9 then?
10 A. I'm not sure of the title. It may have
11 been assistant safety supervisor.
12 Q. Okay.
13 A. It was a training period.
14 Q. You were called assistant safety
15 supervisor, but you were still undergoing training?
16 A. That's correct.
17 Q. And for how long a period were you
18 undergoing training on safety matters as an assistant
19 safety supervisor?
20 A. Until September of 1972.
21 Q. Okay. So, for about nine months or so?
22 A. Correct.
23 Q. And in that nine months, did you receive
24 continuous training in all areas of workplace safety?
25 A. Yes, sir.

1 Q. Did that training include training about
2 hazardous substances, occupational hazards such as
3 asbestos?
4 A. Yes, it did.
5 Q. And did it include methods for reducing
6 the hazards of exposure to hazardous substances,
7 including asbestos?
8 A. Yes, it did.
9 Q. Did you receive training concerning the
10 nature of Brown & Root's responsibility -- or strike
11 that.
12 Did you receive training concerning the
13 nature of Brown & Root's corporate policy with respect
14 to hazardous substances or hazardous conditions that
15 resulted from Brown & Root work that could impact
16 other workers in the vicinity?
17 MR. HEWITT: Object to the
18 overbroad, speculative form of the
19 question.
20 A. I -- I don't remember a policy addressing
21 that.
22 Q. (BY MR. WATERS) Okay. Do you have a
23 general recollection of how Brown & Root addressed
24 that situation?
25 A. We had safety and health procedures that

1 addressed that.
2 Q. Okay. Brown & Root has written safety and
3 health procedures that address the possibility that a
4 hazardous condition could extend to areas where
5 other -- other workers are located but not
6 Brown & Root employees?
7 MR. HEWITT: Objection; overbroad,
8 speculative. It's not tied to the
9 specific circumstances relating to this
10 lawsuit.
11 A. That -- that's part of the general safety
12 and health rules, yes.
13 Q. (BY MR. WATERS) And were those general
14 and -- general safety and health rules, were you
15 learning about those back in your training period in
16 1972?
17 A. Yes, I was.
18 Q. And what did the general safety and health
19 rules indicate was the procedure if Brown & Root
20 operations were to create or involve a hazardous or
21 potentially hazardous exposure that could extend to
22 other workers, non Brown & Root workers?
23 MR. HEWITT: Objection; speculative
24 and overbroad.
25 A. What -- I'm sorry. I didn't hear a

1 question in that. It sounded like a statement. Maybe
2 I missed a word.
3 MR. WATERS: Yeah, go ahead and
4 read that back to him.
5 (The requested portion of the
6 record was read by the
7 reporter.)
8 A. Well, our -- our safety and health
9 procedures are that we protect all of the people that
10 may be exposed to do the hazards, not just
11 Brown & Root employees.
12 Q. Okay. So, Brown & Root as early as 1972
13 recognized it's own responsibility to protect other
14 workers from potential hazards?
15 MR. HEWITT: Object to the
16 overbroad form of the question.
17 A. Yes.
18 Q. (BY MR. WATERS) And from your standpoint
19 as a safety professional, you would agree that that's
20 an appropriate way for a corporation to -- to look at
21 health and safety, not just for its own employees but
22 for its other folks?
23 A. Yes.
24 Q. And is it your recollection that -- that
25 that principle and that responsibility was stated in

1 the written general health and safety rules as early
2 as 1972?
3 A. Yes.
4 Q. Were there specific procedures written
5 into those rules for how to -- how to communicate to
6 other workers or how to -- or what steps to take to
7 try to protect other workers when you had a common job
8 site with a lot of people going in different
9 directions?
10 MR. HEWITT: Objection; overbroad
11 and speculative.
12 A. Yes, there were.
13 Q. (BY MR. WATERS) And what -- if you can
14 recall generally, what -- how Brown & Root wanted its
15 employees to react to that situation and what they
16 would do or what the approach was?
17 A. Barricades, signs, employee watches, hole
18 coverage in the instance of exposure to holes.
19 Q. Okay. So, that there were a variety of
20 steps that the Brown & Root folks would take to make
21 certain that the hazardous condition, whatever it was,
22 would not be a danger or a potential hazard to people
23 who did not work for Brown & Root?
24 A. That's correct.
25 Q. Do you recall that any of those general

1 health and safety rules had specific application to
2 asbestos?
3 A. There were specific rules in the asbestos
4 procedures that called for barricades.
5 Q. Okay. And am I correct that Brown & Root
6 generally adopted as its own rules, its own
7 procedures, its own policy, what we stated in the OSHA
8 regulations?
9 A. As far as I know, yes.
10 Q. And Brown & Root's safety policies and
11 procedures -- well, Brown & Root would essentially
12 adopt whatever the regulations stated concerning
13 hazards and how to deal with those hazards?
14 A. For the most part, yes.
15 Q. Can you think of any specific regulations
16 or regulatory requirements, either State or Federal,
17 that Brown & Root did not adopt?
18 MR. HEWITT: I'll object to the
19 misleading form of the question.
20 A. No.
21 MR. HEWITT: It's a
22 mischaracterization of his testimony. Go
23 ahead.
24 Q. (BY MR. WATERS) Was your answer "no"?
25 A. That's correct. No.

1 Q. The only one. Okay.
2 A. Oh, yes.
3 Q. And approximately how many Brown & Root
4 employees were at that facility?
5 A. I'm going to have to guess at 200.
6 Q. Understanding that's an approximation.
7 A. Right.
8 Q. And what type of work were they doing when
9 you got there in late '72?
10 A. They -- there was an explosion there which
11 destroyed the facility, and we went in to tear it out
12 and then rebuild it.
13 Q. Is that a refining operation of some sort?
14 A. They made the lemon freshen scent that
15 goes in borax and that sort of thing.
16 Q. Had the explosion destroyed the entire
17 facility?
18 A. For the most part, yes.
19 Q. Well, had -- had there been fatalities?
20 Had there been a serious --
21 A. If I'm not mistaken, there were seven
22 fatalities.
23 Q. And, so, Brown & Root basically went in
24 and cleaned up the mess and rebuilt the place?
25 A. That's correct, yes.

1 Q. Okay. Was -- did some of that work
2 involve removal, in whatever form, of insulation
3 materials that had been in place before the explosion?
4 A. Yes, it did.
5 Q. Okay. And did that include asbestos
6 insulation materials?
7 A. No, it did not.
8 Q. Okay. And how is it that you know that?
9 A. It was a brand-new facility, and all of
10 the materials in there were nonasbestos.
11 Q. When had the facility been built?
12 A. It was -- they had just completed it.
13 It -- it blew up on it's initial run, initial
14 startup.
15 Q. Okay. Had Brown & Root built the facility
16 in the first place?
17 A. That's correct, yes.
18 Q. And was it sometime in 1972 that the
19 explosion took place?
20 A. September of 1972.
21 Q. Okay. So, you finished your training; and
22 this was -- they needed somebody there, and off you
23 went? Okay.
24 A. That's correct.
25 Q. Do you recall any of the installation

1 materials that were used on that job, their names?
2 A. No, I do not.
3 Q. How is it that you have an understanding
4 that they were -- that no asbestos was used?
5 A. That's what the plant safety supervisor
6 told me what when I initially arrived on site.
7 Q. And that was a gentleman who was not a
8 Brown & Root employee?
9 A. That's correct.
10 Q. Do you recall his name?
11 A. No, I sure don't.
12 Q. Now, did you understand at that time that
13 if the site had been insulated with asbestos
14 materials, that the process of -- of removing or
15 cleaning up from the explosion was going to be much
16 lengthier and more expensive?
17 MR. HEWITT: Object to the
18 speculative form of the question. Assumes
19 facts not in evidence.
20 A. It would also be slower because of the way
21 he would have to do it, yes.
22 Q. (BY MR. WATERS) Okay. And -- and because
23 it would be slower, it would be more expensive and all
24 of those types of things?
25 A. That's partially true.

1 Q. All right. Did -- did you-all ever make
2 any effort to actually sample the insulation materials
3 that remained in place to confirm whether or not they
4 contained asbestos?
5 MR. HEWITT: Object to the
6 speculative form of the question.
7 Q. (BY MR. WATERS) If you can recall.
8 A. To my knowledge, no, it was not done. To
9 my knowledge, it was not tested, no.
10 Q. Okay. Is it your understanding that
11 nonasbestos thermal insulation materials were
12 available before 1972?
13 A. Yes.
14 Q. Okay. Is it your understanding that they
15 were available in the 1960s?
16 A. I don't know about that.
17 Q. Did you make any effort to -- to check
18 with the Brown & Root folks that were involved with
19 the initial construction to confirm one way or the
20 other whether the materials were asbestos or
21 nonasbestos?
22 A. The project manager told me that they had
23 put nonasbestos insulated material on the piping.
24 Q. Okay. The project manager --
25 A. Brown & Root project manager, correct.

1 Q. -- for Brown & Root? Okay.
2 Did the project manager tell you that the
3 whole plant was asbestos-free, or did he just say that
4 the pipe covering was nonasbestos?
5 A. I specifically asked him about any
6 asbestos insulating material, and he said there was
7 none because it was specified in the contract not to
8 put asbestos-related material in it.
9 Q. And that plant would have -- do you know
10 approximately how long it took to build that plant?
11 A. I'm going to guess nine months maybe.
12 Q. So, probably the majority of that plant
13 was put together during 1972?
14 A. That's correct.
15 Q. Okay. You'll agree with me that you can't
16 tell if you just look at some pipe covering in place
17 whether or not it's asbestos?
18 A. Yes.
19 Q. And if you have pipe covering in place,
20 especially if it was installed before 1972, the proper
21 procedure is to do some kind of core sampling and
22 determine whether or not it contains asbestos?
23 MR. HEWITT: Object to the
24 overbroad form of that question. It's not
25 reasonably restricted to relevant time

1 periods or geographic locations or
2 circumstances relevant to this lawsuit.
3 Q. (BY MR. WATERS) You can answer.
4 A. You can tell by taking a small portion of
5 it and crumbling it in your hand whether or not it has
6 asbestos in it --
7 Q. Could you --
8 A. -- to some extent.
9 Q. To some extent? Okay. Have you actually
10 done that yourself?
11 A. Yes
12 Q. Have you ever personally observed the rip
13 out or tear out of asbestos thermal insulation?
14 A. By Brown & Root personnel?
15 Q. Well, let's start with by anybody.
16 A. Yes, I have.
17 Q. Okay. And did you observe that that
18 process creates -- or can create a significant amount
19 of -- of dust?
20 MR. HEWITT: Object to the
21 overbroad form of the question. It's
22 speculative as phrased, not limited to
23 circumstances surrounding the facts
24 presented in this case.
25 A. The times that I have observed them

1 removing insulation have either been in a negative
2 pressure environment or they have been removing it
3 wet --
4 Q. (BY MR. WATERS) Okay.
5 A. -- to where there was not a lot of dust
6 created.
7 Q. All right. Fair enough. So, your
8 observation of that process, there were measures
9 taken, such as what you've just described, that
10 reduced the amount of dust significantly?
11 A. Yes.
12 Q. All right. And as you -- as you've
13 testified, when you remove or tear out that material
14 with the wetting method or with negative pressure,
15 then it produces some dust, but not a lot?
16 A. Correct.
17 Q. All right. You've not had an opportunity
18 to observe the tear out or rip out of asbestos thermal
19 insulation without those protective mechanisms in
20 place?
21 A. No, I have not.
22 Q. Okay. You would agree with me that if
23 there was rip-out or tear-out work after 1971 without
24 those protective mechanisms in place, that that would
25 be a violation of the regulations?

1 MR. HEWITT: Object to the
2 overbroad form of the question. It's also
3 not restricted to any sort of geographic
4 location and is speculative.
5 A. I -- I'm not sure that that would be a
6 violation, no. That's not my understanding that it
7 would be a violation.
8 Q. (BY MR. WATERS) Okay.
9 A. It would depend on the amount of dust put
10 in the air, the type of removal process that you went
11 through --
12 Q. Okay.
13 A. Whether or not the substance was
14 encapsulated
15 Q. If there was a removal of asbestos
16 insulation, I think, at a minimum, you would agree
17 with me that the regulations would require air
18 monitoring to be done to determine the levels in the
19 air?
20 A. That's correct.
21 Q. Okay.
22 MR. HEWITT: You're talking about
23 the 1970s now, correct?
24 MR. WATERS: Right.
25 Q. (BY MR. WATERS) Have you ever observed

1 Brown & Root employees involved with the removal of
2 asbestos?
3 A. Yes.
4 Q. And when was that for the first time?
5 A. 1973, Champion Paper -- I mean Southland
6 Paper.
7 Q. The one in Channelview?
8 A. Sheldon, correct.
9 Q. What was the nature of that project?
10 A. That -- we were putting in a No. 7 paper
11 machine.
12 Q. And what was the type of insulation that
13 was being removed?
14 A. It was the transite siding.
15 Q. Okay. Is that what you already told us
16 about earlier?
17 A. Correct.
18 Q. Okay. And I think you already told us --
19 there were precautions taken?
20 A. That's correct, yes.
21 Q. Was air monitoring done?
22 A. No, it was not.
23 Q. So, in that instance, even though you
24 didn't know the exact levels of fiber in the air
25 because you hadn't done air monitoring, you-all took

1 significant additional precautions to reduce or
2 eliminate the hazard?
3 A. Yes.
4 Q. And you'll agree with me that you don't
5 need to do air monitoring to know whether or not a
6 work process such as ripping out insulation can create
7 dust?
8 MR. HEWITT: I object to the
9 overbroad, vague form of the question.
10 A. Yes, but the amount of asbestos in the
11 dust is the main reason for the monitoring.
12 Q. (BY MR. WATERS) Fair enough. Any other
13 instances where you have observed the removal or tear
14 out or rip out of asbestos material?
15 A. No, sir. No, sir.
16 Q. Knowing what you know -- I'm sorry. Do
17 you need a break or --
18 A. No. I made noise in his microphone.
19 Q. Okay. Knowing what you know and what you
20 knew as of 1971 about asbestos and cancer and some of
21 the hazards of asbestos, if you were to observe a rip
22 out or tear out procedure that was creating visible
23 dust and there were no precautions being taken, is
24 that something that would concern you as a safety
25 professional?

1 MR. HEWITT: Object to the
2 speculative form of the question.
3 A. Yes, it would.
4 Q. (BY MR. WATERS) And that's something that
5 would have concerned you as a safety professional as
6 early as 1972?
7 A. Yes, it would.
8 Q. If you observed that type of operation
9 with Brown & Root employees involved, what would you
10 have done? Would you have stopped the work?
11 MR. HEWITT: Objection; speculative
12 and assumes facts not in evidence.
13 A. I would have tried to find out what they
14 were tearing out and whether or not -- what
15 precautions they had already taken, what testing had
16 already been done.
17 Q. Okay.
18 A. And if I didn't like the answer I got,
19 then, yes, I would shut it down.
20 Q. Are you familiar with the general
21 principle that in the absence of testing to confirm
22 whether or not insulation material is not asbestos,
23 that safety professionals are to -- to include that it
24 is, in fact, asbestos?
25 A. Yes.

1 Q. And the purpose of that is to, again,
2 avoid or eliminate or reduce potentially hazardous
3 exposures to the workers?
4 A. Yes.
5 Q. How long were you on the Rhodia Chemical
6 job?
7 A. Until January of 1973.
8 Q. Four or five months, something like that?
9 A. Correct.
10 Q. Where did you go after that?
11 A. I went to Southland Paper at Sheldon.
12 Q. Now, the asbestos transite removal you
13 described, that was Brown & Root workers, right?
14 A. Correct.
15 Q. Did you -- the Sheldon Southland Paper
16 facility, did it have a significant amount of steam
17 piping and insulated steam pipes?
18 A. There is a significant amount inside the
19 plant, yes.
20 Q. Okay. Did you have any observations
21 concerning the way Southland was dealing with asbestos
22 or the potential hazard from the insulation of their
23 plants?
24 A. In 1973, no.
25 Q. Did you at a later time come to understand

1 how they were addressing or if they were addressing
2 asbestos hazard in the plants?
3 A. Yes.
4 Q. What did you -- what do you recall about
5 that?
6 A. They started marking, testing and marking
7 to tell which -- which insulation had asbestos and
8 which did not.
9 Q. And when did they start doing that?
10 A. I'm going to guess 1970s, late Seventies.
11 Q. Okay. How long were you at Southland?
12 A. I was there until May of 1974.
13 Q. So, about a year and a few months?
14 A. Correct.
15 Q. Did you have occasion to go back later?
16 Is that why you're telling me about this marking?
17 A. Yes. Yes.
18 Q. Okay. Do you have an -- an understanding
19 or a recollection that the regulations required that
20 asbestos materials be marked or signs be placed on
21 them so that workers would understand the potential
22 hazard?
23 A. I know that that's a requirement; but I'm
24 not sure when it came into effect, and I'm not sure
25 when I became aware of it. I just know it -- it is a

1 requirement.
2 Q. Okay. You'll agree with me that the
3 purpose of that requirement is so that workers who
4 might not -- might not otherwise understand that
5 insulation materials could be hazardous would be able
6 to take proper precautions if they have to work around
7 it?
8 A. Correct.
9 Q. And you'll agree with me that employees or
10 workers generally are not likely to seek or take
11 precautions around hazardous materials unless they
12 have been told or informed that, in fact, those
13 materials or hazardous?
14 MR. HEWITT: I object to the
15 overboard, speculative form of the
16 question. It assumes facts not in
17 evidence. It's highly speculative.
18 Q. (BY MR. WATERS) You can answer.
19 A. The question was that employees --
20 MR. WATERS: Let -- let me let her
21 read it back. Otherwise, I -- I won't get
22 it straight. Go ahead.
23 (The requested portion of the
24 record was read by the
25 reporter.)

1 that because we require our employees or ask our
2 employees to ask if they're not sure. So, I can't see
3 that a person would unknowingly be exposed to
4 asbestos.
5 MR. WATERS& Okay. Let me again
6 object as nonresponsive.
7 Q. (BY MR. WATERS) I apologize. We're just
8 having a communication problem here.
9 The reason workers ask about potential --
10 what's in the pipe covering, is because they know that
11 asbestos is hazardous and it may contain asbestos,
12 right?
13 MR. ERWIN: Objection; calls for
14 speculation.
15 A. I -- I agree, yes, sir.
16 Q. (BY MR. WATERS) Okay. And you'll agree
17 with me if they don't know asbestos is hazardous, then
18 they're not going to ask whether or not the pipe
19 covering contained asbestos because they're not going
20 to have any reason to be concerned about it?
21 MR. HEWITT: Objection;
22 speculative.
23 Q. (BY MR. WATERS) See what I'm --
24 A. Well, yeah, I guess. I'm still not
25 comfortable with answering "yes" to that because, like

1 I say, we require a mask. And I -- I'm talking
2 specifically about Brown & Root employees.
3 Q. Okay.
4 MR. WATERS: And, again, let me
5 object to the nonresponsive portion.
6 Q. (BY MR. WATERS) Put Brown & Root out of
7 your mind for a second.
8 A. Okay.
9 Q. You'll agree with me that if workers
10 are -- workers need to be educated about hazards; they
11 need to know about hazards so they can take their own
12 precautions?
13 A. Yes.
14 Q. And if they don't know about hazards and
15 haven't been hold about hazards, then they're probably
16 not going to take precautions because they don't know
17 about the hazard that they're facing?
18 A. Yes.
19 Q. Fair enough. Okay. After May of '74,
20 where did you go?
21 A. I went to the highway and paving group of
22 Brown & Root.
23 Q. For how long a period of time?
24 A. Until November of 1975.
25 Q. Any work -- anything having to do with

1 asbestos?
2 A. No, sir.
3 Q. Okay. What did you start doing in
4 November of '75?
5 A. I went to work as the safety supervisor
6 out in the Pasadena field operations.
7 Q. Now, did that involve a number of sites?
8 A. Yes.
9 Q. Tell me some of them that you recall.
10 A. Ethyl, Exxon, Southland Paper, Stauffer
11 Chemical, Goodyear, Lubrizol, Shell, and --
12 Q. Is that Shell -- sorry. Is that Shell
13 Deer Park?
14 A. Shell Deer Park.
15 Q. Okay,
16 A. Diamond Shamrock, also Shell out on 6,
17 whatever it's called. It's a research -- Shell
18 research facility.
19 Q. Okay.
20 A. Various docks in and around Houston.
21 Q. All right. There may be others, but have
22 you covered most of them?
23 A. Yeah. The grain elevators, we've been
24 working the grain elevators.
25 Q. All of these various facilities, did they

1 have Brown & Root maintenance crews working at them on
2 a regular basis?
3 MR. HEWITT: Object to the --
4 A. It may have been --
5 MR. HEWITT: -- overbroad form of
6 the question.
7 A. It may have been construction crews. It
8 depends on the projects.
9 Q. (BY MR. WATERS) Okay.
10 A. Some of them were maintenance and some of
11 them were capital improvements and some of them were
12 new construction.
13 Q. All right. Did you become familiar with
14 the fact that Brown & Root had for many years been
15 performing maintenance and construction work at the
16 Exxon Baytown facility?
17 A. Yes.
18 Q. And as far as the organizational
19 situation, were you -- you were the supervisor over --
20 for safety matters over the ongoing operations at all
21 of these -- approximately 10 or 11 places?
22 A. Yes.
23 Q. Did you travel to all of the different
24 facilities at different times?
25 A. Yes.

1 Q. Did any of the facilities have safety
2 personnel on site?
3 A. Yes.
4 Q. Which ones did or didn't, to the best of
5 your recollection?
6 A. Exxon did. They had multiple personnel
7 out there.
8 Q. Okay.
9 A. Ethyl did. At various times a Shell
10 operation would have. At various times Diamond
11 Shamrock would have. Southland at Sheldon would have.
12 Q. All right. Did you -- by this time, had
13 you become familiar with the -- the general
14 requirement that Brown & Root employees at these -- at
15 these sites were responsible to follow not only their
16 own safety regulations but those of the premises
17 owner?
18 MR. HEWITT: Object to the
19 overbroad form of the question.
20 A. Yes.
21 Q. (BY MR. WATERS) Did you have any personal
22 conversations -- well, let me put it to you this
23 way: How long did you have this job?
24 A. Until November of 1979.
25 Q. Up until November of '79, other than the

1 two weeks you discussed earlier, had you -- did you
2 spend any time at Armco?
3 A. Yes.
4 Q. Was Armco one of the places where you were
5 safety supervisor?
6 A. It -- it would have been one of the jobs
7 out of the Pasadena field operations.
8 Q. All right. Okay. So, we need to add that
9 to the list you gave us earlier?
10 A. Right.
11 Q. Okay. Can you give me a sense of how many
12 times you would have visited the Armco safety facility
13 from '75 to '79 in that capacity?
14 A. I -- I don't think it was more than three
15 or four.
16 Q. Okay. And each time would have been for,
17 what, a day or two at most?
18 A. An hour or two at most.
19 Q. As you sit here today, do you recall --
20 can you recall any particular operations at Armco that
21 you observed in that time frame in those several hours
22 that you would have been out there?
23 A. All of the operations I observed at Armco
24 were new construction operations.
25 Q. All right. Were you aware at that time

1 that there was ongoing work that was in the nature of
2 repair work or maintenance work performed by
3 Brown & Root at the Armco facility?
4 MR. HEWITT: I object to the form
5 of the question. Assumes facts not in
6 evidence, and it's a misleading statement
7 of the evidence.
8 Q. (BY MR. WATERS) You can answer.
9 A. I -- I knew that we did capital
10 improvement out there.
11 Q. Okay. What do you mean by "capital
12 improvement"?
13 A. Capital improvement is anytime that you
14 make a change to a facility. It may involve
15 demolition; it may not.
16 Q. Okay.
17 A. There again, the demolition may be
18 performed by a contractor other than Brown & Root.
19 Q. All right.
20 MR. WATERS: Let me object to the
21 nonresponsive position.
22 Q. (BY MR. WATERS) But I think what you're
23 saying then is, when you use the word "capital
24 improvement," that means that some change or
25 modification work was being done to existing

1 structures, existing equipment, something of that
2 nature?
3 A. There's a possibility that it was done to
4 existing. It could just be adding to an additional,
5 putting in a faster drive or something like that.
6 Q. In the time frame '75 to '79, do you
7 recall having any discussions or communications with
8 anyone with respect to asbestos or asbestos exposure
9 at the Armco facility?
10 A. No, I do not.
11 Q. Do you recall having any interaction with
12 anybody at Armco from '75 to '79 concerning safety
13 generally?
14 A. Yes.
15 Q. Who would that have been?
16 A. I believe Pete Johnson was out there at
17 one time.
18 Q. Now, was a -- he's a Brown & Root guy,
19 right?
20 A. He was a Brown & Root guy, yes.
21 Q. Anybody from Armco that --
22 A. Oh, I -- I don't remember the guy's name.
23 Yes, I do remember going to the safety office; but I
24 don't remember their names.
25 Q. Would you agree that to the extent

1 Brown & Root had been performing maintenance work --
2 or what did you call it -- capital improvement work --
3 A. Capital improvement.
4 Q. -- at some of these various facilities for
5 many, many years, that Brown & Root would have been
6 aware of their requirements for safety at the
7 workplace?
8 MR. HEWITT: I object to the
9 overbroad form of the question. It
10 assumes facts not in evidence and is
11 misleading with respect to the
12 circumstances surrounding the facts of
13 this lawsuit.
14 A. "Their" being the clients? Is that --
15 Q. (BY MR. WATERS) Right.
16 A. Yes.
17 Q. So, for example, if Brown & Root had been
18 doing a significant amount of maintenance or capital
19 improvement work or other work at the Exxon Baytown
20 facility since back in the Forties, you would agree
21 that Brown & Root would be familiar with Exxon's rules
22 and requirements for safety and health at the Exxon
23 Baytown facility?
24 MR. HEWITT: I object to the
25 speculative form of that question. It

1 assumes facts not in evidence and is
2 misleading. It's highly speculative for
3 this witness.
4 Q. (BY MR. WATERS) You can answer.
5 A. Yes.
6 Q. Your answer is?
7 A. Yes.
8 Q. Any of these facilities that we've just
9 discussed -- I guess we can put aside Armco for the
10 moment. Any of these facilities, '75 to '79, do you
11 recall any discussions or any issues raised with
12 respect to asbestos or possible asbestos exposure?
13 A. No, I do not.
14 Q. Anything in the time frame '75 to '79, do
15 you have any recollection of any special projects
16 concerning asbestos?
17 A. No, I do not.
18 Q. Do you have -- I take it, then, you don't
19 have any recollection, for example, of reviewing any
20 air sampling records concerning asbestos in that time
21 frame?
22 A. No, I do not.
23 Q. Was there an industrial hygienist on staff
24 for Brown & Root by November of '75?
25 A. I'm not sure of when they came to work for

1 Brown & Root; but I would say, yes, there probably was
2 at that time, yes.
3 Q. Did you know Mr. Richardson?
4 A. Yes.
5 Q. And did you have any interaction with
6 Mr. Richardson in the November '75 to November '79
7 time frame?
8 A. Yes.
9 Q. Okay. I take it from your earlier
10 discussions, that none of -- your earlier testimony,
11 that none of those communications or discussions with
12 Mr. Richardson in that time frame would have pertained
13 to asbestos, or at least none that you can recall?
14 A. None that I can recall, no.
15 Q. Fair enough.
16 A. Not specifically.
17 Q. Before November of '75, had you -- do you
18 recall any discussions with Mr. Richardson about the
19 hazards of asbestos?
20 A. No, I don't recall it.
21 Q. You don't recall ever receiving any degree
22 of -- of training from Mr. Richardson, either formal
23 or informal, about the hazards of asbestos back --
24 going back to when you had your initial training in
25 '72?

1 A. He was not around in '72; so, no.
2 Q. Okay. We're up to November of '79. What
3 happens next?
4 A. I was moved into the home office as
5 assistant safety manager under Wallace Campbell.
6 Q. That's back on Clinton Drive?
7 A. That's correct.
8 Q. And Mr. Campbell, was he at that time the
9 safety manager?
10 A. Correct.
11 Q. Mr. Chadwick, what had happened to him?
12 A. Mr. Chadwicck had been replaced as
13 safety -- I guess he would have been safety director
14 for Brown & Root.
15 Q. I'm sorry. I got myself confused. Was --
16 did you use the term safety manager and safety --
17 A. That -- originally, safety manager was the
18 head guy.
19 Q. Oh, okay.
20 A. And then somewhere along the line, they
21 changed it. Safety coordinators are the ones that are
22 now safety managers.
23 Q. All right, sir. In any event,
24 Mr. Campbell would have been your direct superior --
25 A. Yes, sir. That's --

1 Q. -- starting November of '79?
2 A. That's correct.
3 Q. What were your duties and responsibilities
4 as the assistant safety manager, starting in November
5 '79?
6 A. To support the safety manager and support
7 the job sites, be a liaison between the job sites and
8 the home office.
9 Q. All right. Were you, in effect, the
10 number two member of the safety department, behind
11 Mr. Campbell?
12 A. For the industrial civil division, yes.
13 Q. As opposed to what other divisions?
14 A. As opposed to -- Brown & Root's made up
15 of -- was made up at that time of like eight different
16 divisions.
17 Q. Okay.
18 A. And then it would have a corporate safety
19 department.
20 Q. Okay. So, Mr. -- Mr. Campbell was not --
21 was he or was he not a member of the corporate safety
22 department, as well?
23 A. No. He was not a member, but he was -- he
24 did have dotted-line responsibility to corporate
25 safety.

1 Q. Okay. Did you ever have any discussions
2 with Mr. Campbell concerning asbestos or the hazards
3 of asbestos?
4 A. Not that I recall.
5 Q. Okay. Did you continue to have
6 responsibility for involving some of Brown & --
7 Brown & Root work sites both in the State of Texas and
8 nationwide?
9 A. Yes.
10 Q. And did you continue to travel to those
11 facilities?
12 A. Yes.
13 Q. How long were you in the position of
14 assistant safety manager?
15 A. Until October of 1980.
16 Q. Okay. Then what happens?
17 A. Mr. Campbell died, and I moved up.
18 Q. And you became the safety manager?
19 A. For the industrial civil division, yes.
20 Q. And at that time you were how old?
21 A. 31 maybe.
22 Q. That's a pretty big job, isn't it?
23 A. Yes.
24 Q. Mr. Campbell was significantly older than
25 you?

1 A. He was late 50s or early 60s. I'm not
2 sure.
3 Q. Okay. And your duties and
4 responsibilities covered literally dozens of work
5 sites around the country?
6 A. Yes.
7 Q. And all aspects of industrial safety and
8 industrial hygiene and those areas?
9 A. I was primarily responsible for the
10 industrial safety with just -- the responsibility with
11 industrial hygiene had to do with notifying the
12 corporate industrial hygiene person.
13 Q. All right. And who would that have been
14 in this time frame?
15 A. It would have been Charles Richardson and
16 Steve Sellers.
17 Q. Okay. So, if you had issues come up at
18 any of the many job sites where you had
19 responsibilities that related to industrial hygiene or
20 industrial health, you would refer those matters to
21 Mr. Richardson or Mr. Sellers?
22 A. Correct.
23 Q. Were you responsible for workplace
24 training at the -- all these various facilities?
25 A. Yes.

1 Q. And did you --
2 A. Safety training.
3 Q. Safety training. All right. And were you
4 then involved in distributing training materials or
5 literature to people on the job site so they could
6 educate the workers?
7 A. Yes.
8 Q. Do you have a recollection of any specific
9 training that pertained to the hazards of asbestos?
10 A. No.
11 Q. How long were you in that position?
12 A. That's -- I'm still in it.
13 Q. You're still in it. Right. Okay. Well,
14 it's kind of bad becoming boss so young. Where do you
15 go from there?
16 Has your -- has your position in any way
17 changed other than to probably get bigger and more
18 complex?
19 A. Basically, no.
20 Q. Okay. How many -- can you give us a sense
21 of approximately how many work sites and approximately
22 how many -- how many Brown & Root employees were under
23 your safety guidance or safety net, let's say, in
24 1980?
25 A. 19?

1 Q. '80.
2 A. Probably 5,000. That's a -- that's a
3 guess.
4 MR. HEWITT: Don't guess or
5 speculate.
6 Q. (BY MR. WATERS) In your capacity as the
7 safety manager for the industrial civil division, have
8 you been since October of 1980 the seniormost
9 supervisory employee for Brown & Root involved with
10 safety management for the industrial civil division?
11 A. No.
12 Q. Who else?
13 A. The industrial civil division is no
14 longer.
15 Q. Okay. What is your specific title now,
16 then? Safety manager for what?
17 A. I'm primarily responsible for forest
18 products, minerals, heavy civil, and mining.
19 Q. Okay. October '80 -- let me ask you this:
20 Did you ever visit the Armco facility after November
21 of '79?
22 A. Yes.
23 Q. When was that?
24 A. I'm not sure. It would have been in the
25 time frame after I moved up with --

1 Q. After what?
2 A. After I moved up with Wally Campbell.
3 Q. Okay. All right. So, sometime after
4 October of '80? I'm sorry. Sometime after November
5 of '79?
6 A. Correct.
7 Q. But before Mr. Campbell passed away?
8 A. It probably would have been after he
9 passed away.
10 Q. All right.
11 A. So, after October of '80.
12 Q. Is there just one instance that you
13 recall?
14 A. Well, I recall being out there, yes.
15 Q. Okay. Can you tell me any more than that?
16 Do you have any specific recollection of
17 what you were doing out there, what the nature of the
18 visit was?
19 A. It was just a job visit. I mean, it was
20 just --
21 Q. Okay. Any --
22 A. No specific reason for being there.
23 Q. All right.
24 MR. HEWITT: Is this a good time
25 for a break?

1 MR. WATERS: Sure.
2 MR. HEWITT: Let's take a short
3 break.
4 THE VIDEOGRAPHER: It is 3:43 p.m.
5 We're off record.
6 (A recess was taken.)
7 THE VIDEOGRAPHER: It is
8 4:00 o'clock p.m. We're back on record.
9 Q. (BY MR. WATERS) In your capacity as
10 safety manager from October '80 to the present, can
11 you tell me or do you recall any particular instances
12 where there was a concern expressed about asbestos or
13 you needed to address an asbestos issue or anything of
14 that nature?
15 A. Yes.
16 Q. Okay. Tell me -- well, is that on a
17 number of occasions or one or two in particular or --
18 A. Well, one stands out in my mind for sure.
19 Q. Let's take that one first.
20 A. And that was in May of this year.
21 Q. Okay. And what did that involve?
22 A. We had employees that were concerned about
23 insulation being removed, as to whether it contained
24 asbestos.
25 Q. Where was that?

1 A. Luke, Maryland.
2 Q. I'm sorry?
3 A. Luke, L-u-k-e, Maryland.
4 Q. What kind of facility?
5 A. It's a paper mill.
6 Q. These were Brown & Root employees?
7 A. Correct.
8 Q. And were they in the process of some
9 capital improvement work?
10 A. Yes.
11 Q. Okay. And they came across some older
12 insulation material?
13 A. No. Some -- another contractor was
14 removing insulation.
15 Q. Okay.
16 A. And we were concerned with it because we
17 worked in the area.
18 Q. Okay. Now, Brown & Root has been involved
19 with the asbestos abatement itself, has it not, in the
20 past?
21 A. There is a group within Brown & Root that
22 does -- that has done asbestos abatement, yes.
23 Q. Okay. All right. This situation in Luke,
24 Maryland, did you personally get involved with that?
25 A. Yes.

1 Q. Did you go to the facility?
2 A. Yes.
3 Q. Okay. And tell me a little bit more about
4 how that developed.
5 A. Well, the concern was that -- that the
6 insulation contained asbestos, is what the employees
7 thought. And we had it tested, and it did not.
8 Q. Okay. And do you have a recollection as
9 to -- or did anybody know when that insulation was
10 initially installed?
11 A. No.
12 Q. Okay.
13 A. Well, I don't know -- I don't know
14 personally.
15 Q. Fair enough. In any event, the
16 appropriate -- you took what I'm sure you consider to
17 be the appropriate course of action, which was to test
18 the material and to determine whether or not it
19 presented any type of potential hazard?
20 A. The material had already been tested by
21 the facility itself. This contractor was removing
22 asbestos insulation as well as nonasbestos insulation.
23 And the employees just got concerned because they
24 thought that this was asbestos-containing insulation.
25 Q. Okay. And there was some removal of

1 asbestos insulation going on at the facility?
2 A. Yes.
3 Q. And then there was removal of other
4 materials where the concern was that it may have also
5 been asbestos?
6 A. Yes.
7 Q. And you sort of double-checked that
8 material and determined that it was not asbestos?
9 A. Yes.
10 Q. But there was other material that was
11 removed that was asbestos?
12 A. Yes.
13 Q. Okay. Did any of the Brown & Root
14 employees claim or have any of the employees presented
15 a claim that they were exposed to asbestos in that
16 time frame?
17 A. A medical claim?
18 Q. Or a compensation claim, any type of
19 claim.
20 A. No.
21 Q. Okay. All right. What other instances do
22 you recall from '80 to '97 concerning asbestos in your
23 position as the safety manager?
24 A. Late -- late Eighties or early Nineties,
25 we became concerned that some material that we were

1 working around may contain asbestos, so we shut down
2 the work and called in the client to test the
3 material.
4 Q. Where was that?
5 A. Champion Paper in Courtland, Alabama.
6 Q. And did it turn out that the material was,
7 in fact, asbestos?
8 A. Yes.
9 Q. Did that happen sort of in the same way as
10 Luke, Maryland; that is to say, you had employees who
11 were concerned that they might be getting exposed?
12 A. No.
13 Q. How did it come about?
14 A. When they removed the casing from the
15 insulation, it just did not look right to them. So,
16 they -- they stopped.
17 Q. And this is Brown & Root employees?
18 A. Yes.
19 Q. Okay. They were actually involved with
20 removing the material. Something about the appearance
21 of the material concerned them that it might be
22 asbestos?
23 A. Yes.
24 Q. All right. And it was at that time that
25 you had the premise owner of Champion Paper go ahead

1 and test the material?
2 A. Yes.
3 Q. And, in fact, it was asbestos?
4 A. Yes.
5 Q. All right. Do you recall, was there a
6 supervisor on the job who -- who noticed this
7 potential problem and brought it to your attention?
8 A. The safety supervisor is the one that
9 brought it to my attention.
10 Q. Okay. This safety supervisor for
11 Brown & Root who was on the job had a concern that
12 people might be getting exposed or had the potential
13 to get exposed to asbestos, so that's why he called
14 you?
15 A. The employees called him; and then he, in
16 turn, informed me of it.
17 Q. Okay. Is that normal procedure for
18 Brown & Root, if they -- if their employees get
19 involved with or interact with a material that they're
20 concerned may be asbestos, that you-all have the
21 premises owner test it? Is that sort of standard
22 operating procedure?
23 A. I would say that's general, yes.
24 Q. Okay. Does Brown & Root -- would it be
25 unusual for Brown & Root themselves to take a core

1 sample on somebody else's premises to determine what
2 the material consisted of?
3 A. No.
4 Q. Do you-all do that, too?
5 A. Yes.
6 Q. Okay. Well, tell me under what
7 circumstances you do it one way as opposed to doing it
8 another way.
9 A. Well, if the client has already contracted
10 with someone to come out and test and -- which most of
11 them have now. They have gone out, tested,
12 identified, abated the asbestos, or, at the very
13 least, identified the asbestos-related material. In
14 case of future demolition, it would already be
15 identified.
16 Q. Okay.
17 A. And it has to be marked.
18 Q. Right. And you're familiar with the fact
19 from your professional background, that in -- in most
20 facilities, the asbestos material is marked in such a
21 way so that the workers and people who may have to
22 interact with it understand it's asbestos?
23 A. Normally, yes.
24 Q. Okay. On -- on that particular issue, if
25 we can go back to the 1970s up to the early 1980s, do

1 you recall whether or not Armco Steel had -- had in
2 place an ability or a contractor or some service to
3 determine whether certain materials might or might not
4 be asbestos?
5 A. I'm not aware if they did.
6 Q. Okay. You don't have any recall of ever
7 being told that -- that Armco had that type of service
8 in place?
9 A. No.
10 Q. In the 1970s and early 1980s, would
11 Brown & Root have been relying on Armco to advise it
12 of the presence of asbestos-containing materials and
13 the potential hazard that those materials may have --
14 might create?
15 MR. HEWITT: Objection;
16 speculative.
17 A. I don't know.
18 Q. (BY MR. WATERS) As we discussed before,
19 in -- at least in the '70s, did Brown & Root -- was it
20 sort of the official policy to -- to assume that
21 insulation materials in place were probably asbestos
22 until and unless testing had indicated that they were
23 not?
24 MR. HEWITT: Object to the
25 speculative form of the question. It's

1 also repetitious.
2 A. Overall, I'd have to say yes.
3 Q. (BY MR. WATERS) Okay. Have you seen any
4 of the documentation that indicates that there was in
5 excess of 100,000 linear feet of asbestos pipe
6 covering at the Armco facility in the 1970s?
7 MR. HEWITT: Objection to the form
8 of the question. Assumes facts not in
9 evidence. It's misleading.
10 MR. GONZALEZ: I join in that
11 objection.
12 A. I don't recall the -- the amount of
13 asbestos.
14 Q. (BY MR. WATERS) When did Brown & Root's
15 work at Armco end? Was it when the plant closed?
16 A. Yes.
17 Q. '83 or '84?
18 A. Now, they may have done some work after
19 the plant closed. I'm not aware. My -- my
20 involvement with it, it probably ended in the late
21 Eighties, '83 or so. Maybe mid Eighties.
22 Q. Okay. All right. Other than the Luke,
23 Maryland, and Champion Paper facility in Courtland,
24 Alabama, what other specific experiences or
25 involvement have you had with the hazards of asbestos

1 in your position as the safety manager?
2 A. I -- I can't recall any. Those two just
3 stick out in my mind.
4 Q. Okay. Fair statement that in terms of the
5 amount of time you spend day to day working on safety
6 matters -- all kind of safety matters, I'm sure --
7 that asbestos has not been a big part of your work
8 from October '80 to the present?
9 A. It's normally covered by our industrial
10 hygiene people. So, the answer to that for my part
11 would be "no."
12 MR. WATERS: Okay. Let me object
13 to that nonresponsive portion.
14 Q. (BY MR. WATERS) Have you ever seen any
15 sampling results that indicate the amount of asbestos
16 dust in the air from the Armco facility at any time
17 from '71 to '83?
18 A. Yes.
19 Q. Okay. What sampling results have you
20 reviewed?
21 A. The sampling that Steve Sellers did at the
22 Armco facility in the bag house.
23 Q. All right. Do you recall -- did you
24 review that recently?
25 A. Yes.

1 Q. As part of your preparation to testify?
2 A. Yes.
3 Q. Did you review any other documents besides
4 that particular document?
5 A. Yes.
6 Q. What else did you look at?
7 A. He had two separate occasions where he did
8 some testing out there, if I'm not mistaken. And then
9 there were some other documentation pertaining to
10 Brown & Root's asbestos guidelines.
11 Q. Okay. And were these documents shown to
12 you in preparation for your deposition by Mr. Hewitt
13 or one of the other attorneys for Brown & Root?
14 A. Yes.
15 Q. Do you recall, from your review of those
16 documents, was the bag house sampling that was done,
17 was that in the later 1970s?
18 A. It was in 1980.
19 Q. It was in 1980? Okay. And the other
20 separate occasion that you recall seeing or reviewing
21 some --
22 A. I believe it was 1980. Either '81 or '82.
23 Q. Okay. So, to the best of your knowledge,
24 there is no documentation that indicates air
25 monitoring or air sampling for asbestos at the Armco

1 facility prior to '80 or '81?
2 MR. HEWITT: I object to the form
3 of the question. Assumes facts not in
4 evidence and is speculative.
5 A. I'm not aware of any, no.
6 Q. (BY MR. WATERS) Okay. Mr. Sellers was --
7 is an industrial hygienist?
8 A. I believe he was, yes.
9 Q. He was? Is he no longer employed with
10 Brown & Root?
11 A. Well, he's employed by Halliburton.
12 Q. Oh, okay.
13 A. But he's in the safety field there.
14 Q. Okay. Did you have any involvement
15 with -- or any -- yeah, any involvement with the
16 background for -- for those -- the sampling that
17 Mr. Sellers did in '80 or '81?
18 A. No.
19 Q. Okay. Is it a fair statement that you're
20 not aware of any sampling being done with respect to
21 asbestos-containing pipe covering material at the
22 Armco facility?
23 A. I'm not aware of any, no.
24 Q. Would you agree with me that you're not in
25 a position to tell the jury in this case what

1 exposures may have taken place to asbestos or may not
2 have taken place to asbestos at Armco in the period
3 from 1960s, Seventies, and on into the Eighties?
4 MR. HEWITT: I object to the
5 speculative form of the question.
6 A. I would agree with that.
7 Q. (BY MR. WATERS) Okay. Some quick items:
8 Would you agree with me, sir, that asbestos is a toxic
9 substance, based on your training and experience in
10 the field?
11 A. Yes.
12 Q. Would you agree with me -- you may already
13 have -- that you would consider asbestos fibers to be
14 a hazardous material?
15 A. Yes.
16 MR. HEWITT: Object to the
17 overbroad form of these last two
18 questions.
19 Q. (BY MR. WATERS) Okay. Have you learned
20 in your training and experience, sir, that asbestos
21 causes -- or asbestos exposure causes certain types of
22 lung diseases?
23 MR. HEWITT: Objection;
24 repetitious.
25 MR. ERWIN: Also, overbroad, vague,

1 and ambiguous.
2 A. I'm aware that there are some that say
3 that, yes.
4 Q. (BY MR. WATERS) All right. Let's talk
5 about some specifics.
6 Are you aware, for example, that asbestos
7 exposure can cause a type of lung scarring called
8 asbestosis?
9 MR. HEWITT: Again, I object to the
10 form of the question. It's calling for
11 the opinion of a medical expert, and it's
12 also imprecise under the circumstances in
13 which the alleged asbestos exposure can
14 cause that disease process. It's
15 imprecise and ambiguous.
16 Q. (BY MR. WATERS) You can answer.
17 A. I'm aware that there's some that claim
18 that, yes.
19 Q. There's some that claim that?
20 A. Yes.
21 Q. Do you have any reason to believe that's
22 not the case?
23 A. Well, there are also others that don't --
24 that claim that there's not.
25 Q. Who are you aware of, sir -- is there

1 someone at Brown & Root that states that asbestos
2 exposure doesn't cause asbestosis?
3 A. No.
4 MR. HEWITT: Objection; misleading
5 and a mischaracterization of his
6 testimony.
7 Q. (BY MR. WATERS) Are you aware of anyone
8 that you would consider or any author, any text book,
9 anyone who would consider that -- or state that
10 asbestos does not cause asbestosis?
11 A. No, sir.
12 Q. Okay.
13 A. I can't give you a name, no.
14 Q. So, when you state -- stated earlier that
15 there are some who claim that asbestos causes
16 asbestosis, you personally would agree with that,
17 based on your experience and background and
18 professional training?
19 MR. HEWITT: I object to the form
20 of the question. It's repetitious. And,
21 again, it's an imprecise question in terms
22 of calling for an opinion of a medical
23 expert without any specifics as to the
24 circumstances surrounding whether asbestos
25 exposure could cause the disease process.

1 foundation has been made. And
2 circumstances surrounding where alleged
3 asbestos exposure can cause that disease
4 process are not part of the question. So,
5 it's misleading and ambiguous.
6 Q. (BY MR. WATERS) You can answer.
7 A. I'm not aware of the amount of exposure
8 that causes it.
9 Q. Okay. And have you become aware in your
10 professional training as a safety professional and as
11 a safety manager for Brown & Root that asbestos
12 exposure can cause lung cancer?
13 MR. ERWIN: Vague, ambiguous,
14 overbroad, not specific.
15 A. I'm -- I'm aware that there have been
16 claims for that, yes.
17 Q. (BY MR. WATERS) All right. Now, when you
18 say that you're aware there have been claims for that,
19 as you sit here, as the safety manager for
20 Brown & Root, do you dispute that asbestos exposure
21 can cause lung cancer?
22 A. No.
23 MR. HEWITT: I object to the form
24 of that last question. It's overbroad and
25 vague.

1 Q. (BY MR. WATERS) Is -- is your -- is
2 whatever reservation you have about asbestos causing
3 lung cancer have to do with whatever amount may be
4 required, amount of exposure?
5 A. Amount and other factors.
6 Q. Okay. For example, what other --
7 A. Smoking.
8 Q. Okay. Smoking. Certainly, you're aware
9 that smoking is a significant cause of lung cancer,
10 correct?
11 A. Yes.
12 Q. Okay. And presumably -- well, I should
13 ask. As safety manager, are you involved or do you
14 have any involvement with efforts to have your
15 employees stop smoking cigarettes?
16 A. No.
17 Q. Okay. Are you aware of any other
18 materials out at Armco that were used such as the
19 thermal insulation, but any other materials besides
20 that, that exposure to which could cause cancer?
21 A. No.
22 MR. HEWITT: Object to the
23 speculative form of that last question.
24 Assumes facts not in evidence.
25 Q. (BY MR. WATERS) Will you agree with me,

1 sir, that a corporation or company has a -- both a
2 legal and a moral obligation to protect its workers
3 from known hazardous substances?
4 MR. HEWITT: I object to the form
5 of that question. It calls for a legal
6 conclusion on the part of the witness. No
7 predicate or foundation has been laid, and
8 it's overbroad.
9 MR. ERWIN: Also to the extent it
10 misstates the proper legal standard.
11 Q. (BY MR. WATERS) You can answer.
12 A. I agree.
13 Q. Okay. Do you agree with me, sir, that a
14 corporation has both a legal and a moral obligation to
15 warn its workers that they may be exposed to
16 substances in the workplace that can cause cancer?
17 MR. HEWITT: I object to the form
18 of the question. Calls for a legal
19 conclusion. It's overbroad and misstates
20 the legal standard.
21 Q. (BY MR. WATERS) you can answer.
22 A. I agree.
23 Q. Do you agree with me, sir, that a
24 corporation or a company has a legal and moral
25 obligation to protect nonemployees working in the

1 vicinity who may be exposed to hazardous or
2 cancer-causing substances from that corporation's
3 operations?
4 MR. HEWITT: Same objections. It
5 calls for a legal conclusion and fails to
6 state the proper legal standard. And
7 it's -- object to generally the improper
8 form of the question. It's in -- in
9 effect argumentative.
10 A. I agree.
11 Q. (BY MR. WATERS) And, lastly, do you
12 agree, sir, that a corporation has both a legal and a
13 moral obligation to nonemployees working in the same
14 vicinity as -- as operations, if they may be exposed
15 to cancer-causing substances?
16 MR. HEWITT: Same objections. It's
17 also misleading.
18 A. I agree.
19 Q. (BY MR. WATERS) If -- and, again, I'm
20 asking you this question as a safety professional and
21 somebody who's had, goodness, 25 years, I guess, in
22 the field.
23 If a company knows that a particular
24 substance is hazardous or can -- or can cause cancer,
25 and also knows that there are specific regulations,

1 safety requirements for working around that material,
2 and fails to follow the regulations, would you agree
3 with me that that company is indicated to be -- or is
4 expressing a lack of concern for the safety of the
5 workers and people who may be exposed?
6 MR. ERWIN: Objection; vague,
7 ambiguous, and incomplete hypothetical to
8 the extent it's purporting to relate to
9 the facts in this case.
10 MR. HEWITT: It also assumes facts
11 not in evidence and does not relate to the
12 facts or circumstances in issue in this
13 lawsuit.
14 Q. (BY MR. WATERS) You can answer.
15 A. I agree.
16 Q. And you as a safety professional would
17 presumably be critical of a company that failed to
18 follow regulations and, as a result, workers or even
19 nonemployees were exposed to cancer-causing
20 substances?
21 MR. HEWITT: Object to the
22 overbroad form of the question.
23 MR. ERWIN: It's vague and
24 ambiguous and calls for a legal conclusion
25 and misstates the legal standard.

1 Q. (BY MR. WATERS) You can answer.
2 A. Yes.
3 Q. In your opinion, sir, are products,
4 asbestos products, that in their normal use can let
5 off asbestos-containing dust, do you consider those
6 products to be potentially dangerous?
7 MR. HEWITT: I object to the form
8 of that question. It's ambiguous and
9 vague, speculative for this witness.
10 A. Yes.
11 Q. (BY MR. WATERS) I want to talk to you
12 about a few documents from the Brown & Root corporate
13 files that were provided by the -- by the Brown & Root
14 lawyers --
15 MR. WATERS: Let's go ahead and
16 change before I get into this.
17 THE VIDEOGRAPHER: It is 4:24 p.m.
18 We're off record.
19 (A recess was taken.)
20 THE VIDEOGRAPHER: It is 4:27 p.m.
21 We're back on record.
22 Q. (BY MR. WATERS) Just very briefly, were
23 you -- did you have an opportunity to look at what's
24 been marked as Exhibit No. 1 or an earlier version of
25 Exhibit No. 1, a deposition notice for your

1 deposition?
2 A. No, I did not.
3 Q. Okay. So, you did not have an opportunity
4 to review a list of documents that you were supposed
5 to produce at the deposition?
6 A. Mike read those out yesterday.
7 Q. Oh, he talked to you about it on the
8 phone?
9 A. Correct.
10 Q. Okay.
11 A. No, in person.
12 Q. In person? All right. So, you met
13 Mr. Hewitt, the Brown & Root lawyer, yesterday?
14 A. Yes.
15 Q. For how long a period of time did you-all
16 met?
17 A. An hour, two hours, hour and a half.
18 Q. Okay. What did you-all talk about?
19 MR. HEWITT: Well, I object to the
20 form of the question.
21 MR. WATERS: That's right.
22 MR. HEWITT: Instruct the witness
23 not to answer.
24 MR. WATERS: He's an employee.
25 Q. (BY MR. WATERS) Do you still have any

1 educational materials, including books, class notes,
2 course outlines, or other materials related to
3 industrial health or safety in your office?
4 A. No, sir.
5 Q. Okay. How about seminar materials?
6 MR. HEWITT: Well, Brown & Root has
7 filed objections to the subpoena duces
8 tecum. Some --
9 MR. WATERS: Yeah. I -- go ahead.
10 MR. HEWITT: Subject -- subject,
11 you know, to it we -- we have produced --
12 previously produced some documents that
13 would have already been responsive to it,
14 anyway.
15 MR. WATERS: You mean back when I
16 took Heit, Drysdale, and Gaines'
17 depositions?
18 MR. HEWITT: No, I'm talking about
19 the --
20 MR. WATERS: This --
21 MR. HEWITT: -- the asbestos --
22 MR. WATERS: Okay.
23 MR. HEWITT: -- package material
24 and the air sampling reports as well as
25 the Brown & Root contract documents

1 relative to work at the Armco Steel plant.
2 With respect to specific items
3 contained in that Request for
4 Production -- and I don't mind you asking
5 the witness to the extent he may have
6 knowledge of certain things, but we have
7 filed objections to those individual
8 matters and certain matters that we'll
9 just have to address to the Court.
10 MR. WATERS: Well, my -- my biggest
11 concern is -- and you may or may not know
12 that -- but I -- this -- but I think you
13 probably read Drysdale, Heit, and Gaines'
14 previous depositions. And at that time,
15 those depositions were taken at Clinton
16 Drive; and they produced a large volume of
17 material, none of which was made available
18 for copying. But they produced it at the
19 time of the deposition, and it was
20 represented to me that it consisted of
21 generally the industrial hygiene library
22 and -- and general industrial hygiene
23 materials for Brown & Root that pertained
24 to asbestos.
25 And I've specifically asked that

1 those be reproduced for the purpose of
2 these depositions because they obviously
3 have a direct application to what we're
4 here for. And that -- what I'm gathering
5 is you're not going to produce them.
6 MR. HEWITT: Well, I didn't --
7 first of all, that's not -- I didn't
8 appreciate that --
9 MR. WATERS: Take a look at --
10 MR. HEWITT: -- that was the
11 contents of those exhibits.
12 MR. WATERS: -- No. 14.
13 MR. HEWITT: You know, I -- all I
14 can say is if, you know, copies of those
15 exist and you didn't -- you didn't request
16 a copy of them? That sounds as if --
17 MR. WATERS: No. We settled the
18 case, though. They were supposed to make
19 me copies. We settled the case the next
20 day. They did not make me copies.
21 Now, it and may be that we should
22 take the depositions later in the week at
23 Brown & Root to be able to review those
24 because they're fairly voluminous. But
25 they're an important part of the

1 litigation.
2 MR. HEWITT: Well, I, as you know,
3 was not the Brown & Root lawyer in the
4 Hodge case. So, I don't know what
5 documents were produced at -- at those
6 depositions.
7 I'll just say on -- on the face of
8 it, that particular request doesn't fall
9 within, I feel, the gamma of -- of
10 Rule 167.
11 MR. WATERS: Why not?
12 MR. HEWITT: It fails to set out a
13 reasonable particular area of documents
14 for which production is sought.
15 MR. WATERS: Well, you know exactly
16 or your -- your people know exactly what
17 was produced at that deposition. I mean,
18 your people were there.
19 MR. HEWITT: Well, Andy, you and I
20 aren't going to resolve -- resolve this
21 now. And from the standpoint --
22 MR. WATERS: Well, I want to get --
23 I mean, if you're not going to produce
24 those for deposition by this week, I want
25 to get on the horn with the judge and get

1 an order, because that's ridiculous.
2 That's stonewalling to the max.
3 MR. HEWITT: Well, I'm not going to
4 argue with you on the record on that.
5 We -- we filed our objections. I --
6 MR. WATERS: Tell me --
7 MR. HEWITT: Again, I was not there
8 at -- at the deposition. I don't know
9 what documents were produced.
10 If you're saying you want -- again,
11 you know, I'll have to find out what
12 documents were produced. I don't know
13 what the extent that is. Are you saying
14 the entire industrial hygiene library?
15 MR. WATERS: Well, it's not -- I
16 mean, it was probably two boxes of
17 material. It was books, it was pamphlets,
18 it was articles, it was a variety of
19 educational and other materials that
20 Brown & Root has maintained as its
21 industrial hygiene library particularly
22 maintaining to asbestos.
23 So, let's take a break and call the
24 judge.
25 THE VIDEOGRAPHER: It is 4:33 p.m.

1 We're off record.
2 (A recess was taken.)
3 MR. WATERS: We have been
4 discussing the fact that Brown & Root has
5 not produced any materials whatsoever as
6 requested in the subpoena duces tecum
7 first provided more than a week ago to
8 Brown & Root concerning Item Nos. 1, 2,
9 4 -- I'm sorry. 1, 3, 4, 5, 14.
10 And those documents are known to be
11 in existence. They have been previously
12 produced by Brown & Root. I believe -- as
13 a matter of fact, I think it was as a
14 result of a Court order.
15 The documents are easily
16 ascertainable by an interview with
17 Mr. Drysdale or Mr. Gaines. They know
18 where the documents are and what they are,
19 and they have previously produced them.
20 I understand in my discussions with
21 Mr. Hewitt that he has not discussed that
22 with any of the witnesses, and I would be
23 happy to hear what efforts you've made to
24 produce those documents.
25 MR. HEWITT: Well, I'm not going to

1 argue with you on the record, Mr. Waters.
2 MR. WATERS: You don't have to
3 argue with me. You can just tell me what
4 you --
5 MR. HEWITT: I -- I am going to
6 tell you that we have filed proper
7 objections to each of those individual
8 item requests. They -- I might add that
9 this amended deposition notice was served
10 on us yesterday evening.
11 MR. WATERS: There's been no change
12 in the document request. It's precisely
13 the same as it was a week ago.
14 MR. HEWITT: Let me also add that
15 Items 1, 3, 4, and 5 aren't even
16 reasonably restricted to asbestos
17 awareness or asbestos hazards. They're
18 so overbroad, it's incredible and
19 literally encompass thousands of
20 documents. So, we stand by our objections
21 to these requests.
22 We have produced contract documents
23 and documents relative to air sample and
24 personnel sampling and monitoring out at
25 Armco Steel plant as well as documents

1 contained within Brown & Root files
2 relative to asbestos and safety at the
3 workplace, which have been produced to you
4 on numerous occasions.
5 At this point, to try to
6 reconstruct something that happened in a
7 deposition over a year ago is a highly
8 burdensome task and --
9 MR. WATERS: Have you read the
10 depositions?
11 MR. HEWITT: And we have just
12 been -- this Request for Production is
13 nothing but a form of harassment by the
14 plaintiffs on Brown & Root --
15 MR. WATERS: Have you -- are you
16 telling --
17 MR. HEWITT: -- which has been
18 ongoing throughout this lawsuit.
19 MR. WATERS: Have you read the
20 depositions, Mr. Drysdale, Mr. Heit, and
21 Mr. Gaines'?
22 MR. HEWITT: Again, I'm not going
23 to argue with you on -- on the record.
24 MR. WATERS: Nobody is asking you
25 to argue. I'm asking you to state your

1 position.
2 MR. HEWITT: You and I are -- we --
3 I stated my position, and I have no
4 further --
5 MR. WATERS: You're not going to
6 answer that question?
7 MR. HEWITT: What I'm going to do
8 is, we're going to take this matter up
9 with the Court.
10 MR. WATERS: We certainly are.
11 All right. Well, I'm going to
12 adjourn the deposition. It's not over.
13 We're going to have to come back once the
14 documents are -- have been produced.
15 I'm going to cancel the depositions
16 for later in the week unless I can get to
17 the Court before then, which seems
18 unlikely.
19 We'll take it all up with the Court
20 next Monday. I'll file a motion to compel
21 and for sanctions, and we will ask the
22 Court to give us the depositions with
23 proper production of the documentation
24 before we go forward with the depositions.
25 That's what's appropriate, and

1 that's the way this should be handled.
2 You had a week to respond to this issue.
3 Nothing new, nothing different.
4 These documents have been
5 previously produced, and Brown & Root
6 knows precisely what they are. And I told
7 you exactly how you can find out where
8 they are and what they are.
9 And if you're not going to produce
10 them, then there's no point in going
11 forward with the depositions. They're
12 significant documents, very relevant to
13 the litigation. So...
14 MR. HEWITT: Are you suggesting you
15 don't want to go forward with the
16 deposition of Mr. Crestani, either?
17 MR. WATERS: I -- I can't. I mean,
18 I'm not in a position to depose people
19 when you don't produce documents that are
20 relevant to the litigation. I mean,
21 there's -- you tied my hands.
22 Not only that, I should state for
23 the record that despite the fact that
24 Mr. Heit, Mr. Drysdale, and Mr. Gaines
25 were previously deposed in this asbestos

1 litigation, Brown & Root's taken the
2 position that we cannot use those previous
3 depositions. So, you're making us
4 redepose them; and you don't even want to
5 produce the documents that were produced
6 last time when they were deposed under
7 Court order.
8 I mean, what -- you don't give me
9 any option. So, I'm not going to be able
10 to complete this deposition. I'll ask all
11 the questions I can; but, obviously, I
12 cannot complete the deposition without
13 these significant materials that pertain
14 to industrial hygiene and safety, the
15 subject about which he's being questioned.
16 And we'll take it up next Monday.
17 Okay. We can go ahead and get back
18 on the video.
19 THE VIDEOGRAPHER: It is 4:58 p.m.
20 We're back on record.
21 Q. (BY MR. WATERS) Who was Mr. Harry Austin?
22 Do you recall that name?
23 A. I believe he was a vice president with
24 Brown & Root.
25 Q. Okay. Did he have some -- to the best of

1 your recollection, some responsibilities for health
2 and safety matters?
3 A. His -- in his position, he may have been
4 over the personnel group, which, in turn, safety was
5 part of the personnel group.
6 Q. All right. Going back to the 1971 and
7 1972 time frame, did you understand that all of the
8 Brown & Root supervisors were supposed to become
9 familiar with the asbestos regulations?
10 MR. HEWITT: Object to the
11 overbroad form of the question.
12 A. I'm -- I don't recall.
13 Q. (BY MR. WATERS) Okay. Do you recall a
14 gentleman named Stan Rauhut, R-a-u-h-u-t?
15 A. Rauhut, yes.
16 Q. And he was in the legal department,
17 correct?
18 A. Yes.
19 Q. Okay. Do you recall that he was -- he had
20 some involvement with interpretation of -- an
21 interpretation or application of the new asbestos
22 regulations?
23 A. His position, I think, dealt with all of
24 those regulations.
25 Q. Okay. Was he also involved with the --

1 the -- with -- with Brown & Root's providing
2 commentary or comments or feedback to the Federal
3 government about the regulations generally?
4 A. I -- I don't know about that.
5 Q. Did -- did he get involved with lobbying
6 efforts on behalf of Brown & Root on regulatory
7 matters?
8 A. I don't know.
9 Q. Do you recall that there were a series of
10 safety memos in the early 1970s that addressed the
11 OSHA regulations and the hazards of asbestos, any
12 recollection of that?
13 A. I don't recall specifically.
14 Q. Okay. Let me show you what's -- what is
15 identified as a Brown & Root office memo, OSHA safety
16 Memo No. 25 of November 7, 1972. And I guess we
17 should first -- let's see if you are copied on this
18 anywhere. Let's see.
19 A. No.
20 Q. Okay.
21 A. I don't believe there are any safety
22 personnel copied on there. Those are all officers and
23 operations people.
24 Q. Okay. All right. And this is from
25 Mr. Chadwick, the manager of the safety department?

1 exposures might be taking place?
2 A. Of a general nature, yes.
3 Q. Okay. When you say that, what do you
4 mean?
5 A. Well, I know that they were -- I can't
6 recall a specific time frame, but I know there were
7 other documents coming out about asbestos and exposure
8 to asbestos. I know that there was monitoring going
9 on at select places.
10 Q. All right. Can you tell from looking at
11 this if any of the persons copied on this document are
12 at Armco Steel -- or were at Armco Steel, I should
13 say?
14 A. Safety coordinator, supervisors, and
15 trainees. It should have gone to the safety
16 supervisor at Armco Steel.
17 Q. All right. So, this document telling all
18 these folks at -- at Brown & Root that we need to know
19 where potential exposures are taking place would have
20 probably gone to a Brown & Root safety coordinator or
21 supervisor in -- at the Armco facility?
22 A. Yes.
23 Q. And who would that have been in November
24 of 1972?
25 MR. HEWITT: Objection;

1 speculative.
2 Q. (BY MR. WATERS) If you know.
3 A. Wallace Campbell.
4 Q. For Armco?
5 A. For Brown & Root.
6 Q. I'm sorry. I may have confused you with
7 my question.
8 Who would have been the safety coordinator
9 or supervisor responsible for Armco at that time?
10 A. For Armco the client?
11 Q. For the -- I'm sorry. For the Armco site.
12 A. For the Brown & Root people at Armco?
13 Q. Yes, sir.
14 A. That would have been Wallace Campbell.
15 Q. Okay. I apologize.
16 And Mr. Chadwick goes on to state, "We
17 need to take dust samples at these work areas to be
18 sure we are within the permissible limits of five
19 asbestos fibers per cubic centimeter of air."
20 Okay. Did I read that correctly?
21 A. Yes.
22 Q. Okay. Now, this was in November of 1972.
23 I think you've told us previously that you have not
24 seen any sampling results or -- and are not aware of
25 any sampling results prior to 1980 or '81 at the Armco

1 facility in the Houston area.
2 MR. HEWITT: Object to the
3 overbroad form of that question. It's
4 also misleading and a mischaracterization
5 of his testimony.
6 Q. (BY MR. WATERS) Is that correct, sir?
7 A. That's correct.
8 Q. Okay. So, to the extent Mr. Chadwick is
9 saying, "We need to do this dust sampling," in 1972,
10 you don't have any knowledge that would indicate that
11 that was done in any way, shape, or form at the Armco
12 facility until some eight or nine years later?
13 MR. HEWITT: I object to the form
14 of the question. It's a misstatement of
15 his testimony, and it's misleading.
16 A. I was not assigned to the Armco facility.
17 So, I would not be aware of any sampling that did or
18 not take place there.
19 Q. Okay.
20 MR. WATERS: Objection to
21 nonresponsive.
22 Q. (BY MR. WATERS) My question simply put
23 is: You don't have any knowledge about and you're not
24 aware of any sampling done between -- in the eight- or
25 nine-year period after this memo was produced?

1 MR. HEWITT: Objection.
2 Q. (BY MR. WATERS) And you've not seen any
3 sampling results that would indicate that, have you?
4 MR. HEWITT: Objection; misleading.
5 It's a mischaracterization of his
6 testimony, and it's repetitious.
7 A. No.
8 MR. ERWIN: I'm sorry guys. Did we
9 call our friend back? I don't know why
10 that dawned on me.
11 MR. WATERS: Let's go off the
12 record for a minute.
13 THE VIDEOGRAPHER: It is 5:05 p.m.
14 We're off the record.
15 (A recess was taken.)
16 THE VIDEOGRAPHER: It is 5:13 p.m.
17 We are back on record.
18 Q. (BY MR. WATERS) Sir, with respect to the
19 eight- or nine-year period from the date of this
20 memorandum, until 1980 or 1981, would you agree with
21 me that you are not aware of any asbestos sampling
22 taking place at the Armco facility nor have you seen
23 any records that would indicate that any such sampling
24 took place in that time frame?
25 MR. HEWITT: Objection;

1 speculative, assumes facts not in
2 evidence, and is misleading.
3 A. Yes.
4 Q. (BY MR. WATERS) Who was responsible
5 within the safety and health department for actual
6 implementation of the regulations?
7 MR. HEWITT: Objection; overbroad.
8 A. It would start with whoever the head of
9 the safety department was, the manager of the safety
10 department. Then it would go down through the
11 individual safety coordinator, down to the safety
12 supervisors, and out to the projects with the project
13 managers and the safety supervisors in the field.
14 Q. (BY MR. WATERS) Okay. Let's talk, for
15 example, about the requirement for physical
16 examinations.
17 With respect to any particular job site,
18 what employee would be responsible to arrange for
19 those?
20 A. I believe it would be the personnel
21 director, personnel supervisor.
22 Q. For that particular facility, for example?
23 A. Correct.
24 Q. Okay. Who would be responsible for
25 ventilation controls and adding ventilation controls

1 to the work site?
2 A. Whatever supervisor is in charge of that
3 particular work.
4 Q. Okay. So, that would be something that
5 would be outside of the safety department?
6 A. Yes.
7 Q. Okay. What about the provision of
8 approved respirators and special clothing for work
9 around asbestos?
10 A. That would be supplied by the safety
11 department upon request by the supervisor of the
12 employees doing the work.
13 Q. Okay. So, if the supervisors specifically
14 requested those materials, the safety department would
15 then provide them?
16 A. Yes.
17 Q. What about provision of a change room?
18 How would that take place? Would -- would that,
19 again, be requested by the work supervisors and then
20 provided by the safety department?
21 A. The change room would probably be provided
22 by the project manager. I mean, that -- that's a
23 large facility. It would not be the -- supplied by
24 the safety department, no.
25 Q. All right. With -- with respect to -- who

1 would be responsible at the work site for
2 recordkeeping, warning signs, and employee education
3 or notification?
4 A. Here again, it would be the supervisor of
5 the employees doing the work with the assistance of
6 the safety department.
7 Q. Okay. All right. Have you ever seen any
8 documentation that would indicate that any of these
9 various measures were ever put into place for
10 Brown & Root employees at the Armco facility?
11 MR. HEWITT: I object to the form
12 of the question. It's overbroad. It's
13 speculative and assumes facts not in
14 evidence.
15 A. Yes.
16 Q. (BY MR. WATERS) What -- what of these
17 various requirements have you seen documentation
18 about?
19 A. The respiratory protection, the protective
20 clothing, the barricades. And I can't recall what
21 else.
22 Q. Okay. Would those have all been with
23 respect to the bag house work that you described
24 earlier?
25 A. Yes.

1 Q. Okay. Which was in approximately 1980?
2 A. Correct.
3 Q. With respect to the decade of the 1970s,
4 am I correct that you have not reviewed any
5 documentation and do not have any information,
6 personal information, personal knowledge, concerning
7 whether these various other measures were taken at
8 the Armco facility for Brown & Root employees in the
9 1970s?
10 MR. HEWITT: I object to the form
11 of the question. It's misleading, assumes
12 facts not in evidence, and essentially
13 assumes that the circumstances surrounding
14 this particular memo were somehow
15 applicable at a given -- particular time
16 at the Armco Steel plant. Therefore, the
17 question as phrased is misleading.
18 Q. (BY MR. WATERS) You can answer.
19 A. I agree.
20 Q. Will you agree with me that from a safety
21 standpoint, that the most important aspect of all
22 these regulations is that initial monitoring
23 requirement?
24 MR. HEWITT: Objection; overbroad.
25 A. I would have to say "no."

1 Q. (BY MR. WATERS) Okay. What do you think
2 is more important than that?
3 A. Identification of material as being
4 asbestos-containing.
5 Q. All right. And do you have any personal
6 knowledge that there were any efforts made in the
7 1970s to actually identify which of the thermal
8 insulation materials at the Armco facility that the
9 Brown & Root folks might work around contained
10 asbestos?
11 MR. HEWITT: Objection; overbroad
12 and not reasonably restricted to relevant
13 time periods or specific circumstances
14 relative to this lawsuit or specific
15 events out at the Armco plant.
16 A. I'm not aware of any, no.
17 Q. (BY MR. WATERS) Let me show you again in
18 the Chadwick memo, November 7, 1972, where it states,
19 "Recordkeeping warning signs and employee notification
20 are required. This is especially important where
21 spraying, demolition, or removal of asbestos is
22 involved."
23 First of all, did I read that correctly?
24 A. Yes, you did.
25 Q. Okay. And would you agree with that

1 statement from Mr. Chadwick in 1972 that these
2 particular requirements, recordkeeping, warning signs,
3 and employee notification or education, were
4 especially important if there was any work going on
5 that involved the spraying, demolition, or removal of
6 asbestos?
7 A. Yes.
8 Q. It goes on to state, "We recommend all
9 employees assigned to work with asbestos be given a
10 pulmonary function test and X rays as required or
11 produce evidence of passing this exam in the previous
12 year."
13 As you sit here today, sir, do you have
14 any knowledge or recollection as to whether or not
15 that was ever done in the 1970s for Brown & Root
16 employees at Armco?
17 MR. HEWITT: Objection; speculative
18 as to this witness.
19 Q. (BY MR. WATERS) You can --
20 A. I'm -- I'm not aware.
21 Q. It states also, "Isolation of other
22 employees from the work area is recommended."
23 Is that a recommendation that you as a
24 professional safety person would agree with?
25 A. Yes.

1 Q. Okay. And -- and the whole idea there is
2 that persons who aren't working hands-on with the
3 material may very well have a significant exposure
4 just from being in the area?
5 MR. HEWITT: Object to the form of
6 the question. Assumes facts not in
7 evidence. It's misleading and speculative
8 as relates to issues -- circumstances
9 surrounding issues in this lawsuit.
10 Q. (BY MR. WATERS) You can answer.
11 A. Yes.
12 Q. Who is Mr. B. W. Bryant, if you know?
13 A. B. W. Bryant was -- I'm not sure of his
14 exact title, but he was the one that was directly over
15 personnel services. He was the -- the -- I'm assuming
16 vice -- I don't know. Vice president over personnel
17 services.
18 Q. All right. Let's take a look at a
19 memorandum from Mr. Chadwick to Mr. Bryant dated
20 November 16, 1972, just a short time, a week or two
21 after the one we just looked at.
22 MR. HEWITT: Excuse me, Counsel.
23 Do you want, for the record, to mark these
24 as exhibits so it will be clearer when we
25 read it back?

1 MR. WATERS: Well, I think they're
2 going to be clear from the date. My
3 problem is I don't have an extra set, and
4 I really don't want to give up my
5 possession of what I've got.
6 MR. HEWITT: Well, I could run a
7 copy.
8 MR. WATERS: You really think
9 that's necessary? I mean, I -- I'm trying
10 to give you the date referral so you can
11 look at it. You've got it -- you've got
12 it right there in front of you?
13 MR. HEWITT: Yeah, but I just
14 thought it would be -- it would be clearer
15 for the record in the future. But let's
16 just see how it goes.
17 MR. WATERS: Okay.
18 MR. HEWITT: If -- I -- I might
19 want to revisit that with you.
20 MR. WATERS: All right.
21 Q. (BY MR. WATERS) Again, this memorandum
22 from Mr. Bryant to Mr. Chadwick -- now, Mr. Bryant is
23 in management, correct?
24 A. Correct.
25 Q. All right. And Mr. Chadwick, we've

1 A. Yes.
2 Q. All right. It goes on to list a number of
3 engineering controls, work practices, and things of
4 that nature, some of which we've already discussed,
5 correct?
6 A. Correct.
7 Q. And, again, it looks like -- two, four --
8 about 15 different methods that are supposed to be
9 used to protect workers from asbestos?
10 A. Yes.
11 Q. Okay. And then moving on to the second
12 page, he goes and he talks again about this
13 requirement that this monitoring or sampling be done.
14 Do you see that?
15 A. Yes.
16 Q. Okay. And it indicates that when the
17 monitoring is being done, when they're taking these
18 samples, they're supposed to put up caution signs. Do
19 you see that?
20 A. Yes, sir.
21 Q. Okay. And then let's look here at the --
22 how Mr. Chadwick finishes his letter.
23 "This will give you some idea of the
24 complexities of this problem faced by Brown & Root
25 until a substitute for asbestos is on the market in

1 large enough amounts for use in new construction."
2 Did I read that correctly?
3 A. Yes, sir.
4 Q. Okay. Now, you already new by this date
5 that substitutes were available for thermal insulation
6 because you knew and Brown & Root knew that an entire
7 facility had been insulated with nonasbestos
8 materials. Is --
9 MR. HEWITT: Object to overbroad.
10 MR. WATERS: Let me finish my
11 question.
12 Q. (BY MR. WATERS) Isn't that what you told
13 us before?
14 MR. HEWITT: Object to the
15 overbroad form of the question. It
16 assumes facts not in evidence.
17 Q. (BY MR. WATERS) You can answer.
18 A. Yes.
19 Q. Okay. And what you knew from your
20 experience at -- what was the name of the place,
21 again?
22 A. Rhodia.
23 Q. -- Rhodia, was that as early as the
24 beginning of 1972, nonasbestos thermal insulation was
25 available and that's what Brown & Root had used on

1 that job, correct?
2 A. Correct.
3 Q. Okay. So, when Mr. Chadwick talks about
4 some future date when there will be a substitute
5 available, in actual fact, although he probably didn't
6 know it, Brown & Root knew that there was already an
7 available substitute, didn't they?
8 MR. HEWITT: Object to the form of
9 that question. Assumes facts not in
10 evidence and is speculative as to what
11 Mr. Chadwick knew or didn't know. It's
12 also misleading. It's a
13 mischaracterization of his testimony and
14 the document itself.
15 A. The way I read this, it says "is on the
16 market in large enough amounts." So, he's aware that
17 there is a substitute --
18 Q. (BY MR. WATERS) Okay.
19 A. -- but it my not be in large enough
20 amounts.
21 Q. Okay. Well, it certainly was large enough
22 amounts for that other job you did, wasn't it, because
23 the place was asbestos-free? You built the whole
24 thing without using asbestos; am I right?
25 A. Correct.

1 Q. Okay. So, if there were large enough
2 amounts available to build an entire manufacturing
3 facility in 1972, apparently Mr. Chadwick wasn't aware
4 of that at that time?
5 MR. HEWITT: Object; speculative,
6 assumes facts not in evidence, and is
7 misleading. We're comparing apples and
8 oranges relative to the facility that
9 Mr. Hodges is testifying to and anything
10 that Mr. Chadwick may be referring to in
11 his memo.
12 Q. (BY MR. WATERS) You can answer.
13 A. I would have to disagree with that
14 statement.
15 Q. With which statement?
16 A. That it was available for one but not the
17 other.
18 Q. Okay.
19 A. There -- there are differences in the
20 types, amounts, things to be insulated, and the
21 different size plants. So, because it was available
22 for one, may not necessarily be that it was available
23 in quantities nor be required or requested by the
24 client to be put in.
25 Q. All right.

1 A. Yes.
2 Q. And, so, for example, employee monitoring,
3 medical monitoring records, and air sampling records
4 had to be retained for at least 20 years?
5 A. Yes.
6 Q. Do you recall that? All right. Were you
7 aware of that fact as early as 1971 or 1972?
8 A. I don't recall the specific time frames
9 now, but I do know that there were specific time
10 frames in place that changed from the initial time
11 frames to lengthier time frames.
12 Q. Okay.
13 MR. HEWITT: I'm going to object to
14 that earlier question regarding the time
15 frame of 20 years as assuming facts not in
16 evidence.
17 Q. (BY MR. WATERS) Let me show you, again, a
18 memorandum from Mr. Chadwick to the project managers
19 and safety supervisors in January of 1973,
20 January 9th.
21 Now, would you have been a safety
22 supervisor at that time?
23 A. Yes.
24 Q. Okay. So, this is probably something that
25 you saw?

1 A. Yes.
2 Q. Okay. And the subject is recordkeeping
3 for asbestos. And it states, "All records required by
4 OSHA to be maintained shall be forwarded to the
5 Houston safety office."
6 Is that consistent with your recollection
7 that from the various Brown & Root job sites around
8 the country, if there was any records such as air
9 monitoring samples required by OSHA, those would have
10 been forwarded to the Houston office?
11 A. Yes.
12 Q. Okay. And the Houston office would have
13 maintained those records, I presume?
14 A. Correct.
15 Q. All right. And then it -- in fact, it
16 specifically states under Item 2, "All records for
17 monitoring of dust samples and the laboratory report
18 shall be sent to the Houston safety office. A copy of
19 the report shall be retained at the job site."
20 Who in particular was responsible at the
21 Houston office for receiving and reviewing and
22 maintaining the dust sampling and monitoring records
23 in the early 1970s?
24 MR. HEWITT: Objection; overbroad
25 and speculative.

1 A. I -- I don't recall who was responsible at
2 that -- during that period you're looking at right
3 there.
4 Q. (BY MR. WATERS) Okay. Well, did you have
5 any responsibility for reviewing air monitoring
6 records -- well, I guess I should ask this way: Do
7 you have any recollection when you were at the Houston
8 headquarters of even receiving any air monitoring
9 records in the 1970s?
10 A. No, sir.
11 Q. Okay. So, to the best of your
12 recollection, there may not even have been any
13 received --
14 MR. HEWITT: Object --
15 Q. -- in the early 1970s?
16 MR. HEWITT: Object to the
17 overbroad form of the question. It's
18 calling for the witness to speculate and
19 assumes facts not in evidence.
20 Q. (BY MR. WATERS) You can answer.
21 A. I am not aware.
22 Q. Okay. But we can agree that Brown & Root
23 had a legal and regulatory obligation to start doing
24 sampling at its work sites as of, what, 1972? Was it
25 December of '72?

1 MR. HEWITT: I object to the form
2 of the question. Calls for a legal
3 conclusion on the part of witness. It's
4 overbroad and ambiguous.
5 A. Yes.
6 Q. (BY MR. WATERS) Did you understand that
7 fiberglass insulation was one of the types of
8 substitute for the asbestos insulation? Did you know
9 that one way or the other?
10 A. Well, I knew that fiberglass insulation
11 did not contain asbestos. So, yes, I guess the answer
12 is yes.
13 Q. Okay. Fair enough. On the subject of
14 when and where Brown & Root met its obligation to
15 provide air monitoring or air sampling, I want to show
16 you a memorandum dated November 15, 1977. And it's
17 from Mr. Richardson, who you've identified as being
18 the corporate industrial hygienist; is that right?
19 A. Yes.
20 Q. Okay. And who is Mr. Fred Samon
21 (phonetic)?
22 A. Fred Samon was the -- probably at that
23 time, he was the -- he had taken Tommy Chadwick's
24 place.
25 Q. Oh, okay.

1 records make no reference whatsoever to individual
2 employees.
3 Is there any other reason you can think of
4 why Brown & Root was maintaining these -- this
5 information in confidential files?
6 MR. HEWITT: I object to the form
7 of the question on the ground it's
8 speculative and assumes facts not in
9 evidence.
10 A. Once again, all records related to
11 employee medical records and monitoring records are
12 confidential records.
13 Q. (BY MR. WATERS) Okay. But I want to show
14 you --
15 A. It does not have to be personal.
16 Q. Okay.
17 A. All records.
18 Q. All right. Even if the records make no
19 reference whatsoever to any individuals?
20 A. Correct.
21 Q. Okay. So, that -- based on that policy,
22 any and all monitoring records of any kind would be
23 confidential, stamped "confidential"?
24 A. That's -- yes.
25 Q. Okay. All right. Well, let's take a look

1 at these confidential records where Mr. Richardson
2 lists all of the times when monitoring was done at
3 Brown & Root operations. And -- let's see. It goes
4 in inverse order.
5 It looks like the first monitoring that
6 Brown & Root ever did was right there at the Clinton
7 Drive shop garage. Do you see that?
8 MR. HEWITT: I object to the form
9 of that question on the grounds it assumes
10 facts not in evidence. It's a
11 mischaracterization of what this document
12 purports to state and be, especially the
13 use of the world "all."
14 MR. WATERS: Well, that's not my
15 word. That's Mr. Richardson's word. If
16 you think "all" means something different
17 from --
18 MR. HEWITT: Yes.
19 MR. WATERS: -- from
20 Mr. Richardson, that's fine.
21 MR. HEWITT: I object to the form
22 of the question on the grounds it's
23 misleading.
24 Q. (BY MR. WATERS) Okay. You can answer.
25 Do you recall the question? I'll be happy to rephrase

1 it.
2 A. That says the shop on Clinton Drive, yes.
3 Q. Okay. And it indicates on this list of
4 all of the sampling that Brown & Root had done up
5 until the fall of 1977, that the first such monitoring
6 they did was in July of '76 involving break and clutch
7 work right there in Houston, correct?
8 A. Correct.
9 Q. And then it shows a number -- eight
10 additional instances in 1976 and 1977 where
11 Brown & Root completed the remainder of all of their
12 sampling up until October, 1977; is that correct?
13 A. Yes.
14 Q. All right. And assuming that
15 Mr. Richardson is correct in his statement that this
16 is all of the monitoring that was done up until fall
17 of '77, that would mean, would it not, sir, that no
18 monitoring was done by Brown & Root of asbestos
19 operations until the summer of 1976, four or five
20 years after OSHA came into effect?
21 MR. HEWITT: Object to the
22 misleading form of the question. Assumes
23 facts not in evidence.
24 Q. (BY MR. WATERS) Is that correct, sir?
25 A. Based on this document, yes.

1 Q. Okay. Do you have any information or any
2 personal knowledge that in any way is different from
3 this? I don't believe you do, based on what you said
4 before; but I need to know that, if you do.
5 A. No, sir.
6 Q. All right. Let's look, for example, at
7 the sampling that was done on October 6, 1977, where
8 there was some work done with asbestos blankets. Do
9 you see that?
10 A. Yes, sir.
11 Q. And it indicated that the exposures were
12 above the OSHA limits. Do you see that?
13 A. Yes, sir.
14 Q. It went on to state that the blankets
15 should be -- to be substituted with fiberglass?
16 A. Yes, sir.
17 Q. Okay. What kind of facility do they have
18 in La Grange, Texas?
19 A. Power plant.
20 Q. Oh. Is that affiliated with any premises
21 owner in particular, or is that a Brown & Root
22 facility?
23 A. No. It's a -- it's a -- I don't know if
24 it's Texas Utilities or who it is. It's not -- no.
25 It's -- it's for a client.

1 Q. Okay.
2 A. But I'm not familiar with who the client
3 is.
4 Q. Fair enough. Let's take a look at another
5 document from Mr. Richardson addressed to Fred Samon
6 again, the safety manager. This is April 1, 1976,
7 related to the asbestos recordkeeping requirements.
8 If you'll just take a look at it with me.
9 Does it indicate that they changed the
10 retention period, the time frame when you had to keep
11 these records, from 3 years to 20 years?
12 A. Yes, sir.
13 Q. Okay. Do you recall that change taking
14 place in terms of your own involvement with -- with
15 environmental issues?
16 A. Basically, yes.
17 Q. Okay. To the extent there was air
18 monitoring done at any time after -- well, strike
19 that.
20 Let's take a look at another memorandum
21 from Carl Richardson.
22 MR. WATERS: By the way, I guess I
23 should state for the record, in case you
24 didn't realize this, these documents were
25 provided to us. Some of them I think I've

1 seen before, but they were provided to us
2 after I put together the Brown & Root
3 exhibit list. But we're obviously going
4 to use some of these documents as
5 exhibits. I haven't assigned them
6 numbers, but I wanted you to be aware of
7 that in case you, for some reason,
8 weren't.
9 MR. HEWITT: Okay. Well, these
10 documents have been provided to you on
11 numerous occasions for long periods of
12 time.
13 MR. WATERS: On numerous occasions?
14 MR. HEWITT: Yeah. Several
15 occasions that I can think of, anyway.
16 Q. (BY MR. WATERS) Okay. Here's a
17 memorandum dated November 26, 1979 -- and, by the way,
18 where would you have been at that point in time?
19 A. November of '79, I would have been in
20 the -- had just moved into the home office.
21 Q. All right.
22 A. Working under Wally Campbell.
23 Q. Under Wally Campbell.
24 A. Correct.
25 Q. Now, would Mr. Campbell's superiors have

1 been Mr. Samon who received this memorandum?
2 A. Wally would have reported directly to the
3 vice president in charge of the division, which
4 probably would have been Emil Zerr at the time, and
5 had dotted-line responsibility back to Fred Samon.
6 Q. All right. The gentlemen that are copied
7 on this memorandum of November 26, '79, Burt Hale and
8 Dale English, who were -- who were those gentlemen?
9 A. Burt Hale was the safety coordinator in
10 charge of the power division, which this memo is
11 obviously --
12 Q. I see.
13 A. And Dale English eventually took Fred
14 Samon's place. What his job was at that time, I'm not
15 sure. Fred may have been working for him at that
16 time. I'm not sure.
17 Q. All right. Fair enough. Take a second,
18 if you will, and just look at this document so you can
19 familiarize yourself with it.
20 I take it, was that a document -- that was
21 not one of the documents that you were shown by the
22 Brown & Root lawyers?
23 A. No, I believe this was one.
24 Q. That was one of them?
25 A. Yes, I believe so.

1 Q. Okay. All right. Well, then you --
2 MR. HEWITT: Let's go off the
3 record for -- for a minute.
4 THE VIDEOGRAPHER: It is 5:43.
5 We're off record.
6 (A recess was taken.)
7 THE VIDEOGRAPHER: It is 5:55 p.m.
8 We're back on record.
9 Q. (BY MR. WATERS) Mr. Hodges, do you recall
10 a few moments ago I was asking you some questions
11 about the Richardson to Samon memorandum of
12 November 15, 1977?
13 A. That's correct.
14 Q. The document that attaches a log of all
15 Brown & Root asbestos monitoring -- monitoring up to
16 October 1977?
17 A. Correct.
18 Q. All right. We've just taken a break. Did
19 you have an opportunity to speak with Brown & Root's
20 counsel about this document during that break?
21 A. Yes.
22 Q. All right. And do you have something you
23 wish to add to or change your previous answer
24 concerning this particular document?
25 A. Well, it could potentially, yes.

1 Q. All right. Tell me what potentially,
2 after talking to the Brown & Root lawyer, you think
3 may be of significance.
4 MR. HEWITT: Well, I object to the
5 form of that question. It's
6 argumentative.
7 A. Well, I sought out the Brown & Root lawyer
8 because of my concerns about the document.
9 Q. (BY MR. WATERS) All right, sir.
10 A. It appears to me that this, rather than
11 being a sampling of exposure to asbestos during normal
12 work operations or during work operations for asbestos
13 removal, this, in actuality, was to try to get a
14 baseline of standard operations that are done across
15 the board, across the company, to find out what the
16 normal level of exposure was to the employees.
17 We did this in sound level studies, took
18 certain operations -- if you look down here at the
19 operations that they were doing, these are operations
20 that could be done on just about any job site. And it
21 was to find out about what type of exposure was there
22 in doing those operations.
23 Q. Okay.
24 A. So, what I'm saying is this does not
25 appear to me to be a document related to all of the

1 testimony, that you have not seen any other sampling
2 results from this time frame that indicate that
3 sampling of tear out or rip out work was done at some
4 other time or in some other way?
5 MR. HEWITT: Objection; it's
6 misleading and assumes facts not in
7 evidence.
8 MR. WATERS: Why don't you just
9 stop the tape for a second.
10 THE VIDEOGRAPHER: It's 6:31.
11 We're off record.
12 (A recess was taken.)
13 THE VIDEOGRAPHER: It is 6:32.
14 We're back on record.
15 (The requested portion of the
16 record was read by the
17 reporter.)
18 A. I'm not aware of any, no.
19 Q. (BY MR. WATERS) Okay. And to the extent
20 that this document may represent an effort to do a
21 baseline study of various operations, as you may --
22 you may have indicated earlier, it's apparent that
23 that was not done, at least with respect to tear out
24 or rip out of insulation materials?
25 A. I think this was operations other than

1 that.

2 MR. WATERS: Let me object as

3 nonresponsive.

4 Q. (BY MR. WATERS) Is -- is the answer to my

5 question "yes"?

6 A. Repeat the question again.

7 MR. WATERS: Read the question

8 back.

9 (The requested portion of the

10 record was read by the

11 reporter.)

12 A. The document does not indicate that, no.

13 Q. (BY MR. WATERS) All right, sir. Let me

14 show you another memorandum from Carl Richardson to

15 Greg Garvin (phonetic). Who is Mr. Garvin?

16 A. I don't know.

17 Q. Okay. The date's September 28, 1977.

18 Subject, asbestos exposure. Okay.

19 Have you seen this memorandum before? Do

20 you recall?

21 A. It -- it may have been in some of that --

22 Q. Okay.

23 A. -- information I reviewed earlier.

24 Q. Now, we talked earlier about the initial

25 monitoring requirement; that is to say, the monitoring

1 that was required of people that were working with or
2 around asbestos to determine if there were any levels
3 of concern. Do you remember that?
4 A. Yes.
5 Q. Okay. Now, in this 1977 memorandum, if
6 you'll look at the second paragraph, Mr. Richardson
7 discusses the initial monitoring; and he says,
8 "Initial monitoring and medical surveillance have been
9 emphasized on OSHA inspectors on other Brown & Root
10 job sites."
11 Okay. Did I -- first, did I read that
12 correctly?
13 A. Yes.
14 Q. Do you have a recollection, sir, that the
15 OSHA inspectors had put some emphasis in their
16 discussions with Brown & Root on this initial
17 monitoring requirement that we've been discussing?
18 A. No, I do not.
19 Q. Okay. Have you ever -- or did you in the
20 1970s, discuss with OSHA inspectors Brown & Root's --
21 whether or not Brown & Root was following the
22 regulations?
23 MR. HEWITT: Object to the
24 overbroad form of the question.
25 A. I do not recall any conversations with

1 OSHA inspectors to that effect.
2 Q. (BY MR. WATERS) Did you ever have any
3 conversations with OSHA inspectors about asbestos at
4 all that you can recall?
5 A. Not that I can recall.
6 Q. Fair enough.
7 And here in the -- in the fourth
8 paragraph, Mr. Richardson, the industrial hygienist
9 for Brown & Root, indicates, "It is important to have
10 initial monitoring if possible."
11 Do you see that part of the last sentence?
12 A. Yes, I do.
13 Q. Okay. And that's something that you agree
14 with as well, don't you, sir, the importance of the
15 initial monitoring?
16 A. Yes, sir.
17 Q. Let me show you a document that's not
18 dated. It was produced by Brown & Root. It appears
19 to be a -- some sort of an information statement about
20 asbestos. I ask if you've seen that before?
21 A. Yes, I have.
22 Q. Okay. And is that, in fact, some sort of
23 a document that was put together by the Brown & Root
24 safety department or industrial hygiene folks?
25 MR. HEWITT: Obviously, if you

1 know.
2 A. I believe it was, yes.
3 Q. (BY MR. WATERS) Okay. Is this something
4 that you would have reviewed in the Seventies, or you
5 would have seen it back then?
6 A. Yes.
7 Q. Okay. Now, Brown & Root is a construction
8 company in the construction industry, correct, sir?
9 A. Correct.
10 Q. All right. Here it indicates turning --
11 about asbestos, how is -- is it used, "It has about
12 3,000 different uses with about two-thirds used in the
13 construction industry as various building products,
14 insulation, friction materials, and textiles."
15 Did I read that correctly?
16 A. Yes, you did.
17 Q. Okay. Were you aware, other than this
18 document, that two-thirds of the uses for asbestos
19 materials were in the construction industry in which
20 Brown & Root was involved?
21 A. No, I was not.
22 Q. All right.
23 MR. HEWITT: I'm going to object to
24 the form of that last question to the
25 extent it assumes facts not in evidence.

1 Q. (BY MR. WATERS) All right. Okay. Where
2 they talk about here what diseases may be caused by
3 asbestos, they indicate, "Among some groups of workers
4 who were heavily exposed to asbestos, as much as 20 to
5 25 percent of all deaths are due to lung cancer."
6 First of all, did I read that correctly?
7 A. Yes, you did.
8 Q. Would you consider, sir, 25 percent of
9 deaths resulting from lung cancer to be a significant
10 risk, up to a quarter -- I mean -- yeah, one quarter
11 of the people with that type of exposure dying of lung
12 cancer? Do you consider that to be significant?
13 MR. HEWITT: I object to the form
14 of that question. It calls for an opinion
15 on -- on which no predicate or foundation
16 has been laid. It's misleading, also.
17 A. I think 25 percent is significant, yes.
18 Q. (BY MR. WATERS) All right. And then it
19 goes on to state that, "Asbestos workers are at
20 increased risk of mesothelioma, an otherwise uncommon
21 type of cancer not associated with smoking." All
22 right? And we've talked about that, haven't we?
23 A. Yes.
24 Q. And then it states that, "Above average
25 rates of cancer of the digestive system, esophagus,

1 stomach, colon, rectum, have been found in groups of
2 asbestos workers."
3 Separate and aside from this document --
4 we haven't discussed this before -- but were you
5 aware, sir, in the context of your general
6 background and training that people exposed to
7 asbestos had above average rates of these other types
8 of cancer?
9 A. No, I was not aware of that.
10 Q. There's a section of this Brown & Root
11 document that -- "What is the roll of cigarette
12 smoking?" It indicates that people exposed to
13 asbestos that smoke have risks -- wait a minute --
14 have a risk of lung cancer eight times that of smokers
15 in the general population. Do you see that?
16 A. Yes.
17 Q. Okay. And what that tells you is, is that
18 somebody who is a smoker and exposed to asbestos is at
19 a -- at a dramatically increased risk over a smoker
20 who is not exposed, right?
21 MR. HEWITT: I object to the form
22 of the question. It calls for -- no -- no
23 predicate or foundation has been laid. It
24 calls for a medical opinion.
25 MR. ERWIN: Incomplete

1 hypothetical.
2 A. I agree.
3 Q. (BY MR. WATERS) All right. Did
4 Brown & Root have a policy in the 1970s about smoking
5 generally? Do you recall if workers were permitted to
6 smoke on the job?
7 A. Some jobs --
8 MR. HEWITT: Objection; overbroad.
9 Go ahead.
10 A. Some jobs, yes; and some jobs, no.
11 Q. (BY MR. WATERS) Okay. Did Brown & Root
12 have a specific policy to try to discourage employees
13 from smoking who were exposed to asbestos, or do you
14 recall?
15 A. I do not recall.
16 Q. All right. All right. It goes on to talk
17 about nonsmokers. All right? Do you see here in the
18 second paragraph?
19 A. Yes.
20 Q. Okay. "Nonsmoker asbestos workers have
21 more lung cancer than nonsmoking in general. They do
22 not experience the extremely high risk of cancer of
23 asbestos workers who smoke. However, they still are
24 at an increased risk of other asbestos-induced
25 diseases, including asbestosis, mesothelioma, and

1 gastrointestinal cancers."
2 Is that part of your background and
3 training, at least in-house with Brown & Root, that
4 folks who are not smokers still have this increased
5 risk of these other asbestos diseases, asbestosis,
6 mesothelioma, and the GI cancers?
7 A. Yes.
8 Q. And here they talk about some workers
9 exposed only a month or two in this have developed
10 asbestos-related diseases many years later.
11 Do you see that there in the last
12 paragraph?
13 A. Yes.
14 Q. Okay. All right. Here's another one.
15 "Some investigators have reported evidence of impaired
16 lung function in workers with less than ten years of
17 exposure to asbestos."
18 Do you recall learning that less than ten
19 years of exposure to asbestos could result in lung
20 damage?
21 A. Yes.
22 Q. Any idea whose handwritten notes are
23 attached to this? Do you recognize the handwriting?
24 A. None whatsoever.
25 Q. All right. Okay. Looking at the --

1 again, the handwritten notes that are attached,
2 where it talks about lung cancer, "close" -- it says,
3 if you will read with me, "close association between
4 asbestos exposure and increased occurrence of lung
5 cancer."
6 Does that sound similar to what they
7 taught you about the connection between asbestos
8 exposure and lung cancer back in the early Seventies?
9 A. Yes.
10 Q. And then it lists for some other cancers,
11 esophagus, colon, stomach, and rectum?
12 A. Yes.
13 Q. Do you recall receiving training at
14 Brown & Root concerning those asbestos cancers?
15 A. I don't recall those, no.
16 Q. All right. Fair enough.
17 MR. WATERS: Why don't I pass the
18 witness; and if I've got something else,
19 I'll come back to it. But that way, if
20 Jim has got something, we can get -- get
21 you out of here.
22 MR. GONZALEZ: I've got a few
23 questions if nobody wants to go right now.
24 MR. HEWITT: Go ahead,
25 Mr. Gonzalez.

1 * * *

2 E X A M I N A T I O N

3 * * *

4 BY MR. GONZALEZ:

5 Q. Sir, I'm Juan Gonzalez; and I'm a -- I'm a

6 defense lawyer for a couple of defendants in the

7 litigation in which you're testifying, sir. Let me

8 ask you a couple of questions.

9 You're not in a position, are you, sir, to

10 identify any particular asbestos-containing product

11 with any particular job site, are you?

12 A. No, sir.

13 Q. Pardon?

14 A. No, sir.

15 Q. Are you in a position, sir, to identify

16 any particular asbestos-containing brand name with any

17 particular job site?

18 A. No, I am not.

19 Q. How about any particular manufacturer of

20 asbestos-containing products with any particular job

21 site?

22 A. No, I am not.

23 Q. Are you in a position, sir, to identify

24 any particular asbestos-containing product, brand

25 name, or manufacturer in connection with use by any

1 particular plaintiff?
2 A. No, I'm not.
3 Q. Are you in a position to identify any
4 particular asbestos-containing product, brand name, or
5 manufacturer with any particular time frame?
6 A. No, I am not.
7 Q. How about with any particular employer,
8 contractor, or subcontractor?
9 A. No, sir.
10 Q. Are you in a position to identify any
11 product manufactured by W. R. Grace & Company of
12 Connecticut that may have contained asbestos with any
13 job, time frame, employer, subcontractor, or
14 plaintiff?
15 MR. WATERS: Objection; calls for
16 speculation. He's already told you he
17 can't identify any products.
18 A. No, sir.
19 Q. (BY MR. GONZALEZ) You can answer the
20 question, sir.
21 A. No, sir.
22 Q. How about any -- any product manufactured
23 or produced by Pittsburgh-Corning Corporation that may
24 have contained asbestos? Are you in a position to
25 identify any of those with any particular job site,

1 time frame, employer, contractor, subcontractor, or
2 plaintiff?
3 MR. WATERS: Objection; lack of
4 foundation, asked and answered.
5 Q. (BY MR. GONZALEZ) You can answer that
6 question, sir.
7 A. No, sir, I am not.
8 Q. Do you know what Monokote is, sir?
9 A. No, sir, I do not.
10 Q. Do you know what Zonolite is, sir?
11 A. No, sir, I do not.
12 Q. Do you know what Unibestos is, sir?
13 A. No, sir, I do not.
14 MR. GONZALEZ: Okay. Thank you,
15 sir. I pass the witness.
16 * * *
17 E X A M I N A T I O N
18 * * *
19 BY MR. HEWITT:
20 Q. Mr. Hodges, you indicated that there was a
21 Brown & Root group that had done asbestos abatement
22 that you had knowledge of; is that correct?
23 A. That's correct, yes.
24 Q. What, in general, is your understanding of
25 Brown & Root's work in terms of asbestos abatement out

1 in the workplace?
2 MR. WATERS: Objection; lack of
3 foundation.
4 A. That it's to be done by either specified
5 accrued contractors; or if it's done by Brown & Root
6 personnel, it will be done by the specially trained,
7 specially tested personnel that have been put in
8 place.
9 Q. (BY MR. HEWITT) Has that been your
10 experience in the years you've worked for
11 Brown & Root?
12 A. For the past probably 10 to 15 years, yes.
13 Q. Okay. And, in fact, is -- is Brown & Root
14 actively engaged and -- and seek out asbestos
15 abatement work?
16 A. No, sir, they do not.
17 Q. Okay. What has been your experience as
18 Brown & Root's attitude in those circumstances where
19 it may encounter insulation that does contain asbestos
20 at a given project?
21 A. We try to steer as clear of it as we can,
22 even to the point of not even subbing the work out,
23 but having the -- the customer hire their own
24 contractor to do asbestos abatement.
25 Q. Would that be somebody who specializes in

1 that type of work?
2 A. Yes, that's correct.
3 Q. You've indicated that you have had
4 occasion to review various internal memoranda and
5 documents relative to asbestos awareness and safety in
6 terms of asbestos in the workplace from Brown & Root,
7 correct?
8 A. Correct.
9 Q. Okay. And some of those documents, I
10 believe, were authored by Carl Richardson; is that
11 correct?
12 A. That's correct.
13 Q. Okay. Based on your training and
14 experience in the safety department at Brown & Root,
15 would that memoranda that -- a great deal of which
16 Mr. Waters went over with you earlier on
17 cross-examination -- would that memoranda have been
18 passed down to the -- the field level --
19 A. Yes.
20 MR. WATERS: Objection; calls for
21 speculation.
22 Q. (BY MR. HEWITT) -- based upon your
23 experience?
24 A. Certain of those memos would have, yes.
25 Q. And what makes you say that?

1 A. I've done it myself.
2 Q. And what would be -- when you say "field
3 level," are you talking about the actual projects that
4 Brown & Root would be involved in?
5 A. That's correct. The safety supervisors
6 and the project manager on the actual sites.
7 Q. Okay. You've been involved in monitoring
8 various projects on behalf of Brown & Root over the
9 years in -- in terms of safety, correct?
10 A. Correct.
11 Q. Do you recall asbestos awareness or
12 asbestos hazard training ever being a topic of
13 conversation -- or excuse me -- a topic at safety
14 meetings at such projects?
15 MR. WATERS: Objection; asked and
16 answered. I asked him that.
17 A. Yes, I do remember.
18 Q. (BY MR. HEWITT) Okay. What do you recall
19 in that regards, just generally?
20 A. Well, we have had safety meeting topics
21 that have been mailed out to the projects relative to
22 various topics, among which have been asbestos.
23 We have also cautioned during safety
24 meetings that -- that the sites have done on their own
25 to caution the workers about the asbestos and if

1 there's a doubt, to contact the safety department so
2 they can test it.
3 Q. And is this something that you have
4 knowledge of based upon your roll as a liaison between
5 corporate and the field?
6 A. Correct.
7 Q. And with -- and in that regards,
8 Mr. Waters lodged an objection ago regarding asked and
9 answered. Would -- if he did ask you an earlier
10 question in that regards, what -- what were you
11 thinking about in terms of what he was asking you?
12 A. My interpretation of his question was, it
13 was specific -- do I remember specific memos and
14 specific times and specific instances where I was in
15 attendance at the meetings. And, no, I can't -- in
16 general, I would say, yes, we did that; but
17 specifically, I can't get specific about it, no.
18 Q. And referring to the meetings that you
19 have personally attended?
20 A. Correct.
21 Q. That's how you interpret the question?
22 A. Correct.
23 MR. HEWITT: We'll reserve further
24 questions until time of trail.
25 MR. WATERS: All right.

1 MR. ERWIN: I reserve mine until
2 time of trial.
3 MR. WATERS: Just a couple of
4 follow-ups.
5 * * *
6 R E-E X A M I N A T I O N
7 * * *
8 BY MR. WATERS:
9 Q. Sir, I get the impression from the
10 testimony you just gave that Brown & Root has actively
11 tried to get away from the asbestos abatement or
12 removal work. Is that a fair statement?
13 A. That's fair.
14 Q. And you'll agree with me that one of the
15 principle reasons they've done that is that they
16 recognize, Brown & Root recognizes, that the rip out
17 or tear out or removal of asbestos insulation
18 materials is a highly dangerous and hazardous type of
19 work?
20 MR. HEWITT: Objection; speculative
21 and overbroad.
22 A. My impression of the reason that they had
23 gotten out of that business is that it's too costly to
24 pursue that business if you pursue it along the lines
25 of the guidelines set down by the Federal government.

1 Q. (BY MR. WATERS) All right. So, your
2 belief is that Brown & Root got out of the business
3 not for safety reasons, but rather because it wasn't a
4 money maker?
5 A. No. That's -- that's not entirely true,
6 no. I think safety is part of the concern; but I
7 think, as an overall picture, the cost factor in -- in
8 accordance also with the safety factors involved.
9 Q. All right. So, it's really a two-part
10 process?
11 A. Correct.
12 Q. And with -- with respect to the safety
13 aspect, Brown & Root has recognized that that type of
14 work, the removal, rip out, tear out of asbestos
15 materials in place, is, in fact, a highly hazardous
16 operation?
17 MR. HEWITT: Object to the
18 overbroad form of the question. It's
19 speculative.
20 A. I don't know about the highly hazardous.
21 I think it's a hazardous operation, yes.
22 Q. (BY MR. WATERS) Okay. Now, you indicated
23 that you feel like the information that was available
24 and the memoranda that were passed around corporate
25 headquarters would have found their way down to the

1 safety supervisors or the people at the job sites?
2 A. For the most part, yes.
3 Q. Okay. Now, you're not saying that any
4 particular document or any particular memo found it's
5 way to the work site, are you?
6 MR. HEWITT: Object to the
7 mischaracterization of his earlier
8 testimony.
9 A. I would have to see the memo before I can
10 make a determination on whether or not it more than
11 likely went to the field.
12 Q. (BY MR. WATERS) All right. In any event,
13 you will agree with me that Brown & Root's supervisory
14 employees at each and every job site were fully aware
15 of the hazards of asbestos to the extent that their
16 employees, their -- that they were supervising were
17 working around asbestos?
18 MR. HEWITT: Object to the
19 overbroad form of the question. It's not
20 reasonably restricted as to time period or
21 geographic location.
22 A. You -- you asked if the --
23 Q. (BY MR. WATERS) Let me ask it again.
24 A. Sure.
25 Q. Let me ask it again.

1 A. All right.
2 Q. In the context of the 1970s and these
3 memoranda we've talked about, you'll agree with me
4 that the supervisory personnel at the Brown & Root
5 work sites, either in Texas or in other places, would
6 have been by the early 1970s fully aware, as was the
7 corporate headquarters, that asbestos was a hazardous
8 material and that significant precautions and
9 requirements had to be followed with respect to
10 working with it or around it?
11 MR. HEWITT: Objection; overbroad,
12 speculative, and compound.
13 MR. ERWIN: Also vague and
14 ambiguous.
15 A. I would agree that they were aware that it
16 was a regulated material. As -- as to their knowledge
17 about how hazardous and whether it was highly
18 hazardous, I can't say that.
19 Q. (BY MR. WATERS) Okay. Well, certainly,
20 they would have recognized if there are a bunch of
21 rules about how you have to deal with it and all the
22 things you have to do to take care of the problem that
23 there is a hazard there, wouldn't they?
24 A. I would -- yeah, I would have to say, yes.
25 Q. Okay. And you would agree with me that if

1 on the local level at the sites, if the Brown & Root
2 supervisors did not fully implement those regulations
3 that they knew about, that they were probably just
4 being careless?
5 MR. HEWITT: Objection;
6 speculative, assumes facts not in
7 evidence. It's overbroad, vague, and
8 ambiguous.
9 A. I -- I can't -- I wouldn't be able to
10 answer that on a -- on a broad statement like that. I
11 would have to say it would depend on the individual
12 cases --
13 Q. (BY MR. WATERS) Okay.
14 A. -- whether or not there was actual
15 asbestos exposure.
16 Q. Okay. But you don't -- you don't doubt
17 that at -- at the different work sites, certainly the
18 Brown & Root supervisory people would have had this
19 knowledge that this was a matter of potential concern,
20 at least?
21 MR. HEWITT: Objection; repetitious
22 and overbroad.
23 A. Yes.
24 Q. (BY MR. WATERS) One more document which I
25 almost forgot about. We started talking about this

1 earlier, and I got off the track. I apologize.
2 It's a memorandum from Mr. Richardson, the
3 industrial hygienist for Brown & Root, to Fred Samon
4 dated November 26, 1979.
5 A. Okay.
6 Q. Okay?
7 A. Uh-huh.
8 Q. And we talked about it a little bit
9 because I asked you who Burt Hale and --
10 A. Right.
11 Q. Okay. Now, here in 1979, Mr. Richardson
12 is talking about asbestos insulation tear out work,
13 just like what we've been talking about in this case,
14 that was to be performed as part of a job over there
15 in Mississippi, Jackson, Mississippi.
16 A. Correct.
17 Q. Do you see that? Now, did -- have you
18 seen this document before I showed it to you?
19 A. It may have been in that packet. I --
20 Q. Okay.
21 MR. HEWITT: I'm sorry, Counsel.
22 Can we go -- briefly go off the record?
23 I'm sorry.
24 MR. WATERS: Do you need to look at
25 it?

1 MR. HEWITT: Yes.
2 THE VIDEOGRAPHER: It is 6:57 p.m.
3 We're off the record.
4 (A recess was taken.)
5 THE VIDEOGRAPHER: It is 6:57 p.m.
6 We're back on record.
7 Q. (BY MR. WATERS) Okay. And Mr. Richardson
8 is indicating that asbestos insulation tear out was
9 being performed in 1979 and that he had indicated --
10 he had talked to someone and that he was to be
11 notified as to the date of insulation removal at the
12 plant so that he could allow the environmental health
13 section time to do the monitoring in order to comply
14 with the OSHA standard and to document employee
15 exposure levels.
16 Is that essentially the subject matter of
17 Mr. Richardson's memo?
18 A. Yes, sir.
19 Q. Okay. And Mr. Richardson goes on to state
20 that, "On November 20, 1979, I called Mr. Peterson
21 concerning this removal; and at that time I was
22 informed that they forgot to notify me about the
23 removal and the job was almost completed."
24 Did I read that correctly?
25 A. Yes, sir, you did.

1 Q. Okay. Mr. Richardson is expressing
2 concern in this memo that as late as 1979,
3 Brown & Root is involved with tear out of asbestos
4 insulation and they're not completing the monitoring
5 work, as he says here, in order to comply with the
6 OSHA standard.
7 Isn't that what he's concerned about?
8 MR. HEWITT: I object to the form
9 of the question. It's speculative,
10 assumes facts not in evidence, and it's a
11 misstatements of what's contained in the
12 document itself.
13 Q. (BY MR. WATERS) You can answer.
14 A. It appears to me that's the case.
15 Q. All right. If you as a safety
16 professional for Brown & Root, as late as 1979, had
17 been informed that asbestos insulation tear out work
18 was performed without doing the monitoring of exposure
19 as required under OSHA, that's presumably something
20 that would have concerned you, as well?
21 A. Yes.
22 Q. Okay. And you recognize, I'm certain,
23 that what this memo talks about is a violation of the
24 OSHA regulations because they required that monitoring
25 be done?

1 MR. HEWITT: Object to the
2 speculative form of the question. It's
3 misleading and assumes facts not in
4 evidence
5 A. I would have to agree with your
6 assessment.
7 Q. (BY MR. WATERS) Then Mr. Richardson goes
8 on to say, "A more unified effort of communication is
9 needed between the job site, the division safety
10 office, and the corporate safety office on matters of
11 this nature."
12 Do you generally agree, sir, with
13 Mr. Richardson that this kind of problem could have
14 been avoided, perhaps, if there was better
15 communication between the job site, the division
16 safety office, and the corporate safety office?
17 MR. HEWITT: Objection;
18 speculative, and no predicate or
19 foundation has been made for this witness
20 to answer that question.
21 A. In this particular instance, that appears
22 to be the case.
23 Q. (BY MR. WATERS) All right. And do you
24 generally agree, sir, that that is important to try to
25 stop that kind of problem before it happens?

1 MR. HEWITT: Same objections.
2 A. Yes.
3 Q. (BY MR. WATERS) And you would agree with
4 me that with respect to whoever was in charge in
5 Jackson, Mississippi, of this work, that that person
6 was negligent in this instance, wasn't he?
7 MR. HEWITT: I object to the form
8 of the question. It calls for a legal
9 conclusion on the part of the witness and
10 is overbroad and vague and fails to set
11 out proper circumstances relative to this
12 lawsuit.
13 A. Yes.
14 Q. (BY MR. WATERS) Okay. We talked briefly
15 about safety meeting topics. Do you remember that?
16 A. Yes.
17 Q. And I think I understand the distinction
18 that you drew.
19 What you're telling us is that you recall
20 that there were materials related to the hazards of
21 asbestos, perhaps some of the things we looked at
22 here, that were sent to the various job sites for the
23 supervisors or local safety people to pass on down the
24 line?
25 A. Correct.

1 Q. Okay. And what you can't tell us is if,
2 in fact, in every instance or in any instance those
3 materials ultimately made their way down to the
4 working man, can you?
5 MR. HEWITT: Objection; repetitious
6 and a mischaracterization of his earlier
7 testimony. It's misleading.
8 A. I can tell you that the ones that were
9 sent to me to be filtered down got filtered down.
10 Q. (BY MR. WATERS) Okay. What you can tell
11 us is, if you received those materials, you did what
12 you were supposed to; and, that is, you passed them
13 down the line to the people that they could help the
14 most, right?
15 A. That's correct.
16 Q. Okay. And in terms of what -- what
17 written materials may have been provided, you're
18 sitting here now, I guess, in 1997. You don't have
19 any specific recollection of a specific time when
20 those materials went out, do you?
21 MR. HEWITT: Objection; overbroad
22 and vague.
23 A. No, sir.
24 Q. (BY MR. WATERS) Okay. So, essentially
25 what you're telling us is -- let's see. Sometime

1 between '73 and -- well, sometime in the Seventies or
2 Eighties is probably when that took place?
3 A. Yes.
4 MR. WATERS: Okay. I pass the
5 witness.
6 MR. ERWIN: Just a few questions.
7 * * *
8 E X A M I N A T I O N
9 * * *
10 BY MR. ERWIN:
11 Q. You-all agree with me, sir, that not every
12 tear out of asbestos-containing materials necessarily
13 presents a hazardous condition, would you not, sir?
14 A. I would agree with that.
15 Q. It depends on the amount of work being
16 done and what controls, if any, were being done around
17 the workplace, correct, sir?
18 A. Correct.
19 Q. And you will agree that not every removal
20 of asbestos products would necessarily create a
21 hazardous condition, correct, sir?
22 A. Correct.
23 Q. Again, it -- it depends on the amount of
24 work being done and what controls are in place,
25 correct, sir?

1 A. Correct.

2 MR. ERWIN: No further questions.

3 MR. WATERS: Just a follow-up on

4 that.

5 * * *

6 R E-E X A M I N A T I O N

7 * * *

8 BY MR. WATERS:

9 Q. You will also agree, I presume, that every

10 time tear out work takes place under the regulations,

11 sampling or monitoring is required?

12 A. Yes.

13 MR. WATERS: No further questions.

14 THE VIDEOGRAPHER: It is 7:04 p.m.

15 We're off record.

16 (Deposition concluded at

17 7:04 p.m.)

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1 STATE OF TEXAS)
2 COUNTY OF HARRIS)
3 I, JOHN E. HODGES, HEREBY CERTIFY that I have
4 read the foregoing deposition, and that this
5 deposition, together with my corrections, is a true
6 and correct record of my testimony given at this
7 deposition.
8
9 _____
10 JOHN E. HODGES
11
12
13
14 SUBSCRIBED AND SWORN TO BEFORE ME by JOHN E.
15 HODGES, on this, the _____ day of _____,
16 A.D., 1997.
17
18
19 _____
20 Notary Public in and for the
21 State of _____
22
23
24
25 My Commission Expires: _____

1 C O R R I G E N D U M

2

3 I, JOHN E. HODGES, wish to make the following
4 changes or corrections in the testimony as originally
5 given:

6

7 PAGE LINE CHANGE

8 ____ ____ _____

9 ____ ____ _____

10 ____ ____ _____

11 ____ ____ _____

12 ____ ____ _____

13 ____ ____ _____

14 ____ ____ _____

15 ____ ____ _____

16 _____

17 JOHN E. HODGES

18

19 STATE OF TEXAS)
COUNTY OF _____)

20

SUBSCRIBED AND SWORN TO BEFORE ME, the
21 undersigned authority, by JOHN E. HODGES, the witness
hereinbefore named, on this the _____ day of
22 _____, A.D., 1997.

_____
23 Notary Public in and for the
State of _____
24 County of _____

25 My Commission Expires: _____

1 STATE OF TEXAS *

2 COUNTY OF HARRIS *

3

4 I, MICHELLE McDANIEL, a Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that the foregoing answers in response to the
7 questions propounded were made before me by
8 JOHN E. HODGES, the witness hereinbefore named, after
9 said witness had been first duly cautioned and sworn
10 to testify to the truth, the whole truth and nothing
11 but the truth.
12 Further certification requirements pursuant to
13 Rules 205 and 206 will be certified to after they have
14 occurred.
15 I further certify the above and foregoing
16 deposition is a full, true, correct and complete
17 transcript of the proceedings had at the time of
18 taking of this deposition.
19 GIVEN UNDER MY HAND AND SEAL OF OFFICE on this
20 the 30th day of September, 1997.
21
22 Michelle McDaniel, CSR
MICHELLE McDANIEL, CSR #5614
23 DIANA HENJUM REPORTING SERVICES, P.C.
5850 San Felipe, Suite 405
24 Houston, Texas 77057
(713) 952-6625 FAX (713) 952-6776
25 My Commission Expires: 12/31/98

1 SIGNATURE REQUIRED:

2 NO. 95-04-1728-D

3 MANUEL P. GONZALES, ET AL,) IN THE DISTRICT COURT
Plaintiffs,)
4)
VS.) CAMERON COUNTY, TEXAS
5)
OWENS-CORNING FIBERGLAS)
6 CORP., ET AL,)
Defendants) 103RD JUDICIAL DISTRICT
7

8

9 VIDEOTAPED DEPOSITION OF JOHN E. HODGES
TAKEN ON SEPTEMBER 23, 1997
10

11

12 I, MICHELLE McDANIEL, Certified Shorthand Reporter, CSR #5614, hereby certify that:
13 1. This deposition transcript is a true record of the testimony given by the witness named
14 herein, after said witness was duly sworn by me;
2. $859.00 _____ is the charge for the
15 preparation of the completed deposition transcript and any copies of exhibits attached thereto, charged to
16 Defendants Pro Rata as noted;
3. The deposition transcript was not
17 submitted to the witness for examination and signature, examination and signature having been
18 waived by the witness and all parties present; or
4. The deposition transcript was submitted on
19 September 30 to Mr. C. Andrew Waters _____ for the witness to examine, sign and return to DIANA HENJUM
20 REPORTING SERVICES, P.C., by October 23, 1997 _____.
5. RETURN OF DEPOSITION TRANSCRIPT:
21 a: The deposition transcript was returned, properly executed by the witness, to the
22 deposition officer ( ).
b: The deposition transcript was returned
23 unsigned because of ____ illness; ____ refusal to sign; ____ absence of witness; ____ no reason given.
24 c: The deposition was not returned ____.
d: The deposition was retained by
25 _____ by agreement of the Parties _____.

1 6. I further certify that the attached change/correction sheet contains any changes, and the
2 reasons therefore, made by the witness.
7. The original executed transcript, or a
3 certified copy thereof, if applicable, together with all exhibits, was ( ) was not ( ) delivered to the
4 Custodial Attorney, MR. C. ANDREW WATERS, LAW OFFICES OF ANDREW WATERS, 400 South Zang, Suite 500, Dallas,
5 Texas 75208, on _____, 1997.
8. Pursuant to information made a part of the
6 record at the time said testimony was taken, the following includes all parties of record:
7

MR. C. ANDREW WATERS
8 LAW OFFICES OF ANDREW WATERS
400 South Zang, Suite 500
9 Dallas, Texas 75208

10 APPEARING FOR PLAINTIFFS
Taxable Cost: $_____
11

MR. JAMES V. HEWITT
12 MEREDITH, DONNELL & ABERNETHY
6850 Texas Commerce Tower
13 600 Travis Street
Houston, Texas 77002
14

APPEARING FOR DEFENDANT
15 BROWN & ROOT, INC.
Taxable Cost: $859.00
16

MR. R. HARDING ERWIN, JR.
17 MATTHIESEN & CHASE, L.L.P.
3003 Eleven Greenway Plaza
18 Houston, Texas 77046

19 APPEARING FOR DEFENDANT
ARMCO
20 Taxable Cost: $_____

21 MR. JUAN GONZALEZ (via telephone)
ADAMS & GRAHAM, L.L.P.
22 222 East Van Buren, West Tower
Harlingen, Texas 78551
23

APPEARING FOR DEFENDANTS
24 W. R. GRACE and PITTSBURGH-CORNING
CORPORATION
25 Taxable Cost: _____

9. A copy of this certificate was served on all parties shown herein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 1997.

Michelle McDaniel, CSR

MICHELLE McDANIEL, CSR #5614
CSR EXPIRATION DATE: 12/31/98

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