PLAINTIFF'S EXHIBIT

CAP-1142

A/C Pipe
Producers Association

Board of Directors
International Affairs Committee

J. F. Welch, Vice President

Internal Correspondence

DATE April 13, 1984

U.S. Environmental Protection Agency (EPA) - Consideration to Ban A/C Pipe

ACTION REQUIRED: *Review for information*

Current Status

The enclosed correspondence, prepared by AIA/NA special counsel, was delivered to EPA Administrator Ruckelshaus and widely circulated to other Assistant Administrators within the Environmental Protection Agency. It is another step in the concerted industry effort to question the appropriateness of EPA regulating asbestos exposures at a time when the exposures of most concern to EPA (occupational exposures) are being addressed by the Occupational Safety and Health Administration (OSHA). The letter also questions EPA's legal authority to proceed with the rulemaking under the Toxic Substances Control Act and formally notifies the Agency that litigation may be initiated to halt EPA from going forward with this regulatory proceeding.

Kirkland & Ellis, special counsel to AIA/NA, believes that the timing of this letter is propitious. The Fifth Circuit Court of Appeals recently set aside OSHA's emergency temporary standard for asbestos, thereby raising some concerns about the validity of risk assessments of low-level exposures, as well as dispelling any misperceptions about industry resolve to oppose unreasonable regulations. Moreover, EPA is being pressured by the chemical industry to leave the regulation of two chemicals, known as MBOCA and MDA, to OSHA. The situation with regards to these two chemicals is identical to asbestos, i.e. EPA's intentions under the Toxic Substances Control Act are to regulate in the workplace as opposed to the environment. Thus, a major jurisdictional conflict is developing between EPA and OSHA. These disputes are normally mediated by the Office of Management and Budget, which is also questioning whether EPA's ban would be better addressed by OSHA (see enclosed news article).

A meeting between asbestos industry officials and the Assistant Administrator, Pesticides and Toxic Substances is scheduled for April 16, 1984. Additional information will be released as it becomes available.

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

JFW/ajb

Enclosure

cc: A. Kahn, Esq.

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