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VIDEOTAPED DEPOSITION
GYAN SHANKAR RAJHANS

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
COUNTY OF MACON

LEE DUNN and CAROL DUNN,

Plaintiffs,

- vs - No. 04 L11

SPRINKMANN SONS CORPORATION OF ILLINOIS, et al.,

Defendants.

Videotaped deposition of GYAN SHANKAR
RAJHANS, taken pursuant to Notice, in the law
offices of LIPSITZ & PONTERIO, LLC, 135 Delaware
Avenue, Suite 210, Buffalo, New York, on
October 25, 2005, commencing at 10:23 a.m.,
before ANN M. SAWYER, Notary Public.

1
2 APPEARANCES: WALKER & WYLDER, LTD.,
3 By ANDREW J. KELLY, ESQ.,
4 207 West Jefferson,
5 Bloomington, Illinois 61701,
6 Appearing for the Plaintiffs.
7
8 SEGAL McCAMBRIDGE SINGER & MAHONEY,
9 By ROBERT P. COLEMAN, ESQ.,
10 United Plaza,
11 30 South 17th Street, Suite 1700,
12 Philadelphia, Pennsylvania 19103,
13 Appearing for the Defendant,
14 Garlock.
15
16 O'CONNELL & ASSOCIATES, P.C.,
17 By SEAN P. FERGUS, ESQ.,
18 645 Tollgate Road,
19 Suite 220,
20 Elgin, Illinois 60123,
21 Appearing for the Defendant,
22 John Crane, Inc.
23
24 PRESENT: MATTHEW W. MESSING, Videographer.
25

The following were marked for Identification:

RAJHANS EXH. 1 Notice of Videotaped

Discovery Deposition

RAJHANS EXH. 2 Curriculum Vitae

RAJHANS EXH. A Field Visit Report dated

10/20/69

RAJHANS EXH. B Field Visit Report dated

7/29/80

RAJHANS EXH. C Air Sampling for Asbestos

and Lead, Garlock Canada, LTD

dated 5/25/71

RAJHANS EXH. D Nelson Letter to Rostas

dated 9/9/71

RAJHANS EXH. E Air Sampling of Asbestos

Fibers dated 5/1/72

RAJHANS EXH. F Nelson Letter to Breckon

dated 6/19/72

RAJHANS EXH. G Memo to Tidey dated 2/21/75

RAJHANS EXH. H Field Visit Report dated

3/11/75

RAJHANS EXH. I Letter to Rajhans dated

5/30/75

RAJHANS EXH. J Tidey Letter to Woods dated

11/25/75

1
2 RAJHANS EXH. K Air Quality Assessment

3 Report dated 2/10/77

4 RAJHANS EXH. L Letter to Rostas dated

5 6/2/78

6 RAJHANS EXH. M Air Quality Assessment

7 Report dated 8/21/79

8 RAJHANS EXH. N Peter Pelmear Letter to

9 Mrs. B. Golbourn date

10 10/22/79

11 RAJHANS EXH. O Rajhans Letter to Millican

12 dated 1/18/80

13 RAJHANS EXH. P Rajhans Letter to Rostas

14 dated 4/30/80

15 RAJHANS EXH. Q Pikk Memo to Rajhans dated

16 10/15/80

17 RAJHANS EXH. R Rajhans Letter to Millican

18 dated 7/28/81

19 RAJHANS EXH. 3 Photocopy of Cover of Book -

20 Asbestos Sampling and

21 Analysis

1
2 G Y A N S H A N K A R R A J H A N S, 4183
3 Rayfield Court, Mississauga, Ontario, Canada,
4 L4Z 1E6, after being duly called and sworn,
5 testified as follows:

6
7 THE WITNESS: You can call me mister,
8 because I am --

9
10 EXAMINATION BY MR. KELLY:

11
12 Q. That was going to be my first question.
13 Mr. Rajhans, you're not a doctor, are you?

14 A. No, I'm not.

15 Q. Let's start, first of all, you said
16 that your home address is in Ontario, Canada. How
17 long have you lived in Canada?

18 A. Since '64. And that will be about 39,
19 38 years, something like that. I have to
20 calculate.

21 Q. And -- and where were you born?

22 A. I was born in India.

23 Q. And did you live in India up until the
24 time you came to Canada?

25 A. That's right.

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Q. Whereabouts in India did you live?

A. In the Province of Behar near Calcutta.

Q. Have you ever given a deposition before?

A. No.

Q. Okay. Let me explain to you sort of the ground rules, if you will, as to how this going to go about today.

First of all, as can you tell, this is going to be videotaped. And so there's a videographer -- Matt, in the back corner there -- and also a court reporter that's going to type down everything you say.

A. Um-hum.

Q. In order for us to get an accurate transcript, not so much on the videotape, you need to verbalize your answers out loud. Say "yes" or "no" as opposed to nodding your head and saying "um-hum" even though you'll be able to see that on the video.

Second of all, if there's any question posed to you that you don't understand or don't hear, please ask any of the attorneys that asked the question to rephrase it, and we'll try to do so.

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2 Otherwise, we'll just assume that you heard and
3 understood the question. Is that okay?

4 A. Okay.

5 Q. Good. I want to go over your
6 education.

7 First of all, did you start your educational
8 training in India?

9 A. Yes.

10 Q. And did you go to high school in India?

11 A. Yes.

12 Q. And then did you go to college?

13 A. Yes.

14 Q. Where did you go to college?

15 A. That's Ranchi University in Behar
16 India.

17 Q. How do you spell Behar?

18 A. B -- as in Bob -- E-H-A-R.

19 Q. For the record, we've already marked as
20 Exhibit 1 the notice of videotape discovery
21 deposition for today. And I'll indicate for the
22 record that the deposition is taken pursuant to the
23 Illinois statutes and court rules, and there's no
24 stipulations other than the stipulation that I
25 believe the two Defendants have come up with, which

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2 is that an objection by one is the objection of
3 all. And that has been marked as Exhibit 1.

4 Exhibit 2 has been premarked, and that is
5 your CV. And I'm going to pass that to you, sir.

6 If you could go to the sixth page, please,
7 the part under education.

8 Can you explain to me the major and minor of
9 your educational training when you were at Ranchi
10 University in India?

11 A. The major was mining engineering.

12 And -- oh, the minor was mining engineering.
13 Sorry.

14 And major that I wrote a thesis on was dust
15 control in coal mines.

16 Q. And what was the dust at issue in the
17 coal mines?

18 A. It was mainly coal dust and some rock
19 dust causing pneumoconiosis. Should I spell it for
20 you?

21 Q. If you can, go ahead. I wouldn't even
22 try. But --

23 A. P-N-E-M-O -- no, yeah -- M-O-C-O nusis,
24 K-N -- I give up. I'm sorry.

25 But it's -- it's -- it's a dust-causing

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2 disease that's called pneumoconiosis. Yeah.

3 Unless I write it out, I will not be able to --

4 Q. What degree did you graduate from from
5 Ranchi University?

6 A. B -- Bachelor of Science in
7 engineering.

8 Q. And you completed that in 1963?

9 A. Yes.

10 Q. Did you go to work at all in India?

11 A. No. I just had post-graduate training
12 for one year. And that is almost like, you can
13 say, articling after bachelor's degree in law.
14 No -- there's no payment for it. You just go and
15 get the training in order to appear for some kind
16 of certification later on.

17 Q. And -- and the word you used was
18 articling, which is sort of a Canadian term for
19 practical training after you graduate from law
20 school, correct?

21 A. Yes.

22 Q. Okay. And they don't necessarily have
23 anything like that in the United States, but your
24 understanding is -- is basically after you graduate
25 with the degree, you do some sort of practical

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2 training, which is what you did?

3 A. That's right.

4 Q. In that one year; is that right?

5 MR. COLEMAN: Object to the form.

6 THE WITNESS: That's right.

7 BY MR. KELLY:

8 Q. The -- you came to Canada after
9 completing that training?

10 A. That's right. In 1964.

11 Q. And at that time, did you obtain
12 employment or did you immediately go to school?

13 A. I went straight to Queens University
14 because of this scholarship.

15 Q. Okay. And how was it that you received
16 the -- the scholarship, first of all?

17 A. I applied to Queens to do the masters.
18 And one of the conditions that I put forward in my
19 application is that I don't have the money to -- to
20 pay for this study. And if they have any
21 scholarship or fellowship, then only I would
22 consider coming over to Canada and to do the
23 masters.

24 They looked at my transcripts. And then
25 they decided that I could be awarded Joseph Bateman

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2 Fellowship which would cover the cost of my
3 tuition, as well as my accommodation in Kingston,
4 which is the place of Queens University.

5 Q. Okay. And what was the area of study
6 that you did at Queens?

7 A. Critical velocities of mineral dusts.

8 Q. And was that a masters that you
9 received in engineering?

10 A. That's right.

11 Q. And that was in 1966?

12 A. That's right.

13 Q. Upon completion of your education, did
14 you go to work?

15 A. That's right.

16 Q. And where did you go to work, sir?

17 A. Federal government. Canadian federal
18 government gave me a contract job to do the
19 research in uranium mines on dust sampling
20 instruments in Elliott Lake which is near Sudbury.
21 And that's how I started my first employment.

22 Q. When you first started working for the
23 Canadian government, what was your profession, if
24 you will?

25 A. The title was research scholar -- or,

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2 the workers.

3 Q. The primary goal of industrial hygiene
4 or occupational hygiene is to protect the workers
5 that are in the workplace; is that right?

6 A. Health --

7 MR. COLEMAN: Object to the form.

8 THE WITNESS: -- health and safety of the
9 workers.

10 BY MR. KELLY:

11 Q. And over the years, you had a number of
12 different certifications as we've gone through
13 within the profession of industrial hygiene; is
14 that right?

15 A. Yes, sir.

16 Q. And have you also been a member of a
17 number of associations or trade-type organizations
18 with respect to industrial hygiene?

19 A. Yes.

20 Q. And -- and what are some of those?

21 A. I've been a member of American
22 Industrial Hygiene Association since late '60s,
23 early '70s.

24 But I have been a member of American
25 Conference of Governmental Industrial Hygienists,

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2 well known as ACGIH since 1966, I think. I would
3 have to go back to my resume to -- to be sure on
4 the -- on the date.

5 And I have been a member of Occupational
6 Hygiene Association of Ontario for quite a while.
7 Again, I don't remember exact date, but I can go
8 through the resume and give you the date.

9 And then I have been also a member of
10 International Society of Indoor Air Quality.

11 Several other associations off and on I have
12 been member of, and served on their committees.

13 Q. If you turn to page 7 of your CV, among
14 these professional organizations, have you held any
15 positions on the board or as a director or anything
16 like that within any of these organizations?

17 A. Yes. One of the highlights of my
18 career was that I was the second Canadian in
19 67-year history of ACGIH to be elected as
20 vice-chair elect, and eventually became the chair
21 of ACGIH from 1995 to 1998. I served on the -- on
22 the board as vice-chair elect, vice chair, chair,
23 and then past chair.

24 I was also appointed -- well, actually
25 elected and appointed, because there's two

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2 processes going on, direct -- one of the directors
3 on American Board of Industrial Hygienists, which
4 gives out the designation CIH, certified industrial
5 hygienist. I have been on their board for six
6 years, from 1998 to 1995.

7 When Canadian registration Board of
8 Occupational Hygienists which grants ROH that you
9 asked me about -- registered occupational
10 hygienist -- and when that was formed in 1988, I
11 became the secretary-treasurer.

12 And when industrial occupational hygiene --
13 no, sorry. Let me get back.

14 When International Occupational Hygiene
15 Association was formed in Montreal in 1987, I was
16 appointed as chair of ethics committee of that
17 association.

18 And I was -- I also served as director of
19 Occupational Hygiene Association of Ontario from
20 1976 to 1978.

21 Q. Are you -- do you currently still hold
22 your CIH?

23 A. Yes.

24 Q. And what other certifications do you
25 currently hold, or registrations?

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2 A. C -- okay. I have CIH, ROH, and
3 P. Eng.

4 Q. Have you ever written any -- any -- any
5 papers or books that have been published that
6 relate to asbestos?

7 A. Yes. Several.

8 Q. And do you have any feel as you sit
9 here today for how many such writings that you've
10 actually done with respect to asbestos?

11 A. I have --

12 MR. COLEMAN: Objection.

13 THE WITNESS: About 50 --

14 MR. COLEMAN: Can we go off the record for a
15 second?

16 (Discussion off the record at 10:41.)

17 (On the record at 10:41.)

18 MR. COLEMAN: Note my objection at this
19 juncture because we're going beyond just a general
20 background.

21 This witness was called, not as an expert,
22 but he was called as a fact witness.

23 Therefore, I object on the grounds of
24 relevancy as to what, if any, publications he may
25 have had in the arena of asbestos since this

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2 individual is not being called as an expert in the
3 field of asbestos, but rather as a fact witness.

4 MR. KELLY: Well, I agree that's what the
5 disclosure says. And the relevancy is it goes to
6 foundation for what he's going to testify to later.
7 So, it's also a discovery deposition. I'm entitled
8 to ask the question, but your objection is noted
9 for the record.

10 Do you remember the question that was asked
11 to you?

12 THE WITNESS: No, please repeat it again.

13 MR. KELLY: Would you mind reading it back?

14 (The above-requested question was then read
15 by the reporter.)

16 THE WITNESS: Yes. I have done 25 papers.
17 I've written 25 papers, peer review papers, on
18 asbestos sampling, control, analysis and
19 respiratory protection for asbestos exposures.

20 Then I have written two books, reference
21 books, on asbestos as far as publications are
22 concerned.

23 But, I have been invited to various
24 organizations, associations, student bodies,
25 universities, to talk on asbestos-related subjects

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2 from 1971 onwards.

3 BY MR. KELLY:

4 Q. Okay. And is -- is -- is one of the
5 books that you wrote called asbestos sampling and
6 analysis?

7 MR. COLEMAN: Same objection.

8 THE WITNESS: I am one of the co-authors,
9 yes.

10 BY MR. KELLY:

11 Q. And is this the book right here?

12 A. Yes, this is the book.

13 Q. Can you hold that up so that the camera
14 can see that?

15 MR. COLEMAN: Same objection.

16 BY MR. KELLY:

17 Q. And when -- when was that particular
18 book published?

19 A. 1981.

20 Q. Okay. You can put it back down.

21 And for the record, we've marked as
22 Exhibit 3 a copy of the cover of that particular
23 publication.

24 Have you ever received any kinds of awards
25 in health and safety?

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2 A. Yes. I have received several awards.

3 And the most noticeable in those awards are
4 Amethyst Award -- yes, this is a mineral, it's
5 based on a mineral found in Ontario, basically --
6 this Amethyst Award was for outstanding civil
7 servant in the field of occupational health and
8 safety. This award, in the field of occupational
9 health and safety, was never given before. This
10 award has been in existence for a number of years,
11 but has not been given to a -- an occupational
12 health and safety professional as a civil servant.
13 This was awarded, and I was very proud of that
14 because this award was given to me by the then,
15 Premier, Mike Harris.

16 Then I also received an award called Hugh M.
17 Nelson Award for excellence in occupational hygiene
18 in Ontario. And I really feel very honored about
19 this award as well, because this award was given by
20 my peers.

21 And then I was bestowed Life Achievement
22 Award by Occupational Health and Safety Magazine,
23 Canada.

24 And then in the year 2000, I was bestowed an
25 Award of Excellence for professional achievements

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2 by one of the accident prevention associations of
3 Ontario called IAPA, Industrial Accident Prevention
4 Association. And this one is sponsored by
5 3M Canada.

6 Q. Upon your graduation, you said, or --
7 from Queens University, you said you went to work
8 for the government of Ontario. And you were a
9 research scientist; is that right?

10 A. No. First I was given a contract job
11 at the federal government of Canada.

12 Once that contract job was over, then I got
13 a regular employment with the Ontario Ministry of
14 Health.

15 Q. Okay. And when -- when you say
16 Ministry of Health, is that sort of the equivalent
17 of what the United States would call the
18 Department -- the Department of Health would be the
19 Ministry of -- of Health in Canada?

20 MR. COLEMAN: Objection to form.

21 THE WITNESS: Yes.

22 BY MR. KELLY:

23 Q. And when did you first start working
24 for the -- the Ministry of Health?

25 A. July 1968.

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2 Q. And were you part of a particular
3 branch of the Ministry of Health when you started
4 in July of '68?

5 A. Yes.

6 Q. And what was that?

7 A. It was called occupational health
8 branch, but it kept changing its name over the
9 years. Sometimes it was called occupational health
10 protection branch. Sometimes it was called
11 occupational health branch. But basically, it was
12 occupational health branch.

13 Q. And -- and when you first started, were
14 you -- were you a dust control specialist; is that
15 your title?

16 MR. COLEMAN: Object to the form.

17 THE WITNESS: Yes.

18 BY MR. KELLY:

19 Q. And -- and how long did you hold that
20 job title within the Ministry of -- of Health?

21 A. Until 1977, when the entire
22 occupational health branch or occupational health
23 protection branch was transferred to the Ontario
24 Ministry of Labour.

25 And with that transfer, I was promoted to be

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2 the chief of occupational health engineering
3 service, which later on was called occupational
4 hygiene service.

5 Q. How long were you the chief of
6 occupational health and hygiene service?

7 A. For ten years.

8 Q. And so that would have been 1987, then?

9 A. That's right.

10 Q. And at that time, what position did you
11 move to?

12 A. Then I was given a job of principal
13 occupational hygiene advisor to the Ministry.

14 Q. And how long did you stay in that
15 position?

16 A. About four years before I was --

17 MR. FERGUS: I'm sorry. Four?

18 THE WITNESS: Four. 1987 to 1991.

19 BY MR. KELLY:

20 Q. And then in 1991, what position did you
21 move to?

22 A. I was then further promoted to the job
23 of district manager of one of the biggest districts
24 of Ontario.

25 And then I became more administrative in the

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2 sense that under me there were safety inspectors,
3 hygienists, employment standards officers, ways
4 protection clerks, all kinds of other things.

5 But I was the chief administrator of that
6 district.

7 Q. Did you hold any other positions with
8 the Ontario government other than the ones we've
9 already talked about?

10 A. No. I don't think so.

11 Q. And did you retire, ultimately, from
12 working for the Province of Ontario?

13 A. Yes.

14 Q. And when was that?

15 A. January 2000.

16 Q. And since January of 2000, have you had
17 any other employment?

18 A. Yes. I -- I was given a part-time
19 employment by one of the consulting companies in
20 Toronto called REA Limited -- Resource
21 Environmental Associates, Limited -- as their
22 senior scientific advisor.

23 Q. And when working for REA Limited, did
24 the work that you were doing at that time relate to
25 asbestos --

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2 A. Yes.

3 Q. -- in any way?

4 A. Yes.

5 Q. And in what way did that work relate to
6 asbestos?

7 A. I --

8 MR. COLEMAN: Objection to form.

9 THE WITNESS: -- I would review all their
10 asbestos sampling, analysis, and any other projects
11 that they were involved where asbestos removal was
12 being done.

13 BY MR. KELLY:

14 Q. Did your work with REA Limited
15 ultimately came to an end?

16 A. Yes --

17 Q. And when did that --

18 A. -- it did.

19 Q. -- that happen?

20 A. 2003, I think.

21 Q. And since that time, have you done any
22 work?

23 A. Yes. I formed my own consulting firm
24 called Gyan S. Rajhans and Associates,
25 Incorporated. And I did consulting work for

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2 various companies.

3 Q. And as a -- basically, that work is a
4 private consultant, correct?

5 A. That's right.

6 Q. And as a private consultant, are you
7 paid on an hourly basis for your time?

8 A. Yes.

9 Q. And so your time is valuable in the
10 sense that you only get paid for the time that
11 you're actually working on a consulting project for
12 whatever client it may be, correct?

13 A. Yes.

14 Q. And in order for you to come here today
15 and agree to sit for a deposition here in the
16 United States, you had to take time away from your
17 consulting business, didn't you?

18 A. That's right.

19 Q. And as a result of your graciousness in
20 agreeing to sit for a deposition, my firm agreed to
21 compensate you at your regular consulting rate for
22 your time involved with this, didn't we?

23 A. Yes.

24 Q. And what is -- can you state for the
25 record your professional consulting rate?

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2 A. One hundred American dollars per hour.

3 MR. KELLY: Okay. Let's take a quick break.

4 (Discussion off the record at 10:52.)

5 (On the record at 10:59.)

6 BY MR. KELLY:

7 Q. Mr. Rajhans, I want to talk to you
8 about your work with the Ontario Ministry of Health
9 and Ministry of Labour.

10 Let's start, first of all, with when you
11 first started in -- in '68 and you were a dust
12 control specialist. What were your job duties at
13 that time?

14 A. My job duties entail going and visiting
15 all the plants in Ontario which could have any kind
16 of dust exposure, including asbestos. But, silica,
17 asbestos, talc, any kind of dust exposure anywhere
18 in the plant, in any plant. I will be the one who
19 will be going around inspecting them, and following
20 it up with air sampling and then commenting on air
21 sampling results and recommending mitigating --
22 mitigating solutions, and then following it up
23 again, those plants, to see if they installed
24 those -- those recommendations that I made, whether
25 that improved the condition or not.

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2 So, I was first all by myself going around
3 the province visiting mines, construction sites,
4 industrial plants, hospitals, whatever, wherever
5 there was any potential dust exposure, I was
6 involved in.

7 Q. And -- and let me ask, first of all,
8 was this there any particularized region in Ontario
9 that you were responsible for back in '68?

10 A. No. I was responsible for the entire
11 province.

12 Q. And were there other people that worked
13 for the Ministry of Health and the environmental
14 health services branch that had the same type of
15 role as you did?

16 A. Yes.

17 Q. And how many other people were there?

18 A. There were two more people. One was
19 involved in chemicals, or the specialist of
20 chemicals other than dust. And the third one was
21 involved in noise control or physical agents
22 specialist.

23 Q. So there were three people that held
24 the title of P. Eng.?

25 A. They were all P. Eng.

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2 Q. Okay. And that's P period, capital
3 E-N-G?

4 A. That's right.

5 Q. And what does that mean, again?

6 A. That's equivalent to PE of United
7 States, professional engineer.

8 Here in the States, they have just initials
9 PE, whereas in Ontario it is P dot E-N-G dot.

10 Q. And you said one of the -- strike that.

11 You said that your role was to go into these
12 various places, whether it be a plant or a mine or
13 what have you in order to inspect the location for
14 any dust control problems; is that right?

15 A. That's true.

16 MR. COLEMAN: Objection to form.

17 BY MR. KELLY:

18 Q. And when -- what was it that gave the
19 Ministry of Health the authority to go into these
20 various locations?

21 A. Ministry of Health, at that time, had
22 employed these specialists to work as consultants
23 to the industrial safety officers of Ontario
24 Ministry of Labour.

25 Industrial safety officers of Ministry of

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2 Labour had the authority under Industrial Safety
3 Act of Ontario to enter any plant.

4 When they requested us to do the
5 investigation, they transferred that authority of
6 entering any plant to us.

7 Q. Is the Industrial Safety Act that was
8 in place in Ontario, is that sort of the rough
9 equivalent of what OSHA is in the United States?

10 A. At this time --

11 MR. COLEMAN: Objection. Calls for a legal
12 conclusion.

13 MR. KELLY: You can answer.

14 THE WITNESS: At this time, you can say yes,
15 it is.

16 However, Industrial Safety Act at that time
17 might not have resembled the same way as OSHA now.

18 BY MR. KELLY:

19 Q. How far back -- well, let me ask it
20 this way. When did the Industrial Safety Act first
21 come into law in Ontario?

22 A. In 1930's, and I honestly cannot give
23 you the exact date or exact year.

24 Q. At least since the 1930's, however, the
25 Ontario government, the Ministry of Health through

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2 the Ministry of Labour has had the authority to go
3 into various plants and other locations in Ontario
4 in order to do the types of inspections that you
5 did, correct?

6 A. Yes.

7 MR. COLEMAN: Objection.

8 BY MR. KELLY:

9 Q. When you went into -- well, let me ask
10 this: How was it that you as the P. Eng. that was
11 working for the Ministry of Health, how was it that
12 you became involved? How did you learn about a
13 particular location having a -- a dust control
14 problem that required you to go there in the first
15 place?

16 A. Industrial safety officers working in
17 the Ministry of Labour had the direction or the
18 order or instruction from their director that each
19 plant must be visited quarterly to inspect
20 thoroughly to -- to recognize or at least have some
21 idea if there are health and safety problems in
22 that particular plant.

23 So, the industrial safety inspectors were
24 stationed in all parts of the province. And then,
25 if they spot anything which may have health

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2 problems or hygiene problems, then they will go to
3 their director and say that they would like more
4 investigation on this. And their director, then,
5 would try to our director to ask one of our
6 specialist -- one of his specialists to go and
7 further investigate. And that's how I got
8 involved.

9 Q. Let me make sure I understand.

10 The minister -- the Ministry of Labour had
11 people called industrial safety officers, correct?

12 A. Yes, sir.

13 MR. COLEMAN: Object to the form.

14 BY MR. KELLY:

15 Q. And were they sometimes called ISO's?

16 A. That's right.

17 Q. And the ISO's were the people that
18 actually went into the plants on a quarterly basis
19 for inspection?

20 A. Yes, sir.

21 Q. And in the event that the ISO found
22 something that they believed could be a concern for
23 health or safety or hygiene, they would call in
24 other specialists from other ministries to help
25 them with those issues?

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2 MR. COLEMAN: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. KELLY:

5 Q. When the industrial -- do you have any
6 familiarity with how it was that the industrial
7 safety officers went into the various plants? Did
8 you ever accompany them?

9 MR. COLEMAN: Objection.

10 THE WITNESS: Several times.

11 BY MR. KELLY:

12 Q. And in order for the industrial safety
13 officer to get into a particular plant, did they
14 have to make an appointment with the plant or did
15 they just show up?

16 MR. COLEMAN: Objection.

17 THE WITNESS: They just -- they just showed
18 up because their principle was not to let the
19 companies know when they are coming. They were --
20 these visits were always surprise visits.

21 BY MR. KELLY:

22 Q. And what was the basis for that
23 reasoning?

24 A. Because --

25 MR. COLEMAN: Objection.

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2 THE WITNESS: -- because they thought if
3 they let them know, the place will be cleaned up
4 and they would not have the true picture of the
5 working conditions.

6 BY MR. KELLY:

7 Q. In addition to the quarterly visits
8 that the industrial safety officers made, were
9 there any other means by which the ISO's would be
10 called in or requested to actually examine or
11 investigate a particular plant or mine or other
12 location?

13 MR. COLEMAN: Objection.

14 THE WITNESS: Yes. The -- sometimes the
15 unions might also ask the director of the
16 industrial safety branch to come and -- and
17 investigate if they thought something was not
18 right.

19 BY MR. KELLY:

20 Q. In addition to you and the other two
21 people that were the dust control specialists, what
22 were the titles of the other people that were
23 working for the environmental health services
24 branch in the 1968 to '77 time period?

25 A. At that time, there was -- I will go

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2 from the beginning.

3 There -- there was director. Then there was
4 chief of the service. And then there were the
5 specialists.

6 Q. And you said before that one of the
7 jobs of -- of people like yourself, when they went
8 into these plants or mines or other locations, was
9 to examine the workplace, record your observations
10 and make recommendations or solutions; is that
11 right?

12 A. Exactly.

13 Q. And when you, as the dust control
14 specialist, made a recommendation, did that have
15 the authority of law on the individual plant or --
16 or location workplace?

17 MR. COLEMAN: Objection.

18 THE WITNESS: No. Our recommendations did
19 not have the authority of law. But our
20 recommendations were made to the industrial safety
21 branch -- that's that time period we are talking
22 about -- and the industrial safety officers that
23 will issue so-called directions which would almost
24 be like citations here. And then those directions
25 became enforceable.

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2 BY MR. KELLY:

3 Q. Okay. So the recommendations that
4 people like yourself, if we're talking about the
5 '68 to '77 time period when the dust control
6 specialists made recommendations, those didn't have
7 actual citation authority until they were actually
8 implemented by the industrial safety officer of the
9 Ministry of Labour?

10 MR. COLEMAN: Objection to form.

11 THE WITNESS: Correct. Correct.

12 BY MR. KELLY:

13 Q. When the dust control specialists were
14 requested by the Ministry of Labour to go into a
15 particular work environment, were you -- were you
16 allowed to roam freely throughout the workplace?

17 A. Yes.

18 Q. Did you do that on your own, or were
19 there representatives of the company always
20 present?

21 A. Company representative was always
22 present with us, because that was one of the
23 requirements that we had from our seniors: That we
24 go into the plant, ask for one of the company's
25 representatives, and we would not go to any section

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2 of the plant without being accompanied by one of
3 the company's representatives.

4 Q. When you were being escorted by the
5 company representatives, were you allowed to talk
6 with the actual workers?

7 A. No.

8 MR. COLEMAN: Objection.

9 BY MR. KELLY:

10 Q. And why was that?

11 MR. COLEMAN: Objection.

12 THE WITNESS: Because that was exactly how
13 our mode of practice written in -- in the branch
14 that you only contact the company representatives
15 and not talk to the workers.

16 BY MR. KELLY:

17 Q. When you became chief of occupational
18 health hygiene service in January of 1977, how did
19 your job change?

20 A. My job changed in two respects.

21 One, that I had acquired the lab
22 technicians, the hygienists, and specialists or
23 senior hygienists, they all worked for me. And all
24 their reports will not go out of the branch without
25 me reviewing them.

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2 And secondly, I was involved on any external
3 committees, external to the Ministry, where any
4 kind of hygiene policies, occupational hygiene
5 policies, will be discussed in the province.

6 Q. Your job became more supervisory in
7 nature?

8 A. Yes. Supervisory, as well as you can
9 say administrative, yes.

10 Q. After 1977, did you still have occasion
11 to go into any plants or mines or other locations
12 to actually do physical inspections and
13 investigations?

14 A. Yes. Some of the plants, if -- became
15 very complex. Complex in the sense that after
16 repeated visits, if my juniors could not resolve or
17 could not see any -- any improvement, then I will
18 take over and visit the plant.

19 Q. In 1987 when you became principal
20 occupational hygiene advisor, how did your job
21 duties change?

22 A. They changed drastically, in that --
23 that I would be writing the protocols for various
24 inspectors and hygienists and others to do hygiene
25 visits at asbestos plants or brick plants or any

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2 other plants. And -- and I became members, or at
3 least I got on the various committees which
4 developed -- which developed policies regarding
5 occupational hygiene.

6 Q. At this time, you sort of set of
7 protocols for how people should do the jobs that
8 you were doing previously back in '68 up to '77?

9 MR. COLEMAN: Objection to form.

10 THE WITNESS: Yes. And I also trained them.

11 BY MR. KELLY:

12 Q. Okay. And during that time period from
13 '87 to '91, did you still ever go into plants and
14 perform investigations?

15 A. Only on the very, very special case.

16 Q. When you became district manager or, I
17 think you might have said general manager, for the
18 central region from '91 up until the time of your
19 retirement, how did your job duties change then?

20 A. They became more diversified in the
21 sense that I was not only looking for -- looking
22 after occupational health and safety, although I
23 had the construction, health and safety officers
24 under me, industrial health and safety officers
25 under me, hygienists under me, but I also had

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2 employment standards officers and other people.
3 So, it became much more diversified.

4 I would say that I would spend only 40
5 percent in -- in the field of health and safety.
6 And the rest will be more administrative and
7 other -- other parts of the -- the Ministry.

8 Q. Okay. I want to go back to the time
9 period when you were a dust control specialist.

10 During the time that you were performing
11 that job, on occasions when you actually went into
12 a plant or a mine or another location, did you make
13 any written recordings of what you observed and
14 what your recommendations were?

15 A. Yes. The process was that we all carry
16 field notes, or field books, just like a police
17 officer would. It was a police officer's notebooks
18 that were given to us, empty notebooks. And we
19 will record all the observations and details that
20 we saw at that time whether it was good or bad or
21 indifferent or -- everything will be written,
22 including whom we talked to, what we observed or
23 what measurements.

24 And then we will transcribe those notes in
25 official reports as a -- first it was as a memo to

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2 my immediate boss, and later on it kept changing.

3 But it was always called a field visit report.

4 Q. The field visit report was something
5 that you typed up and put together after -- strike
6 that.

7 The field visit report was the document that
8 resulted from you sort of putting together all of
9 the notes that you made out of your --

10 MR. COLEMAN: Objection to form.

11 BY MR. KELLY:

12 Q. -- own field notebook?

13 A. Yes. Yes.

14 Q. And when you made those particular
15 documents, did you make the field visit reports at
16 or soon after the time that you actually visited
17 the plant?

18 A. As soon as possible.

19 Q. And was it part of the protocol of the
20 Ontario Ministry of Health and later the Ministry
21 of Labour to make those field visit reports in the
22 ordinary course of its business?

23 A. That's --

24 MR. COLEMAN: Objection to form.

25 THE WITNESS: -- right.

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2 BY MR. KELLY:

3 Q. Is it your understanding that the
4 Ministry of Health and the Ministry of Labour kept
5 copies of those various reports as part of its
6 ordinary course of business?

7 MR. COLEMAN: Objection to form.

8 THE WITNESS: They did. But how long? I
9 don't know.

10 BY MR. KELLY:

11 Q. Okay. During the time that you were
12 working for the Ontario government, did you ever
13 have an opportunity to visit any plants owned
14 and/or operated by a company with the name Garlock
15 in its name?

16 A. Yes.

17 Q. And I want to talk, first of all, where
18 was the -- the -- the Garlock plants that you're
19 familiar with?

20 A. The most frequent visits I made to
21 the -- to one of the Garlock plants was on the
22 Jutland Road in Etobicoke, Ontario.

23 Q. And Jutland is spelled how?

24 A. J-U-T-L-A-N-D.

25 Q. And -- and that's a street in Toronto,

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correct?

A. Yes.

Q. Or what we call Toronto today?

A. Yeah.

Q. All right. Back then, it was -- was it considered Etobicoke?

A. Yes. It was a part of Toronto, but it was called Etobicoke.

Q. And that's E-T-O-B-I-C-O-K-E?

A. C-O-K-E.

Q. And was there any other location of Garlock that you ever visited as a representative of the Ontario government?

A. To the best of my recollections, I don't know. I don't think -- I -- I might have done it. I'm not sure which other plants I did.

Q. Okay. Well, at least as you sit here today, you recall having gone to the Jutland --

A. That's right.

Q. -- location in Toronto?

A. That's right.

Q. And first of all, what was Garlock in the business of -- of doing? What did they make in Toronto?

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2 MR. COLEMAN: Objection.

3 THE WITNESS: Garlock made gaskets. And all
4 this plant was the manufacturing facility of
5 gaskets.

6 BY MR. KELLY:

7 Q. And when you say "gaskets," what
8 exactly do you mean?

9 A. Gasket is -- is a sealer between two
10 joints or pipe joints or anything, to -- to -- to
11 minimize the leakage of liquid flow or gas flow of
12 any kind.

13 So, the gaskets are put between two joints
14 to seal and prevent the leakage.

15 Q. And the gasket material was
16 manufactured at the plant at Jutland?

17 A. Yes.

18 MR. COLEMAN: Objection.

19 BY MR. KELLY:

20 Q. Did they make any packing material at
21 Jutland?

22 MR. COLEMAN: Objection to form.

23 THE WITNESS: Not that I remember.

24 BY MR. KELLY:

25 Q. Okay. And was asbestos used as one of

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2 the so-called ingredients of the gasket material
3 that was being manufactured --

4 A. Yes.

5 Q. -- at Jutland?

6 MR. COLEMAN: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. KELLY:

9 Q. We premarked a number of Exhibits which
10 we've marked as Rajhans A through R, and I believe
11 that they're corresponding in that binder before
12 you, as well.

13 MR. COLEMAN: Note my objection to the use
14 of the documents. No authentication has been laid
15 for their use. I don't know where they came from.
16 I don't know how they arrived at this office. I
17 don't know who made any changes to any of the
18 documents. And basically, that's my objection.
19 They have not been properly authenticated at this
20 juncture.

21 MR. KELLY: Okay. So your objection is that
22 there's lack of authentication at a discovery
23 disposition?

24 MR. COLEMAN: That they have not been
25 properly authentication as of this juncture to be

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2 used, even at a discovery deposition.

3 I don't know who authored them, where they
4 came from, where they've been, how they may have
5 been authored, and/or even to that extent how they
6 got here. I don't know when the witness first saw
7 the documents. I know nothing of the documents.

8 That is the basis of my objection.

9 MR. KELLY: Okay. And -- and you have been
10 making a number of objections --

11 MR. COLEMAN: Yes, I have.

12 MR. KELLY: -- so far without any basis.

13 And my question is: When did you receive
14 your license in Illinois and when -- or when were
15 you pro hoc'd into the Dunn case in Illinois?

16 MR. COLEMAN: So this is going to be a
17 pro hoc fight?

18 I have not been.

19 BY MR. KELLY:

20 Q. Do you have before you what we've
21 marked Exhibit A through R?

22 A. Yes.

23 Q. Okay. And you've also been provided by
24 my office more documents than what is identified
25 for the purposes of this deposition as Exhibits A

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2 through R; is that right?

3 A. Yes.

4 Q. And would you agree with me there's
5 about 200-plus pages of documents total that
6 purport to be from the Ontario Department of Health
7 or Labour?

8 A. It appeared that way.

9 Q. Okay. And amongst those various
10 documents, some of those actually have your name on
11 them; is that correct?

12 A. That's right.

13 Q. Some of them you've actually signed; is
14 that right?

15 A. Yes.

16 MR. COLEMAN: Objection.

17 BY MR. KELLY:

18 Q. Some of them you've actually authored?

19 A. Yes.

20 MR. COLEMAN: Objection.

21 BY MR. KELLY:

22 Q. And in reviewing those various
23 documents, do those purport to be documents that
24 either you, yourself, made or that you, yourself
25 were carbon copied on or reviewed during your

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2 ordinary course of work as an employee of the
3 Ontario Ministry of Health, and later the Ontario
4 Ministry of Labour?

5 A. Yes.

6 MR. COLEMAN: Objection.

7 THE WITNESS: That's very true.

8 BY MR. KELLY:

9 Q. Let's start with the first one, A.

10 MR. FERGUS: Do you have a Bates stamp on
11 that one? Exhibit A?

12 MR. KELLY: No. But you can take those, if
13 you want.

14 MR. COLEMAN: We'll share.

15 MR. FERGUS: I've got a complete set, but
16 these aren't Bates stamped.

17 The copies that I have have GR-001 through
18 211. So I'm just trying to, for the sake of
19 housekeeping, coordinate these with the ones that I
20 have.

21 MR. KELLY: And -- and let me just clean
22 that up for you, Sean.

23 What we have marked are the actual copies,
24 pre-Bates numbering, simply because the Bates
25 numbers were not on the copies when we received

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2 them from the Ontario government.

3 That's -- they're somewhat modified from
4 what Mr. Rajhans would recall because, of course,
5 they weren't Bates numbered at that time when he
6 made and reviewed these documents.

7 MR. FERGUS: All right. Give me a second,
8 and I'll find them with my Exhibits.

9 MR. KELLY: Why don't we take a break and
10 I'll let you do that.

11 (Discussion off the record at 11:25.)

12 (On the record at 11:33.)

13 BY MR. KELLY:

14 Q. Do you have Exhibit A in front of you?

15 A. Yes, I do.

16 Q. And will you, first of all, describe to
17 me what that particular document is?

18 A. This document is Part 1 of a field
19 visit report written by me on October 20th, 1969 as
20 a memorandum to Dr. V.L. Tidey, chief of
21 occupational health service. And it was on Garlock
22 Canada -- of Canada Limited, 66 Jutland Road,
23 Toronto, Ontario.

24 Q. And this is a document entitled field
25 visit report. Is this the same type of field visit

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2 report you told us about before that you make after
3 visiting a particular location?

4 A. Yes.

5 Q. And, again, this was the kind of
6 document that you created during the ordinary
7 course of business, and that the Ministry retained
8 during its ordinary course of --

9 MR. COLEMAN: Objection.

10 BY MR. KELLY:

11 Q. -- business, correct?

12 A. Yes.

13 Q. The -- the field visit report says
14 underneath it Part 1?

15 A. Yes.

16 Q. What does that signify?

17 A. This really signifies that there --
18 there is going to be Part 2 after the sampling
19 results are available.

20 Q. And is there only a Part 1 when you
21 know there's going to be some sampling involved?

22 A. That's right.

23 Q. Okay. And where is sampling -- strike
24 that.

25 Where was sampling done in 1969 when samples

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2 were actually taken by the Ontario government?

3 MR. COLEMAN: Objection.

4 THE WITNESS: The sampling was done in -- in
5 this case, when we are talking about in reference
6 to this report, was taken at Garlock of Canada
7 Limited, 66 Jutland Road.

8 BY MR. KELLY:

9 Q. Okay. And that might have been a poor
10 question. Let me try it again.

11 The -- the actual samples, were those
12 samples of the air?

13 A. That's right.

14 Q. And they were samples of the air to
15 determine what content -- strike that.

16 What -- what -- what were -- what were
17 the -- the purposes of the air samples?

18 A. To determine the exposure to asbestos
19 for the workers.

20 Q. And were you, yourself, the person that
21 ever took the actual air samples when you went into
22 these various plants?

23 A. In some cases, I did. In some cases, I
24 supervised. And in some cases, the technicians and
25 I both did.

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Q. Were there people that worked for the Ontario Department of Health or Labour that simply had the job of performing dust samples?

MR. COLEMAN: Objection.

THE WITNESS: Yes, sir.

BY MR. KELLY:

Q. And after samples are obtained by those individuals, whether it be yourself or one of the technicians, where did the samples go?

A. The samples went to the lab, called occupational health lab. And there, the technicians will make the samples ready for counting on the microscope.

Once the counting is finished, then they will send the results to me if I requested the samples, and then I will comment on the results.

Q. The people that worked at the -- what you called the -- the lab, were they employees of either the Ministry of Health or the Ministry of Labour?

A. Ministry of Health at that time.

MR. COLEMAN: Objection.

BY MR. KELLY:

Q. And later, after the Ministry of

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2 legality was sort of consolidated into the --
3 strike that.

4 After the environmental health services
5 branch was consolidated into the Department of
6 Labour, did those same employees become employees
7 of the Ministry of Labour?

8 A. Yes.

9 Q. So all of the sampling, the actual
10 taking of the air samples, the actual analysis of
11 those samples, was done by individuals employed by
12 the government of Ontario?

13 A. Yes.

14 MR. COLEMAN: Objection.

15 BY MR. KELLY:

16 Q. Let's start, first of all, with the
17 section that says -- first of all, the plant you
18 indicate was Garlock of Canada Limited, and that's
19 the location at Jutland Road; is that right?

20 A. That's right.

21 Q. And then the section for context,
22 what -- what's the reference there?

23 A. That is the company personnel whom I
24 contacted and who accompanied me during my visit.

25 Q. So, as you described before, when you

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actually visited the Garlock plant on this occasion, you went and asked for someone in management, and at this time you got Mr. Rostas; is that right?

A. That's right.

Q. And he was the individual that would have accompanied you through the plant during your inspection?

MR. COLEMAN: Objection.

THE WITNESS: That's right.

BY MR. KELLY:

Q. Do you know -- well, first of all, Mr. Rostas is -- it indicates on this report, was the plant engineer.

A. That's right.

Q. What -- what does that mean, do you know?

A. Well, at that time --

MR. COLEMAN: Objection.

THE WITNESS: -- he was the senior-most company personnel available to accompany me.

BY MR. KELLY:

Q. And do you know -- well, strike that.

The next section on, sort of, the right-hand

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2 side there, there's a section that says "requested
3 by." Who is Mr. Cotgreave?

4 A. Mr. Cotgreave is or was one of the
5 ISO's I talked about.

6 Q. And beside his name, it says "ISB."
7 What does that mean?

8 A. That's industrial safety branch.

9 Q. So, would he have been an employee of
10 the department -- strike that -- of the Ministry of
11 Labour?

12 A. That's right.

13 Q. And Mr. Cotgreave would have been the
14 individual that would have requested your
15 involvement?

16 A. That's right.

17 Q. It indicates on the next line
18 "accompanied by." What's the references there for?

19 A. That says that that particular person,
20 that is Mr. Cotgreave, the ISO, also accompanied me
21 during my visit.

22 Q. And underneath it says Mr. H.L.M. King,
23 D. of Lab. What does that mean?

24 A. That's Department of Labour.
25 Department of Labour.

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2 And Mr. H.L.M. King was an understudy of
3 Cotgreave before he became an ISO.

4 Q. So on this occasion, there were three
5 people from the Province of Ontario and Mr. Rostas
6 that went through the plant?

7 A. That's right.

8 Q. And the date of the visit was what?

9 A. October 17th, 1969.

10 Q. It also -- this document indicates that
11 copies were sent to certain individuals. Who were
12 those people?

13 A. Mr. Turton, at that time -- copies to
14 Mr. R. Turton -- Mr. Turton was at that time acting
15 director, if I recall correctly, and I think I do.
16 Mr. R. Turton was the acting director of the
17 industrial safety branch.

18 And Dave Moore -- Mr. Dave Moore was the
19 senior, you can say, officer at the chest disease
20 service. We used to have chest disease service.

21 And Mr. Wall was in charge of the lab.

22 Q. Tell me about the chest disease
23 service. What did they do?

24 A. We had one section in our occupational
25 health branch which was called chest disease

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 2 services where a mobile x-ray unit will be
 3 employed, or at least -- there were several mobile
 4 x-ray units available that will go to various
 5 plants where there were dust exposures, and x-ray
 6 the workers and keep their x-rays with them and see
 7 if, on subsequent visits, those x-rays changed.
 8 Chest x-rays. That's why they were called chest
 9 disease services.

10 Q. Did Garlock have its own equivalent of
 11 a chest disease service where they took x-rays of
 12 the employees?

13 MR. COLEMAN: Objection.

14 THE WITNESS: No.

15 BY MR. KELLY:

16 Q. Do you know why?

17 MR. COLEMAN: Objection.

18 THE WITNESS: I would not know why.

19 BY MR. KELLY:

20 Q. Okay. Mr. Wall was the person from the
 21 lab, you indicated?

22 A. He was in charge of the lab.

23 Q. And would he have been the person on
 24 this occasion that would have done the sampling?

25 A. No. He was just an -- an

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2 administrative head. He would have technicians and
3 scientists working for him.

4 Q. Let's go to the body of the report.

5 It says that the -- This visit was made at
6 the request of Mr. A. Cotgreave.

7 Do you know what it was that prompted
8 Cotgreave to go into the Garlock plant in the first
9 place?

10 A. This would have been just a cyclical
11 visit, as I talked about. Every three months, all
12 these inspectors were asked to visit the plants in
13 their area or the companies in their area. But, if
14 any particular plant had major problems, then they
15 might go more often.

16 And Mr. Cotgreave would have gone to this
17 plant as a routine, cyclical visit, or because
18 there was asbestos exposure, he paid more attention
19 to it.

20 Q. And do you have a feel, as you sit here
21 today, as to whether or not Mr. Cotgreave's initial
22 interaction prior to you coming into the Garlock
23 plant in October 20 of 1969 was as a result of one
24 of those cyclical, quarterly visits, or as a result
25 of major problems that --

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2 MR. COLEMAN: Objection.

3 BY MR. KELLY:

4 Q. -- had been noted at Garlock.

5 A. It could have been both.

6 Q. You don't know one way --

7 A. No.

8 Q. -- or the other --

9 A. I don't.

10 Q. -- as you sit here today?

11 A. Yes. I don't.

12 Q. Okay. Regardless, Mr. Cotgreave
13 requested -- well, strike that.

14 Let me ask it this way.

15 Do you have a recollection as to why you
16 became involved in visiting the plant on
17 October 17, 1969?

18 A. Mr. Cotgreave requested me.

19 Q. And what was it that caused
20 Mr. Cotgreave to request a -- your expertise?

21 A. Because he thought the plant had
22 asbestos exposure, and because of my expertise in
23 asbestos, he would have liked me to see it.

24 MR. COLEMAN: Objection.

25 BY MR. KELLY:

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2 Q. And the second paragraph indicates that
3 during the visit, you observed some braiding
4 machines. What are braiding machines?

5 A. Braiding machines are the machines
6 where twines of asbestos or yarns of asbestos are
7 intertwined in -- in -- in order to make a braid,
8 braided-type of cable.

9 So, they -- they -- the various twines will
10 be intertwined on this machine to make it a
11 braider.

12 Q. And the purpose of that is to, sort of,
13 create a -- a matrix of material that ultimately
14 becomes the gasket material?

15 A. That's right.

16 MR. COLEMAN: Objection.

17 MR. KELLY: You can answer.

18 THE WITNESS: That's right.

19 BY MR. KELLY:

20 Q. And was one of the materials used in
21 the braiding process asbestos?

22 A. That's right.

23 MR. COLEMAN: Objection.

24 BY MR. KELLY:

25 Q. Did the Garlock plant, in Jutland or --

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2 or on Jutland, use any other materials other than
3 asbestos in the braiding process?

4 MR. COLEMAN: Objection.

5 THE WITNESS: They used, to the best of my
6 recollection, at times, they used jute, hemp and
7 cotton.

8 BY MR. KELLY:

9 Q. And if you had to quantify what was
10 used the most of the various things -- jute, hemp,
11 cotton and asbestos -- what was the primary
12 braiding material used by Garlock?

13 A. Asbestos.

14 MR. COLEMAN: Objection.

15 THE WITNESS: Asbestos.

16 BY MR. KELLY:

17 Q. Are you familiar with the fact there
18 are different fiber types of asbestos?

19 A. Yes, I am.

20 Q. And -- and what are the -- the
21 different fiber types --

22 MR. COLEMAN: Objection.

23 BY MR. KELLY:

24 Q. -- that you're familiar with?

25 MR. COLEMAN: Calls for expert testimony.

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2 THE WITNESS: There are three basic types of
3 asbestos.

4 In the layman's term, you can say white,
5 brown and blue.

6 White is mineralogically called chrysotile.

7 The brown is called amosite, A-M-O -- okay.

8 And the blue is called crocidolite.
9 Crocidolite.

10 And -- and these are the three main types of
11 asbestos.

12 But then there are several other varieties
13 which contain more than 50 percent asbestos. But I
14 just gave you three main types.

15 BY MR. KELLY:

16 Q. And of the three types that you gave
17 me, are those the ones primarily used in indus --
18 in industry?

19 MR. COLEMAN: Objection.

20 THE WITNESS: The white and blue were
21 primarily used. Not the brown, as -- as much.

22 BY MR. KELLY:

23 Q. Okay. And did Garlock use different
24 fiber types, or did it just use one?

25 A. No --

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2 MR. COLEMAN: Objection.

3 THE WITNESS: -- they used white and blue
4 quite often.

5 BY MR. KELLY:

6 Q. And that would have been the chrysotile
7 and the crocidolite?

8 MR. COLEMAN: Objection.

9 THE WITNESS: That's right.

10 BY MR. KELLY:

11 Q. You also indicated that you observed a
12 sheet room when you were at Garlock. What's the
13 sheet room?

14 A. The sheet room --

15 MR. COLEMAN: Objection.

16 THE WITNESS: -- is when the material
17 crushed by hammer nail -- hammer mill is taken
18 between two calendars -- now let me explain what
19 these are. These are the heated rolls, the
20 rollers, you can say, where the material is passed
21 through to make a sheet from which the gaskets are
22 stamped out.

23 So the sheeter room is where the
24 sheet-making machines are.

25 BY MR. KELLY:

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2 Q. Okay. You use the term "hammer mill."

3 What's the hammer mill?

4 A. Hammer mill is where loose asbestos
5 materials or asbestos-containing materials are
6 crushed and cut by using a -- compressed air
7 hammers and shredded, and make -- and are made
8 pliable so that they can be then used to make
9 sheets and braidings.

10 Q. How big was the Jutland Road location
11 of Garlock in Toronto?

12 A. If I could, to the best of my
13 recollection, it -- it was quite big. And
14 I -- I -- I am sorry, I can not give you the -- the
15 square feet of that -- I might have written it in
16 some report, but I don't recall the square feet of
17 that plant.

18 Q. Was it as big as a football field?

19 MR. COLEMAN: Objection to form.

20 THE WITNESS: Yes. Yes. Yes. It was quite
21 big.

22 BY MR. KELLY:

23 Q. Was it bigger than that?

24 A. No.

25 Q. Okay.

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2 A. I would not think so.

3 Q. Was it multiple floors? Or was it just
4 a single level?

5 A. If I recall correctly, it was a sing --
6 correctly -- if I recall correctly, it was one
7 level.

8 Q. And was asbestos, raw asbestos,
9 received at a particular part of the plant?

10 MR. COLEMAN: Objection.

11 THE WITNESS: Yes.

12 BY MR. KELLY:

13 Q. And where -- whereabouts was that, with
14 respect to the other --

15 A. They --

16 Q. -- machines and things of that nature
17 going on in the manufacturing area?

18 A. They had a place called receiving room
19 where they would receive loose asbestos. Loose
20 asbestos, you can say, in -- in bundles or in
21 containers.

22 And that receiving room was close to the
23 hammer mill. So from there, sometimes manually
24 they transferred those loose asbestos fibers to the
25 hammer mill.

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2 Later on, they came up with the device where
3 it could be air conveyed to the hammer mill. But I
4 have seen both.

5 Q. Okay. So at least with respect to the
6 actual receiving of -- of asbestos at Garlock, they
7 had an area where the receiving was done, right?

8 A. That's right.

9 MR. COLEMAN: Objection to form.

10 BY MR. KELLY:

11 Q. And did you ever get a feel for how the
12 asbestos arrived at the plant? Was it by rail? Or
13 by truck? Or anything like that?

14 MR. COLEMAN: Objection.

15 THE WITNESS: I -- I can't tell you how they
16 arrived. The only -- I never saw any -- any rail
17 cars or anything coming and dumping it, no.

18 BY MR. KELLY:

19 Q. Now, regardless, you did see it in
20 bundles and also in -- in cartons?

21 A. That's right.

22 Q. And this was raw asbestos fiber?

23 MR. COLEMAN: Objection.

24 THE WITNESS: That's right.

25 BY MR. KELLY:

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2 Q. And -- and it was both the white
3 chrysotile and the blue crocidolite?

4 A. That's right.

5 MR. COLEMAN: Objection.

6 BY MR. KELLY:

7 Q. Now, you indicated that after the raw
8 fiber was received, it was sent to the hammer mill
9 area?

10 A. That's right.

11 Q. And what was it they actually did in
12 the hammer mill area with this raw asbestos?

13 A. They crushed --

14 MR. COLEMAN: Objection.

15 THE WITNESS: -- they -- they cut, they
16 crushed, they -- they shredded it before they were
17 sent to the braiders or -- no. They were sent to
18 the mixing room. And then from there, to the
19 sheeting room or braider.

20 I'm sorry, at this time, I cannot tell you
21 exact sequence. I don't recall exact sequence.
22 But that's how it happened.

23 BY MR. KELLY:

24 Q. Regardless, the raw asbestos would be
25 milled into some sort of form whereby it could be

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2 braided and used in the -- the --

3 MR. COLEMAN: Objection.

4 BY MR. KELLY:

5 Q. -- final Garlock gasket material?

6 MR. COLEMAN: Objection.

7 THE WITNESS: That's right.

8 BY MR. KELLY:

9 Q. During your visit on October 17th,
10 1969, did you find that -- well, tell me what you
11 found with respect to this visit.

12 MR. COLEMAN: Objection.

13 Are you asking him to read from that
14 document? Or are you asking him what he
15 specifically recalls from his own recollection?

16 I wasn't sure what you meant by the
17 question.

18 BY MR. KELLY:

19 Q. Did you understand the question?

20 A. I did understand the question.

21 Q. Okay.

22 A. And I think I could use my memory,
23 also. But --

24 Q. Based on both your memory and the
25 document --

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2 A. And the document --

3 Q. -- in front of you?

4 MR. COLEMAN: Objection.

5 THE WITNESS: -- helps me to bring back my
6 memory. To revive my memory. I -- I will admit
7 that.

8 BY MR. KELLY:

9 Q. Okay. Well, feel free to use the
10 document to refresh your memory. But tell me
11 everything you remember about that visit.

12 A. Well, during that visit, as -- as the
13 report says, and I -- I can visualize, I can
14 remember this, the braiding machines and the sheet
15 room were checked.

16 And what was amazing to both Mr. Cotgreave,
17 the industrial safety officer, and myself, that
18 South African Blue asbestos, crocidolite, was again
19 found in the -- at one of the braiding machines
20 which was not fitted with ventilation or local
21 exhaust.

22 Q. And let me ask you, first of all, you
23 said that South African Blue crocidolite was,
24 again, found to be in use at the plant.

25 A. Yes.

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2 Q. Why was that a surprise to you?

3 A. Because --

4 MR. COLEMAN: Objection.

5 THE WITNESS: -- because we were told in
6 previous visits that they will not use South
7 African Blue asbestos unless the machine is
8 adequately exhausted. So, this is we are talking
9 about in 1969.

10 BY ATTORNEY FIVE:

11 Q. So prior to your visit on October 17 of
12 1969, had Garlock told you and Mr. Cotgreave that
13 it would not use the blue asbestos on any machine
14 unless it had a local exhaust?

15 MR. COLEMAN: Objection.

16 THE WITNESS: Mr. Cotgreave was told that,
17 yes.

18 MR. COLEMAN: Objection. Move to strike.

19 BY MR. KELLY:

20 Q. And -- and did Mr. Cotgreave
21 indicate -- strike that.

22 Did Mr. Cotgreave pass that information onto
23 you as to what Garlock had represented?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's right.

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2 MR. COLEMAN: It's a hearsay statement.

3 BY MR. KELLY:

4 Q. The -- the visit on October 17th, 1969,
5 you found that Garlock was using the blue asbestos
6 even on braiding machines that didn't have exhaust?

7 MR. COLEMAN: Objection.

8 THE WITNESS: That's right. Because, as I
9 said previously, both Mr. Cotgreave and I had
10 indicated to the plant management that blue
11 asbestos shall not be used without adequate local
12 exhaust.

13 BY MR. KELLY:

14 Q. And why was there a concern with the
15 blue asbestos being used in the absence of local
16 exhaust?

17 MR. COLEMAN: Objection. Calls for an
18 expert opinion.

19 THE WITNESS: Because blue asbestos is more
20 toxic. At that time, even in 1969 it was
21 universally accepted that blue asbestos crocidolite
22 is, in order of magnitude, more toxic than white
23 asbestos.

24 BY MR. KELLY:

25 Q. Both the white and the blue asbestos

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are toxic?

MR. COLEMAN: Objection.

THE WITNESS: Both are toxic.

BY MR. KELLY:

Q. And did Garlock have a number of braiding machines that it used in its manufacturing process?

A. That's right.

Q. Did some of them have exhaust?

A. Yes.

Q. And some didn't?

A. Yes.

Q. And at least on this particular visit, the machines that Garlock had chosen to use the crocidolite on were the ones that didn't have exhaust?

MR. COLEMAN: Objection.

THE WITNESS: Yes.

BY MR. KELLY:

Q. At -- the very last sentence of your report indicates that you had made certain directions in your September 30 report -- which we're going to get to in a second -- but, just to reiterate what we spoke about earlier when

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2 Mr. Cotgreave issued directions as a member of the
3 Department of Labour, it was equivalent to what an
4 OSHA citation would be, correct?

5 MR. COLEMAN: Object to the form.

6 THE WITNESS: That's right.

7 BY MR. KELLY:

8 Q. Now, at the bottom of that particular
9 page, first of all, is that your signature?

10 A. Yes, sir.

11 Q. And that stamp at the bottom that
12 says -- bottom right-hand corner that says
13 occupational health, October 20, 1969, what does
14 that mean?

15 A. This is a stamp of the chief,
16 V.L. Tidey, that you see at the top, chief of
17 occupational health and service. This is the stamp
18 of his office. These are his initials that he has
19 seen it. V.L.T. That's how he used to initial it.
20 And that's what the stamp is all about.

21 Q. And by having -- by stamping this
22 document with the -- the seal that we just
23 mentioned, that indicates that the chief of the
24 occupational health service received this
25 document --

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2 MR. COLEMAN: Object to the form.

3 BY MR. KELLY:

4 Q. -- correct?

5 A. That's right.

6 Q. And is it your -- that's fine.

7 What -- what's the handwritten numbers? It
8 looks like it says J-63 and some other indications
9 at the bottom.

10 A. Okay. That -- once the chief has seen
11 it, it will go to his assistant, and his name was
12 Gordon Sinclair.

13 And Gor -- these -- these initials that you
14 see at the bottom of those handwritten things are
15 his -- his initials. And then he is the one who
16 will send it to the file.

17 And J-63, it just our -- used to be some
18 coding of the files where certain field visits
19 could be filed.

20 Q. But at least because the document was
21 received by the chief and carries those
22 representations, the -- the handwritten writings at
23 the bottom, that's an indication that this document
24 was not only made by the -- strike that.

25 The -- the stamp and the handwritten

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notations at the bottom are an indication that this document was received by the chief and kept by the Department of Health during its ordinary course of business; is that right?

A. Yes.

MR. COLEMAN: Object to the form.

MR. KELLY: Did you get the yes?

THE COURT REPORTER: Yes.

BY MR. KELLY:

Q. The next page of Exhibit A is a field visit report from September 30, 1969; is that right?

A. September 16th. Oh, the -- the date of the report is September 30th. The visit was September 16th.

Q. Okay. Thank you.

A. Sorry.

Q. And, again, this is a memo to the chief, Tidey, correct?

A. That's right.

Q. And that's T-I-D-E-Y?

A. That's right.

Q. And was he your boss?

A. He was my boss's boss.

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Q. Who was your direct boss at this time?

A. Mr. Nelson.

Q. And this is actually the field visit report that's referenced on the October 20, 1969 report, correct?

A. That's right.

Q. This is the report that was the basis for the directions that Mr. Cotgreave issued to the company upon the October 17th, 1969 visit?

A. That's right.

Q. And the report indicates that the -- that your visit was at the request of D.E. Moore, E.H.B.

Who is he?

A. D. Moore, I indicated before, let me say it again, was one of the officers at our chest disease services.

And when their x-ray technicians would visit the plant, then they might observe something. And they would come back to Mr. Moore and say that this plant should be thoroughly investigated by an industrial hygienist.

So Mr. Moore, then, would request our branch to send one of the hygienist -- or send me, at that

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 2 time I was the only hygienist or specialist or
 3 anything they had to go and visit the plant.

4 MR. COLEMAN: Objection. Move to strike.
 5 It's based upon speculation that that could have
 6 happened at the Garlock plant.

7 MR. KELLY: Well, I -- I object to your
 8 motion.

9 Number one, you can't do that under the
 10 rules in Illinois on a discovery deposition.

11 Second of all, it's -- his answer was
 12 talking generally. He wasn't talking about this.
 13 But, I'll ask the question as to Garlock, if you'd
 14 like.

15 BY MR. KELLY:

16 Q. Do you recall if D.E. Moore was -- made
 17 the request for your involvement because of someone
 18 having performed chest x-rays at the Garlock plant
 19 that noticed a major problem with respect --

20 A. Yes, I do.

21 Q. -- to dust control?

22 MR. COLEMAN: Objection.

23 THE WITNESS: Yes.

24 BY MR. KELLY:

25 Q. And was that communicated to you by

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2 Mr. Moore?

3 A. Yes.

4 Q. And as a result of that, you made your
5 field visit to the plant on September 16, 1969?

6 A. That's right.

7 Q. In the first paragraph of your report,
8 it indicates that dust counts were done on
9 August 13 of 1969. Do you know who performed
10 those?

11 A. I would not, unless I go to the record
12 and see who did it. I -- no. My memory could not
13 tell me exactly who did it.

14 Q. Okay. At least based on the results
15 enumerated in your report, it indicated that the
16 counts were below the TLV.

17 First of all, what's the TLV?

18 A. TLV is a threshold limit value. It's
19 the acronym for threshold limit value, which are
20 developed and issued by ACGIH, American Conference
21 of Governmental Industrial Hygienists, after
22 reviewing all the published literature on that
23 particular contaminant for which the TLV is being
24 recommended.

25 There -- there is so-called a TLV committee

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2 which comprises of all kinds of experts who would
3 review all the documentations of a level on that
4 particular contaminant. And then they will also
5 interview people who could give more testimony
6 about the hazards.

7 The bottom line, at the end of the day, is
8 the TLV's are the guidelines issued by ACGIH every
9 year for the use of professional hygienists to
10 evaluate exposures to various contaminants. And
11 they are revised, updated every year.

12 MR. COLEMAN: Objection, and move to strike
13 to the extent it does give expert testimony.

14 MR. KELLY: Well, I mean, he's talking about
15 the basis for what he was doing at the plant --

16 MR. COLEMAN: As an expert.

17 MR. KELLY: -- for how he was evaluating
18 things done at the plant as a fact witness.

19 He had expertise, which is why he was in the
20 plant. But he's -- he's not giving an expert
21 opinion on TLV's.

22 BY MR. KELLY:

23 Q. At the time that you were in the plant,
24 what was the TLV that you were using for
25 comparison?

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2 A. 12 fibers per milliliter, greater than
3 five microns in length of the fibers.

4 Q. And the TLV of 12 fibers, do you know
5 if that number has changed over time?

6 MR. COLEMAN: Objection.

7 THE WITNESS: Yes.

8 BY MR. KELLY:

9 Q. And is that something that you learned
10 through your course of working for the Ontario
11 government?

12 MR. COLEMAN: Objection.

13 THE WITNESS: Yes.

14 BY MR. KELLY:

15 Q. And as a result, over time, the TLV
16 that you used for comparison upon your various
17 field visits to plants and other locations was a
18 lower number than the 12; is that right?

19 MR. COLEMAN: Objection to form.

20 THE WITNESS: Yes.

21 BY MR. KELLY:

22 Q. In the next paragraph, it indicates
23 that the asbestos sheet room was considered to be
24 very dusty.

25 Can you explain to me what you meant when

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2 you wrote that line?

3 A. That -- when I said "appeared to be,"
4 that was based on visual observation. When dust
5 particles or fibrous particles were floating in the
6 air and staying in the air for quite some time. So
7 visually, it looked like a dust cloud hanging in
8 the room environment.

9 Q. You could actually visualize the dust
10 in the air?

11 A. Yes.

12 Q. And I know that the -- the -- the best
13 way to determine how much asbestos is in the air is
14 from actually taking a sample. But, I mean, in a
15 situation where you can visually see the dust, is
16 that sort of an indication that there is asbestos
17 in the air that can be inhaled?

18 MR. COLEMAN: Objection.

19 THE WITNESS: That is the part of
20 recognition phase of industrial hygiene.

21 BY MR. KELLY:

22 Q. And explain to me what that means.

23 MR. COLEMAN: Objection.

24 THE WITNESS: That means when you walk
25 through a plant, and if you smell something, you

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2 know it's wrong -- something is wrong. If you see
3 any dusty place, you know something is wrong. And
4 so on and so forth.

5 So that is the recognition phase before you
6 start doing sampling at that particular place.

7 BY MR. KELLY:

8 Q. Once you've been able to visualize,
9 smell or hear a problem, you can perform additional
10 tests to determine the extent of that problem?

11 MR. COLEMAN: Objection.

12 THE WITNESS: That's right.

13 BY MR. KELLY:

14 Q. In this particular visit, did you note
15 that the blue asbestos was in use?

16 A. That's right. South African, as I say,
17 South African Blue crocidolite was found to be in
18 use without any local exhaust.

19 Q. And do you see here underneath the
20 asterisk where it says, The above mentioned company
21 has been previously visited by Mr. H. Nelson on
22 three occasions.

23 A. That's right.

24 Q. When you went into the Garlock plant
25 for the first time, what was -- strike that.

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2 Was this the first visit that you ever had
3 to the Garlock plant that you recall? September 16
4 of 1969?

5 A. I think so. As I recall, yes.

6 Q. And when you went into the Garlock
7 plant, you obviously already knew that Mr. Nelson
8 had visited Garlock on -- on three occasions,
9 correct?

10 MR. COLEMAN: Objection.

11 THE WITNESS: Yes.

12 BY MR. KELLY:

13 Q. Had you had a chance to review his
14 reports with respect to his three prior visits?

15 MR. COLEMAN: Objection.

16 THE WITNESS: Oh, yes.

17 BY MR. KELLY:

18 Q. And -- and why would that have
19 happened?

20 A. Because he was my boss. And he had
21 visited these plants. And every time I would go
22 and visit any plant which he had previously
23 visited, I would have extensive discussion with
24 him. In fact, sometimes it could last for hours.

25 Q. Just generally, after a field visit

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2 report was created by an individual like yourself,
3 you would send copies to the various people listed,
4 correct?

5 A. Yes.

6 Q. And then the ultimate copy that
7 received the stamp like the one at the top
8 right-hand corner of this particular document, that
9 was kept by the environmental health branch of the
10 Ministry of Health and then Labour, right?

11 A. That's right.

12 MR. COLEMAN: Object to the form.

13 BY MR. KELLY:

14 Q. Did you keep -- strike that.

15 Do you know if the individual field visit
16 reports were kept in files by company or by date or
17 how exactly did they organize the field visit
18 reports after they were maintained?

19 A. They were in a -- filed by company
20 name.

21 Q. So, for example, in 1969, if you wanted
22 to go find out about any prior field visits or any
23 other activities which had occurred with respect to
24 Garlock at Jutland Road, you would go to the
25 Garlock-Jutland Road file?

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2 A. Yes.

3 Q. And do you know if you ever did that?

4 A. Yes.

5 Q. And did you ever review the -- the
6 Nelson reports?

7 A. Yes.

8 Q. And you reviewed them at the time of
9 your visits; is that right?

10 A. Just before.

11 Q. And since that time, my office has
12 provided you copies of the entirety of the
13 documents that we received from the Ontario
14 Ministry of Labour and the Ministry of Health; is
15 that right?

16 A. Yes.

17 Q. And did you find in there the three
18 reports of Nelson?

19 MR. COLEMAN: Objection.

20 THE WITNESS: I --

21 BY MR. KELLY:

22 Q. Well, let me ask it this way: Do -- do
23 you recall reviewing any of the reports of Nelson
24 that preceded your September 30, 1969 report?

25 A. Yes, I do recall.

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2 Q. And did those appear to be the same
3 documents that you reviewed prior to your field
4 visits to Garlock?

5 A. That's right.

6 Q. They didn't appear to be tampered with
7 or altered in any way --

8 MR. COLEMAN: Objection.

9 THE WITNESS: No.

10 BY MR. KELLY:

11 Q. -- from the time that you first
12 reviewed them?

13 A. No. Not at all.

14 Q. And they appeared to be the same types
15 of documents which were maintained by the Ontario
16 Ministry of Health and then Labour in the ordinary
17 course of their work?

18 MR. COLEMAN: Objection.

19 THE WITNESS: That's right.

20 BY MR. KELLY:

21 Q. The -- the last paragraph of this
22 report, September 30, 1969, indicates that both the
23 chrysotile, the white asbestos, and the crocidolite
24 blue asbestos were being used; is that right?

25 MR. COLEMAN: Objection. It speaks for

1 Gyan Shankar Rajhans - 10-25-05

2 itself.

3 THE WITNESS: Please repeat that. Last
4 sentence of the first page you mean? Or --

5 BY MR. KELLY:

6 Q. The last paragraph.

7 A. Of the first page?

8 Q. Yes.

9 A. Oh, I'm sorry. Okay.

10 Q. Are you with me?

11 A. Yeah.

12 Q. Okay. And that indicates that Garlock
13 was using both the white chrysotile asbestos, as
14 well as the blue crocidolite asbestos on braiding
15 machines; is that right?

16 A. Yes.

17 Q. And what did you observe about
18 Garlock's use of these two fibers on the braiding
19 machines?

20 A. Well, in -- in some cases, they used
21 blue asbestos without local exhaust. And in some
22 cases, it was white asbestos were used without
23 adequate ventilation.

24 Q. And --

25 A. And as I say in this report, the

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 2 company used blue asbestos more often than they
 3 admit.

4 MR. COLEMAN: Objection.

5 MR. KELLY: What? Objection to the answer?

6 MR. COLEMAN: Yes. I'm objecting and moving
 7 to strike. It calls for speculation. It's his
 8 supposition. It's not a fact.

9 MR. KELLY: Well, I don't -- I don't agree
 10 with that.

11 BY MR. KELLY:

12 Q. Do you have a recollection of your
 13 conversation with Mr. Rostas with respect to the
 14 blue asbestos?

15 A. Yes. Very vividly.

16 Q. And -- and can you explain to me what
 17 it was that you spoke with Mr. Rostas about on this
 18 occasion with respect to the blue asbestos use?

19 A. I was very much concerned about the use
 20 of blue asbestos by the company, having known that
 21 blue asbestos is extremely dangerous.

22 And I indicated to Mr. Rostas that I would
 23 like the company to eliminate the use of blue
 24 asbestos or use it under adequate ventilation.

25 Q. And what was Mr. Rostas's response?

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2 A. Mr. Rostas was very receptive. He knew
3 about the -- the toxic effects of blue asbestos.
4 And he promised me that he would look into it.

5 MR. COLEMAN: Objection. Move to strike.

6 BY MR. KELLY:

7 Q. And when you were talking to Mr. Rostas
8 about -- about -- let me ask you this, first of
9 all: Did you ever see who it was that was
10 supplying the blue asbestos to Garlock? Do you
11 remember the name of the company?

12 A. No, I don't.

13 Q. What about with respect to the white
14 asbestos?

15 A. No, I don't.

16 Q. During the times that you spoke with
17 Mr. -- well, let -- let me just start here.

18 In September 30 -- or, September 16 of 1969,
19 when you were at the plant and being escorted
20 throughout the plant by Mr. Rostas, did he already
21 know that the blue asbestos was toxic?

22 MR. COLEMAN: Objection.

23 THE WITNESS: It -- yes. I -- I recall that
24 Mr. Rostas agreed with me that blue asbestos is
25 more toxic.

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BY MR. KELLY:

Q. Okay. And when you say "more toxic," does that mean that Mr. Rostas knew that the white asbestos was toxic, and the blue asbestos was also toxic?

MR. COLEMAN: Objection.

THE WITNESS: Yes.

BY MR. KELLY:

Q. And the two of you agreed that the blue asbestos, at least to some degree, was more toxic in comparison to the white asbestos?

MR. COLEMAN: Objection.

THE WITNESS: Yes.

BY MR. KELLY:

Q. Now, when you made the statement, I have a feeling that the company uses blue asbestos more often than they admit, what prompted that statement?

MR. COLEMAN: Objection.

THE WITNESS: Because in the previous visits, including Mr. Nelson's visit, they kept saying that at every -- on every visit, the company kept saying that they are going to be reducing the use of blue asbestos or eliminating the use of blue

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2 asbestos. And that did not appear to be the case
3 at -- on this visit.

4 MR. COLEMAN: Objection. Move to strike.
5 There's no foundation. He hasn't listed who he
6 spoke to.

7 BY MR. KELLY:

8 Q. The -- the second page, I want you to
9 turn your attention to that.

10 When you're talking about the blue asbestos
11 being stored in 80-pound cartons at the north end
12 of a room, 200-feet by 100-feet by 12-feet high,
13 what room are you referring to?

14 A. These will be -- this will be the
15 receiving room.

16 Q. And what exactly did you observe in
17 these 80-pound cartons?

18 A. They were not tightly packed. And
19 several yarn rolls were found to be lying open on
20 the floor and the cartons.

21 Q. And do you have a recollection of how
22 big these rolls were?

23 A. No, I don't.

24 Q. Okay. Did they actually come on a
25 spool, like thread?

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2 A. Yes. Yes. They did come on a spool.

3 Q. Did any of the blue asbestos that you
4 found in this room, was it just raw fiber? Or was
5 it all processed into yarn?

6 A. Processed into yarn.

7 Q. And were there other areas of the plant
8 where raw blue fiber was kept?

9 A. No, not that I recall.

10 Q. Okay. The next paragraph indicates
11 that the Number 5 and 6 braiding machine had some
12 sort of exhaust measures; is that right?

13 A. That's right.

14 Q. Why did Garlock have exhaust mechanisms
15 on the various braiding machines?

16 MR. COLEMAN: Objection.

17 THE WITNESS: Because they -- they knew that
18 asbestos dust or any or other dusts could be
19 spewing out, and they should be controlled.

20 BY MR. KELLY:

21 Q. And was the purpose of controlling the
22 release of asbestos fibers in order to reduce the
23 potential health hazards to the workers?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's right.

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2 BY MR. KELLY:

3 Q. At least from your communications with
4 the management people at the Garlock plant at
5 Jutland Road, the management personnel appreciated
6 the fact that the asbestos fibers posed a potential
7 health hazard to the workers?

8 MR. COLEMAN: Objection.

9 THE WITNESS: That's right.

10 BY MR. KELLY:

11 Q. During your entire time that you spent
12 visiting the Garlock plant at Jutland Road, did you
13 ever see any signs that informed the workers of the
14 potential health hazards?

15 A. No. Never.

16 MR. COLEMAN: Objection.

17 BY MR. KELLY:

18 Q. You indicate that the machines were
19 covered with chrysotile fibers in the last sentence
20 of the second paragraph. Explain that to me.

21 A. Second paragraph?

22 Q. The last sentence.

23 A. The machines were covered with
24 chrysotile fibers. That means the exhaust -- the
25 local ventilation on those machines were not

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2 effective, and that's why the fibers were escaping
3 the canopies that were over those machines. And
4 that's why the -- the machines were covered with
5 chrysotile fibers, because once they escape, they
6 will settle on the machine.

7 MR. COLEMAN: Objection. Move to strike.
8 Calls for an opinion.

9 MR. KELLY: How does it call for an opinion?
10 He's giving factual testimony. I mean, I
11 understand you don't like the testimony, but you
12 can't strike it just on that basis. I mean, he's
13 giving factual recitations of what he observed
14 based on his actual recollection in addition to the
15 document that he wrote at or near the time that he
16 observed it.

17 MR. COLEMAN: No. Saying that he sawdust on
18 a machine is a factual recollection.

19 Saying how it got there because he is
20 opining as to how the machines worked is an
21 opinion.

22 MR. KELLY: Well, let's go down that road,
23 Mr. Rajhans.

24 BY MR. KELLY:

25 Q. Part of your training included measures

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2 to help reduce the amount of toxic dust in the air
3 in manufacturing plants; is that right?

4 MR. COLEMAN: Objection.

5 THE WITNESS: That's right.

6 BY MR. KELLY:

7 Q. And, in fact, one of your books
8 detailed how exactly companies or places where
9 asbestos was being used could design ventilation
10 systems in the hopes of reducing the amount of
11 asbestos dust in the breathing zone of workers?

12 A. That's right.

13 MR. COLEMAN: Objection.

14 THE WITNESS: That's right.

15 My book published in 1978 showed detailed
16 designs for the mixers, the cutters, the
17 hammer mill, everything that could be done to
18 reduce asbestos exposure to the lowest possible
19 level.

20 MR. COLEMAN: Note my objection. We've
21 clearly crossed the point right now where we're
22 going from factual to expert testimony. The
23 witness is being called as a fact witness only and
24 not an as expert.

25 MR. KELLY: Well, I mean, you can't have it

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2 both ways. You can't object that he doesn't have
3 the factual foundational basis in order to make the
4 observations that he did at the time he was there.
5 And then, when we try to clear that up
6 foundationally, based on his knowledge, say that he
7 can't give expert opinions.

8 I mean, he's giving his opinions based on
9 his factual recitations.

10 MR. COLEMAN: I actually can, because he was
11 noticed only as a fact witness.

12 Had he been listed as an expert witness, he
13 could have given a foundation for an opinion as to
14 how the dust may have gotten there.

15 The fact is that as a fact witness, he may
16 testify as to what he saw and what he observed.
17 And that is the basis of a fact witness.

18 You're trying to go into the expert opinion.
19 And what you're trying to do at this juncture is to
20 try to give a factual basis for an opinion.

21 It's --

22 BY MR. KELLY:

23 Q. As part of your -- your job as the dust
24 control specialist in visiting the Garlock plants,
25 were you required to make recommendations to the

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2 various companies, including Garlock, on ways to
3 use exhaust and other measures in order to reduce
4 the dust as much as possible?

5 MR. COLEMAN: Objection.

6 THE WITNESS: That was my job.

7 BY MR. KELLY:

8 Q. And in this particular instance in
9 September 16 of 1969, did you make any such
10 recommendations to Garlock?

11 A. Yes, I did.

12 Q. And what was that?

13 MR. COLEMAN: Objection.

14 THE WITNESS: Those recommendations are
15 listed in the -- under directions to be issued on
16 page 3.

17 MR. COLEMAN: And again, note my objection.
18 They encompass things that are not necessarily what
19 has been observed. These are recommendations based
20 upon perhaps his training, but it would take an
21 expert to actually devise new methods to be
22 utilized and things to be done into the future.
23 That's not an observation. So, I object to him
24 testifying as to what his recommendations were.

25 MR. KELLY: All right. And you can have a

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2 continuing objection to that.

3 MR. COLEMAN: Thank you. As to -- just --
4 just so we're clear, would this be as to all the
5 documents so I don't have to do this for every
6 individual document? Or it just this document?

7 MR. KELLY: Well, if -- if your objection is
8 you think that his factual recitation of the
9 recommendations that he made on his various visits
10 and the observations he made is somehow an expert
11 opinion --

12 MR. COLEMAN: Okay.

13 MR. KELLY: -- I'll give you that continuing
14 objection --

15 MR. COLEMAN: Fair enough.

16 MR. KELLY: -- but I don't think it has any
17 basis.

18 BY MR. KELLY:

19 Q. You indicated that you did make
20 directions to the company, and that that was on
21 page 3?

22 A. That's right.

23 Q. And what recommendations did you make
24 with respect to exhaust?

25 MR. COLEMAN: Same objection.

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2 THE WITNESS: Well, as you can see on page 3
3 of the report, I did indicate that blue asbestos
4 shall be only used -- the word is "shall," not
5 "should," -- shall be only used under adequate
6 local mechanical exhaust and adequacy of that
7 exhaust will further be determined by myself on
8 subsequent visits.

9 Then the braiding machines should be
10 provided or shall be provided better -- better
11 enclosures, because those braiding machines did not
12 have good enclosures. And that's why dust escaped.
13 And that's why the dust was seen on those machines
14 that earlier was referred by me.

15 Q. And -- and let me cut you off there.

16 You found loose fibers in both chrysotile
17 and blue fibers on the braiding machine?

18 A. Yes, sir.

19 Q. Okay. And -- and what was your next
20 recommendation?

21 A. The housekeeping in the sheet room
22 shall be improved. Only vacuuming or wet sweeping.

23 And this was emphasized because I -- I would
24 not want anybody to use compressed air to clean the
25 floor.

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2 Q. Why is that?

3 MR. COLEMAN: Objection.

4 THE WITNESS: Because compressed air will
5 stir up more dust and will -- will have more
6 airborne dust in that room.

7 BY MR. KELLY:

8 Q. Have you ever heard the term
9 reentrainment?

10 A. Yes.

11 Q. And is that the concern that if you
12 introduce air or some other environmental factor,
13 that settled dust can become airborne once again?

14 MR. COLEMAN: Objection.

15 THE WITNESS: That's right.

16 BY MR. KELLY:

17 Q. And that was a -- a health and hygiene
18 concern to the workers; is that correct?

19 MR. COLEMAN: Objection.

20 THE WITNESS: That's right.

21 BY MR. KELLY:

22 Q. What was the -- the fifth
23 recommendation that you made?

24 A. The fourth one, if I could go back?

25 Q. That's all right. The fourth one, yes.

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2 A. The fourth one was that the air
3 conveying system at the hammer mill shall be
4 repaired and maintained leak free.

5 And it was done, because some leakages were
6 observed. And the air conveying system was under
7 pressure. So, it has to be leak free.

8 The fifth was employees handling blue
9 asbestos shall be provided with adequate
10 respiratory protection.

11 Q. Okay. And let's talk about that one
12 for a second.

13 The -- when you were talking about
14 respiratory protection, what are you talking about?

15 A. I'm talking about dust masks that are
16 approved by NIOSH at that time for the protection
17 against asbestos.

18 Q. And can you describe to me what the
19 respiratory protection that NIOSH prescribed for
20 asbestos at that time was like?

21 A. Yes. NIOSH prescribed at that time --

22 MR. COLEMAN: Objection.

23 MR. KELLY: Just a sec.

24 I mean, I understand you're going to object
25 to every single question that's asked today.

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2 MR. COLEMAN: I'm not trying to cut him off.

3 MR. KELLY: But you can't object during the
4 middle of an answer, in order to, you know, change
5 the way he answers the question.

6 I mean, if you're just doing this to sort of
7 throw him off and stuff, that's unfair and it's not
8 in good faith.

9 I've already given you a continuing
10 objection. So, I'd just ask that you be respectful
11 to the witness, as he's been respectful to everyone
12 else in the room, and let him --

13 MR. COLEMAN: I'm trying to.

14 MR. KELLY: -- answer the questions when
15 he's answering.

16 MR. COLEMAN: I'm trying to.

17 MR. KELLY: Sorry, Mr. Rajhans. Could you
18 please answer?

19 THE WITNESS: Okay. NIOSH, at that time,
20 had several categories for respirators which could
21 be approved for asbestos exposure.

22 They had one type which usually was called,
23 for example, 3M-8710. I'm just giving an example.
24 I'm not trying to name a company here. Will be
25 approved up to ten times the TLV of asbestos.

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2 Then, there will be powered air purifying
3 respirator which will be allowed up to 50 times.
4 So on and so forth.

5 BY MR. KELLY:

6 Q. And during your visit, you reference
7 that the operator of the bag dumping and loosening
8 of fiber operation was wearing an approved-type
9 respirator; is that right?

10 A. Yes.

11 Q. Did you notice anyone else at the
12 Garlock plant wearing a respirator?

13 A. No.

14 Q. Did you see any signs at any time you
15 went to the Garlock plant advising the workers that
16 they should wear respirators?

17 A. No.

18 Q. Did you ever learn what the operator
19 that was working in the bag dumping and loosening
20 of fibers operation was told as to why he or she
21 should wear such a respirator?

22 A. No.

23 Q. If you go down into comments, you --
24 you mentioned Mr. Nelson's prior reports that --
25 that you had to read prior to your visit, and then

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2 also indicated that you were told during the visit
3 that the blue asbestos was not being used that day.

4 Do you know who it was that told you that?

5 A. As soon as I could go into a plant, as
6 I said, I will ask for the senior-most person in
7 charge of that plant to see me and accompany me for
8 the visit. And it was Mr. Rostas, who was the
9 plant engineer.

10 And he, during our initial conversation
11 before we go out in the plant, if I recall
12 correctly, and as this report says, that as soon as
13 we started walking into the plant, I was told that
14 blue asbestos was not being used at least that day.

15 Q. Is that what you found when you went
16 into the plant?

17 A. Yes.

18 Q. You found that asbestos was not being
19 used?

20 A. No, it was.

21 Q. Okay. So, in fact, though Mr. Rostas
22 told you blue asbestos was not being used, it was
23 being used on one of the braiding machines?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's right.

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2 BY MR. KELLY:

3 Q. The last sentence here indicated that
4 the TLV for blue asbestos is zero. Did you
5 communicate that to Mr. Rostas?

6 A. Yes, I did.

7 Q. And when you communicated that to him,
8 was he aware of the fact that the TLV for blue
9 asbestos was zero?

10 MR. COLEMAN: Objection.

11 THE WITNESS: Yes.

12 BY MR. KELLY:

13 Q. In part 3 of the comments, you
14 indicated at the last sentence that the
15 housekeeping in the room was poor. What is
16 housekeeping?

17 A. Housekeeping usually meant for the
18 industrial hygienist, the -- the way the floor of
19 that particular room is cluttered and dust found
20 everywhere.

21 In other words, no clean-up job was done.
22 Regularly, no maintenance or clean-up job was
23 performed.

24 And that's what we called, the housekeeping.

25 MR. KELLY: All right. Let's take a quick

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2 break. I think we need to change the type.

3 THE WITNESS: Okay.

4 (Videotape Number 1 was then concluded at
5 12:33.)

6 (A short recess was taken.)

7 (Videotape Number 2 was begun at 12:37.)

8 BY MR. KELLY:

9 Q. Now, with respect to the documents that
10 make up Exhibit A, did the Department of Health
11 environmental health branch have a practice or
12 policy of providing these documents to the company
13 at issue?

14 A. That's right.

15 Q. And whose responsibility was it to
16 provide copies of the field visit reports and
17 recommendations to the company?

18 A. It was the chief of the hygiene
19 service. It will go under V.L. Tidey, depending on
20 whoever is the chief. So let's say the chief of
21 the service will send a copy of the report to the
22 company.

23 Q. Okay. So, all field visit reports with
24 respect to a company, including the ones in
25 Exhibit A, would have been forwarded on to Garlock?

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2 A. Yes.

3 MR. COLEMAN: Objection.

4 BY MR. KELLY:

5 Q. Let's turn to tab B. This is a field
6 visit report from a visit of July 16, 1970 and the
7 report is July 29, 1970, correct?

8 A. Yes.

9 Q. Again, this is a report that you
10 authored?

11 A. Yes.

12 Q. And it reflects a plant visit at the
13 Garlock-Jutland Road location?

14 A. That's right.

15 Q. Who are the contacts that you had
16 escort you through the plant on this occasion?

17 A. This time I had Mr. Rostas, as before,
18 but also Mr. Pilmer, who was the president of the
19 company.

20 Q. He was president of Garlock of Canada
21 Limited?

22 A. At that time, yes.

23 Q. And had you met him before?

24 A. No.

25 Q. Do you know why it was that he

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2 accompanied you on this particular visit?

3 A. I would not have the recollection of
4 that why he decided to go. I would be speculating
5 and I would not like to.

6 Q. The COPIES were sent, of this report,
7 were sent to who?

8 A. Jim McNair, as you see, got three
9 copies. At that time, he was the director of
10 industrial safety branch.

11 Dr. Cowle was the chief of chest disease
12 service.

13 And Mr. Wall, who was the head of the
14 occupational health lab, as I said before.

15 Q. And when you indicate the names of
16 people that copies are sent to, is that just a
17 reference to who copies are sent to internally at
18 the Department of Health or the Department of
19 Labour?

20 A. Yes.

21 Q. I mean, you wouldn't make any reference
22 to the fact that copies were sent to Garlock
23 because that was something that the chief did,
24 correct?

25 MR. COLEMAN: Objection.

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2 THE WITNESS: That's right.

3 BY MR. KELLY:

4 Q. In this particular location -- or,
5 strike that.

6 What -- what caused you to be in the plant
7 for this particular visit on July 16 of 1970?

8 A. Because we were informed by the
9 company, as you can see, this was -- this was one
10 of the unique visits that was requested by the
11 company. Mr. Rostas requested us to come over
12 because they had installed a new exhaust system,
13 and they needed my help to evaluate that one.

14 Q. So -- so Garlock had actually asked you
15 to him in to help them implement their new exhaust
16 system?

17 A. Oh, to -- to evaluate.

18 Q. Okay. And if we go back to Exhibit A,
19 the directions that you issued in September of
20 1969, they were actually issued by Cotgreave by his
21 October 17th visit?

22 A. That's right.

23 Q. And -- and one of those directions
24 which I think you said before contained the force
25 of law was to not use the blue asbestos absent

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2 mechanical exhaust?

3 A. Exactly.

4 Q. And when you went back on July 16 of
5 1970, did you find that the blue asbestos was still
6 being used?

7 A. If I recall correctly, that was. But I
8 have to read the entire report. But I -- I recall
9 every time I went, I found them using asbestos
10 regardless how many times they denied that they
11 have stopped using it.

12 MR. COLEMAN: Objection.

13 BY MR. KELLY:

14 Q. Okay. And you made a reference that
15 the blue asbestos was in use on this particular
16 visit, didn't you?

17 A. I -- I will have to --

18 Q. Take your time?

19 A. -- read the whole thing, again.

20 I do -- do say here, the blue asbestos was
21 being used at the braiding machine during the
22 visit.

23 Q. Okay. And in addition, you also
24 noticed that the chrysotile asbestos was now being
25 used at the machine that didn't have the local

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2 exhaust; is that right?

3 A. That's right.

4 Q. So, in effect, is it your recollection
5 that Garlock had simply just changed which machines
6 it was using the blue asbestos on as opposed to
7 adding local exhaust to the machines that didn't
8 have them?

9 MR. COLEMAN: Objection.

10 THE WITNESS: Exactly.

11 BY MR. KELLY:

12 Q. And was this a concern to you?

13 MR. COLEMAN: Objection.

14 THE WITNESS: It -- it was my concern,
15 because the -- the ventilation required for various
16 braiding machines using various types of exhaust
17 systems would be different.

18 If you have more toxic asbestos fibers used
19 at a particular machine, they might require more
20 enclosures, better types of ventilation than the
21 one which will use less toxic fibers.

22 So that becomes my concern, that became my
23 concern when they used two types of asbestos
24 interchangeably, whereas the ventilation was the
25 same.

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2 MR. COLEMAN: Objection. Move to strike.
3 It's calling for expert testimony.

4 MR. KELLY: You think his answer called for
5 expert testimony? My question -- my question
6 didn't.

7 MR. COLEMAN: I think, well, it wasn't
8 necessarily responsive, too. I mean, he just gave
9 an expert opinion as to why he believed certain
10 vents should have been used for certain types.
11 That's not an observation of what he saw. It was
12 an opinion based upon his experience, and he's only
13 being called as a fact witness.

14 BY MR. KELLY:

15 Q. When you noticed the chrysotile
16 asbestos being used without local exhaust, did you
17 point this out to the Garlock representatives,
18 Mr. Rostas and Mr. Pilmer?

19 A. Yes.

20 Q. And what was it that you indicated to
21 them was the problem of using the chrysotile
22 without local exhaust? What did you tell them?

23 A. I just said in this report, if I could
24 take you to the report, the -- the second paragraph
25 towards the end of that paragraph, I say an attempt

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2 was made to acquaint Mr. Rostas and Mr. Pilmer with
3 the latest information on asbestos dust and its
4 health hazards.

5 Q. Now, let's start back a little bit
6 further here.

7 You noticed that the chrysotile asbestos was
8 being used without local exhaust?

9 A. That's right.

10 Q. And you pointed this out to Mr. Rostas?

11 A. Yes.

12 Q. And what did he tell you as to why
13 Garlock was using chrysotile on the non-exhausted
14 braiding machine?

15 A. I don't recall what exactly he said at
16 that time. If he said anything, it would be
17 mentioned in this report.

18 Q. Okay. And if you look at the sentence
19 prior to it, do you not reference that Mr. Rostas
20 mentioned that he thought only blue asbestos was
21 toxic and no health hazard is associated with
22 chrysotile?

23 A. Yeah. Now I see it. Yes.

24 Q. Okay.

25 A. Thank you.

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2 Q. And do you have a recollection of that?

3 A. No, I don't.

4 Q. Okay. Now, at least based on his
5 representations to you as to the apparent
6 toxicities in his mind of the various fiber types,
7 you made an attempt to acquaint both Mr. Rostas and
8 Mr. Pilmer, the president of Garlock, as to the
9 latest information on asbestos dust and its health
10 hazards?

11 MR. COLEMAN: Objection to form.

12 THE WITNESS: That's right. As I said in
13 this report.

14 BY MR. KELLY:

15 Q. Do you have a recollection today of
16 what it was you communicated to Mr. Pilmer and
17 Mr. Rostas about the latest information on asbestos
18 dust and its health hazards?

19 MR. COLEMAN: And, again, you're talking
20 about July 16, 1970?

21 MR. KELLY: That's the Exhibit we're on.

22 MR. COLEMAN: Okay.

23 THE WITNESS: No, I -- if I -- if my memory
24 serves me right, and based on that, I would say
25 that I gave them several published papers at that

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2 time, including our asbestos data sheet that the
3 Ministry had published at that time. And that had
4 details of medical findings and respirators, proper
5 respirators, ventilation, all kinds of things,
6 recorded asbestos data sheet.

7 BY MR. KELLY:

8 Q. And within those, the asbestos data
9 sheet and the various papers that you provided
10 Mr. Pilmer and Mr. Rostas, was there any discussion
11 as to the fact that the health hazards included the
12 potential of an individual to develop cancer?

13 MR. COLEMAN: Objection.

14 THE WITNESS: Yes, there was.

15 BY MR. KELLY:

16 Q. And do you specifically recall if the
17 discussion of the various fiber types -- well,
18 strike that.

19 Did the information that you provided
20 them -- did it indicate that all of the various
21 fiber types had the potential of causing cancer?

22 MR. COLEMAN: Objection.

23 THE WITNESS: Yes.

24 BY MR. KELLY:

25 Q. And was that information found in the

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2 data sheet that you talked about?

3 MR. COLEMAN: Objection.

4 THE WITNESS: That's right.

5 BY MR. KELLY:

6 Q. Do you recall if it was also contained
7 in the papers that you provided?

8 MR. COLEMAN: Objection.

9 THE WITNESS: That's right.

10 BY MR. KELLY:

11 Q. As you sit here today, do you recall
12 which papers other than the data sheet that you
13 provided?

14 A. No, I don't.

15 Q. Do you know if they were medical
16 articles or something else?

17 MR. COLEMAN: Objection.

18 THE WITNESS: They -- they -- they were
19 medical findings of various asbestos dust.

20 BY MR. KELLY:

21 Q. Now, if you go to the second page under
22 comments, paragraph 2, had the TLV changed?

23 A. Yeah.

24 Q. And -- and what had it changed from and
25 what did it change to?

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2 A. From 12 fibers per milliliter, the TLV
3 was changed or reduced to five fibers per
4 milliliter.

5 Q. And is your understanding that
6 the -- the five fibers per milliliter at that time
7 was deemed to be safe and that you would get
8 absolutely no disease?

9 MR. COLEMAN: Objection.

10 THE WITNESS: TLV is never -- a fine line
11 between safe and dangerous level. So, TLV should
12 never, never be considered as the speed limit that
13 above that you are dangerous or driving
14 dangerously, and below that you're driving safely.

15 It is just a guideline where most of the
16 workers could perform their work repeatedly day
17 after day, eight hours a day, 40 hours a week,
18 rather, most safely.

19 But it says nearly all workers.

20 That shows that there could be some workers
21 who could still be contracting disease even at that
22 level or below that level.

23 Q. So --

24 MR. COLEMAN: Objection.

25 BY MR. KELLY:

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2 Q. -- so even when you were in the Garlock
3 plant and taking samples and trying to ensure that
4 their levels were as low as possible, even when
5 asbestos fibers were found below the TLV, that was
6 still a potential health risk to the --

7 A. Yes, sir.

8 Q. -- workers?

9 MR. COLEMAN: Objection.

10 THE WITNESS: Yes, sir. By all means.

11 BY MR. KELLY:

12 Q. And did you communicate that at any
13 time to Garlock?

14 MR. COLEMAN: Objection.

15 THE WITNESS: Yes, sir. And in various
16 reports later on, you will find that being
17 repeated.

18 BY MR. KELLY:

19 Q. As you sit here today, do you have any
20 recollection of any individuals, whether it be
21 Mr. Rostas or others, that you communicated that
22 to?

23 A. Yes. I did do one to Mr. Rostas. And
24 later, on my boss communicated to other management
25 of the company.

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2 MR. COLEMAN: Objection. Move to strike.
3 Calls for hearsay.

4 BY MR. KELLY:

5 Q. And if you turn to Exhibit C, first of
6 all, what is this document?

7 A. This is doc -- a document, again, is
8 based on my visit to the company, accompanied by an
9 industrial safety officer, Mr. Cotgreave. And this
10 was -- Mr. Cotgreave wanted to issue the
11 directions, and he wanted me to come with him.

12 Q. Okay. And this is a -- a field visit
13 report again, right?

14 A. Yeah.

15 Q. And it's from July 26, 1971?

16 A. That's right.

17 Q. It's authored by you?

18 A. That's right.

19 Q. And the contact is who?

20 A. Contact is Mr. Rostas. But the plant
21 was closed at that time.

22 Q. Okay. And did you make any findings at
23 this time?

24 A. We made a quick tour anyway, that we
25 were at the plant. We didn't want to waste our

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time. And we -- we did a quick tour to see where the -- any new dust control system or any -- anything else had changed. But we could not assess any adequacy of the local exhaust because the company was closed for the summer.

Q. Okay. The next page of Exhibit C, is that a -- air sampling for asbestos and lead report?

A. Yes.

Q. And explain to me, first of all, what this document is.

A. This document is a -- a report of the sampling done by one of the lab technicians. As you can see at the top, it says Ontario Department of Health, occupational health laboratories, and -- and gives you the street name and everything. That all was under the same branch, but they were located at a different place.

Mr. Polny, P-O-L-N-Y, who was one of the technicians, he did the sampling and then reported the results to me. The sample was requested as you can see by me and the chemical specialists at that time, Mr. Bithel.

Q. So -- so not only did you request the

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2 sampling be done, you were also copied with this
3 report at the time it was --

4 A. That's right.

5 Q. -- prepared, correct?

6 A. That's right.

7 Q. And is this the typical format that, in
8 1971, the air sampling would be reported?

9 A. Yes. In 1971. That's right. You're
10 right.

11 Q. And it's actually broken down into two
12 sections: One with respect to asbestos total fiber
13 counts; and then a second one with respect to the
14 lead counts that were being --

15 A. That's right.

16 Q. And Mr. Polny, was he one of the
17 individuals that performed the actual samples, or
18 did he just analyze the results?

19 A. He did sampling and analysis. All our
20 technicians were trained for both sampling and
21 analysis.

22 Q. And typically, did the Ontario
23 Department of Health try to have the same person do
24 the analysis that had done the sampling?

25 MR. COLEMAN: Objection.

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2 THE WITNESS: Yes. Whoever collected the
3 sample always did the analysis.

4 BY MR. KELLY:

5 Q. When sampling was done, did you have
6 to -- strike that.

7 When sampling was going to be done at a
8 particular location, did the person tasked with
9 doing the sampling have to make an appointment with
10 the company in order to come in and do the samples?

11 MR. COLEMAN: Objection.

12 THE WITNESS: Yes. Yes. There -- it will
13 not be a surprise visit. Technicians always made
14 an appointment.

15 BY MR. KELLY:

16 Q. Okay. So unlike the actual field
17 visits where you would just show up and attempt to
18 catch the company in its usual course of -- of
19 doing the work, the sampling of the company was
20 always done by appointment?

21 MR. COLEMAN: Objection.

22 THE WITNESS: Pre -- pre-arranged.

23 BY MR. KELLY:

24 Q. And those pre-arranged appointments,
25 the company knew someone was coming to actually

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2 sample the air, correct?

3 MR. COLEMAN: Objection.

4 THE WITNESS: That's right.

5 BY MR. KELLY:

6 Q. And in this particular report, there
7 were six different samples taken; is that right?

8 A. Yes.

9 Q. I'm sorry, let me start that question
10 again.

11 Of the six samples, were any of them in
12 excess of the -- the fiber limit at that particular
13 time?

14 A. No. The fiber limit at that time for
15 the TLV of that time was five fibers. And highest
16 at that time, that Mr. Polny observed and analyzed
17 was two fibers.

18 Q. Okay. Let's go to the next Exhibit,
19 Exhibit D.

20 That first page, it appears to be a letter
21 on Department of Health letterhead from
22 September 9, 1971. What is that?

23 A. That's a letterhead. The -- the
24 protocol had changed. Now, my immediate boss,
25 Mr. Nelson, was allowed to send a copy of my report

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2 directly to the company.

3 Q. So --

4 A. So, rather than Mr. Tidey doing it.

5 Q. All right. So, the procedure before
6 was Tidey sent the report to the company, and the
7 change in policy for the Department of Health was
8 now the officer in charge, Mr. Nelson, was
9 sending --

10 A. Yes, sir.

11 Q. -- copies of the report of the company?

12 A. Yes, sir.

13 Q. And at this time, Garlock was being
14 provided a copy your August 11, 1971 report,
15 correct?

16 A. That's right.

17 Q. And that report is three pages; is that
18 right?

19 A. That's right.

20 Q. And, again, it's authored by you?

21 A. That's right.

22 Q. And the report is dated September 1,
23 1971; is that right?

24 A. That's right.

25 Q. And who is the contact?

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2 A. The contact is, again, Mr. Rostas of
3 the plant. Plant engineer.

4 Q. And you sent copies to a number of
5 individuals who we've talked about before, correct?

6 A. Yes.

7 Q. What was it that caused you to be
8 requested to make a field visit on this occasion?

9 A. Again, this time, it was Mr. Cotgreave,
10 as you see, requested originally, and I just
11 followed it up.

12 Q. And do you know what it was that
13 prompted Mr. Cotgreave to get you involved --

14 MR. COLEMAN: Objection.

15 BY MR. KELLY:

16 Q. -- in -- in -- with respect to this
17 particular visit?

18 A. This, if I recall correctly, this visit
19 was mainly because they had installed a new local
20 exhaust. And Mr. Cotgreave wanted me to do the
21 entire ventilation, all -- do the ventilation
22 survey of the entire plant, including this new
23 local exhaust to see if they're adequate.

24 Q. So, you performed an analysis at the
25 request of the Department of Labour investigative

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2 services branch of each and every exhaust or
3 enclosure that was at Garlock?

4 A. That's right.

5 Q. At least at that time, that was
6 present?

7 A. That was.

8 Q. And the chart that you included, does
9 that include your analysis of each and every
10 machine or operation?

11 A. Ventilation analysis.

12 Q. And your overall comments you indicate
13 that the local exhaust appeared to be well designed
14 and adequately ventilated; is that right?

15 A. Yes.

16 Q. And even though the exhausts were well
17 designed and adequately ventilated, did that mean
18 that -- strike that.

19 Because the local exhausts were, as you
20 found, well designed and adequately ventilated, did
21 that mean that all of the workers were safe from
22 being exposed to asbestos fibers?

23 MR. COLEMAN: Objection.

24 THE WITNESS: No. No. No. Because
25 those -- those were just the -- the evaluation of

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2 ventilation on those machines, not the work
3 practices. Not everything else that was going on.

4 And as I say in the comments, look at
5 Number 1 comment, third sentence, back up a bit,
6 the second -- however the canopy located over the
7 operator working inside the hammer mill enclosure
8 needs some improvement. At present, the canopy is
9 such that the flow of air passes the worker's
10 breathing zone and increases his exposure to
11 asbestos dust.

12 Q. What was the -- the risk or
13 significance with respect to that finding?

14 MR. COLEMAN: Objection.

15 THE WITNESS: The risk was that if the air,
16 which picks up dust from the machine, flows through
17 the breathing zone, the worker will breathe it
18 first before it gets taken out to the outside.

19 BY MR. KELLY:

20 Q. So even though the exhaust mechanism
21 moved, at least, some of the fibers out of the area
22 of the machine, it actually took them past where
23 the worker was breathing?

24 MR. COLEMAN: Objection.

25 THE WITNESS: Exactly.

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BY MR. KELLY:

Q. Did you make any findings with respect to the operator himself?

A. I found the operator's face and clothes covered with asbestos fibers.

Q. And did this confirm to you that there was a problem with you way the exhaust --

MR. COLEMAN: Objection.

BY MR. KELLY:

Q. -- was operating?

A. That's right.

Q. In paragraph 2, you're discussing the -- the -- well, let me ask you this: Were you again able, on this visit, to visually see airborne fibers in the air?

A. Yeah.

Q. And you make the comment that any respirator would be ineffective. Explain that to me.

MR. COLEMAN: Objection. Calls for an expert opinion.

THE WITNESS: Okay. I will tell you anyway, because each and every respirator has a protection factor which could range from five to 1,000.

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2 In other words, if you have one fiber per cc
3 in the air, the risk -- the protection factor of
4 five would protect the worker up to five fibers per
5 cc.

6 Similarly, if you have a respirator with a
7 protection factor of 100, it will protect you up to
8 100 fibers per cc.

9 But the amount of dust cloud and the things
10 that I observed, I did not think there was, at that
11 time, any respirator manufactured which could
12 adequately protect the workers.

13 In other words, there wasn't any respirator
14 with a protection factor of one million or
15 something that would protect, because my
16 observation indicated that was well beyond any
17 respirator's completely protecting the workers.

18 BY MR. KELLY:

19 Q. You observed so much dust in the hammer
20 milling area that there was no respirator that you
21 knew of that could protect any worker?

22 MR. COLEMAN: Objection.

23 THE WITNESS: At that time.

24 BY MR. KELLY:

25 Q. The third observation is that one of

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2 the twisters is not provided with any kind of local
3 exhaust. What's a twister?

4 A. The twister was -- is when the yarns
5 come in, in the -- in the plant, then it gets
6 twisted before it gets braided. And twister is one
7 of those machines.

8 Q. And you remember before when one of the
9 directions that was issued by Cotgreave was that
10 the blue asbestos was not to be used without local
11 exhaust?

12 MR. COLEMAN: Objection.

13 THE WITNESS: That's right.

14 BY MR. KELLY:

15 Q. Did this twister that was being used
16 for both chrysotile and crocidolite asbestos have
17 local exhaust?

18 A. It was not. And that's why I say that
19 it is desirable to have it.

20 Q. At this time, did you make any further
21 directions?

22 A. That's right. The three directions
23 were made as can be seen on page 3.

24 Q. Okay. And -- and what were those
25 directions?

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2 MR. COLEMAN: Objection, as previously
3 stated.

4 THE WITNESS: The canopy in the hammer mill
5 enclosure shall be improved to provide better and
6 more effective dust control.

7 And in my comment, they could go back and
8 what I want them to do, an adequate local
9 mechanical exhaust shall provided at the twister.
10 Again, they can go to my comments and see what I
11 wanted them to do, and housekeeping shall be
12 improved in the hammer mill.

13 BY MR. KELLY:

14 Q. Al right. And at this time, did you
15 make the recommendation that further air sampling
16 should be done?

17 A. That's right.

18 Q. Let's look at Exhibit E. Did that air
19 sampling get performed?

20 A. Yes.

21 Q. And actually, this Exhibit E is a -- a
22 sampling from May 1, 1972, one that preceded that
23 visit in Exhibit D, right?

24 A. That's right.

25 Q. And first of all, this is a sampling

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2 that you requested, correct?

3 A. That's right.

4 Q. And who was the company contact here?

5 A. Mr. J. -- I would not have any idea who
6 that person or what position was he on.

7 Q. He was someone that worked for Garlock?

8 A. Yeah.

9 MR. COLEMAN: Objection.

10 BY MR. KELLY:

11 Q. You just don't have a recollection of
12 what his position was?

13 A. No. Mr. Polny might have, but I don't.
14 Because he was the one that contacted them.

15 Q. All right. At least as far as you can
16 recall you never met a Mr. Vandereems?

17 A. No.

18 Q. Mr. Polny was the one that actually was
19 escorted by Vandereems, correct?

20 A. That's correct.

21 Q. You simply received a copy of this
22 report at or near the time of its drafting,
23 correct?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's correct.

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2 BY MR. KELLY:

3 Q. And five samples were taken on this
4 particular visit of April 28, 1972. And were any
5 of those considered to be high?

6 A. Well --

7 MR. COLEMAN: Objection.

8 THE WITNESS: -- two of them was close to
9 the recommended five fibers.

10 And, by that time, the Ministry of Labour
11 was already thinking of reducing the -- the
12 recommended safe exposure level to two fibers per
13 cc. So, it would be twice the recommended limit of
14 asbestos at that time.

15 MR. COLEMAN: Objection. Move to strike.
16 Calls for an expert opinion. It's speculation.

17 BY MR. KELLY:

18 Q. Let's go to Exhibit F. Again, is this
19 another copy of the letter sending to Garlock some
20 air sampling results and surveys?

21 MR. COLEMAN: Objection.

22 THE WITNESS: Yeah.

23 BY MR. KELLY:

24 Q. And, again, this is one of the ones
25 that was done by Nelson in accordance with the --

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2 the new policy of the Department of Health --

3 MR. COLEMAN: Objection.

4 BY MR. KELLY:

5 Q. -- with respect to passing on these
6 particular results on to the company, correct?

7 A. Yes.

8 Q. If we turn to the second page, that
9 includes both the reports that we already looked at
10 in Tab C and Tab E, the May 25, 1971 air sampling
11 results, and the April 28, 1972 sampling results,
12 as well as a couple other reports; is that right?

13 A. That's right.

14 Q. And let's start on the report of air
15 sampling for asbestos from August 15, 1969.

16 Do you have that in front of you?

17 A. Yeah.

18 Q. And who is this report authored by?

19 A. This is by Stu Morton, who was one of
20 the scientists, not the technicians, of -- of the
21 lab, occupational health lab.

22 Q. And who were the company contacts that
23 escorted him when he did his sampling on this
24 occasion?

25 A. It can be seen, Mr. Rostas was there

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2 again. Mr. Vandereems' name comes in, which was
3 indicated before. And Mr. Rogers.

4 I don't recall either Vandereems or Rogers.

5 MR. COLEMAN: Note my objection to the
6 document itself. I don't see anywhere within the
7 document that this witness had ever received it.
8 He's being called as a fact witness. He doesn't
9 appear to be carbon copied, nor does he appear to
10 have been part of the August 15, 1969 report.

11 So, I object to any use of this report.

12 MR. KELLY: All right. Well, let's -- let's
13 try to clean that up, then.

14 BY MR. KELLY:

15 Q. As you sit here today, Mr. Rajhans, do
16 you have a recollection of reviewing this
17 particular report?

18 A. Yes, I do. Because as a dust control
19 specialist in charge of everything regarding dust
20 in the branch, each and every report or sampling
21 done for asbestos or, for that matter, any other
22 dust, has to go through my desk.

23 So, I do recall this.

24 And Mr. Morton would discuss with me after I
25 received a report what do I think of this report.

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2 So, yes, I do recall it.

3 Q. So, you would have received it sometime
4 after the August 15, 1969 date?

5 A. That's right.

6 Q. And when you received the report, you
7 said you also had some sort of contact with
8 Mr. Morton?

9 A. Morton would call on me to find out if
10 I received it. Because at that time, most of the
11 reports were sent by interoffice mail.

12 MR. COLEMAN: Objection.

13 BY MR. KELLY:

14 Q. Okay. And with respect asbestos
15 braiding, Mr. Morton found that -- he -- he
16 analyzed the -- the number of braiders that were in
17 operation at the time, and he also found or was
18 told that South African Blue asbestos is used on a
19 very intermittent basis.

20 Do you know where he got that information
21 from?

22 MR. COLEMAN: Objection. Hearsay.

23 THE WITNESS: By -- actually, he must have
24 observed it. Because he said South African Blue
25 asbestos is used on a very intermittent basis.

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2 So either he was told, or he must have
3 observed it. I can't tell you exactly where he got
4 that information from. But he has clearly written
5 in it.

6 MR. COLEMAN: Objection. Move to strike.

7 BY MR. KELLY:

8 Q. And the fact that Mr. Morton recorded
9 that the South African Blue asbestos is used on a
10 very intermittent basis and that the last time it
11 was used was six months prior to this visit, is
12 that consistent what Garlock was telling you upon
13 your visits about their use of asbestos --

14 MR. COLEMAN: Objection.

15 BY MR. KELLY:

16 Q. -- that was blue?

17 A. Yes. Yes. Very much so.

18 Q. And the air sampling results contained
19 on the second page, were any of those in excess of
20 what the TLV guideline was at that time of this
21 inspection?

22 MR. COLEMAN: Objection.

23 THE WITNESS: Two of them. Two of them,
24 three and four.

25 BY MR. KELLY:

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2 Q. And the TLV at that time was five
3 fibers per milliliter of air?

4 MR. COLEMAN: Objection.

5 THE WITNESS: No. I'm sorry. I -- I should
6 get -- go back, because it gets so confusing.

7 In 1970, it got changed to five. Until the
8 end of '69, it was still 12 fibers per milliliter.
9 So, those will be under the TLV.

10 BY MR. KELLY:

11 Q. Okay. And, if you look in the air
12 sampling results section, did -- does it appear
13 that Mr. Morton used the five fibers when he was
14 using --

15 MR. COLEMAN: Objection.

16 MR. KELLY: You know, you've objected to
17 every single question. And you keep objecting
18 during my questions and during his answers. And I
19 would just appreciate a little courtesy in your not
20 doing that.

21 We've got a court reporter that's struggling
22 to get this down accurately.

23 And, as much as we do have the videotape, it
24 makes it very difficult for people to follow what's
25 being done.

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2 MR. COLEMAN: And I do appreciate that. And
3 I'm trying to get it in, I'm trying to guess where
4 your question is ending before the witness begins,
5 because he's beginning in a heartbeat. And I don't
6 wish to interrupt his answer. Which is why I
7 thought you were done, and I apologize, and I meant
8 no disrespect.

9 BY MR. KELLY:

10 Q. The air sampling results, does it
11 appear to you that Mr. Morton was comparing it to
12 you five fibers per milliliter of air based on the
13 second column of his sampling?

14 MR. COLEMAN: Objection.

15 THE WITNESS: No. I think he was -- has not
16 mentioned what he was comparing with. So I would
17 not be able to say to you -- okay.

18 Let me go back to the first page, if I
19 could, please?

20 BY MR. KELLY:

21 Q. Well, just a sec. Let's -- let's --
22 let's finish the question I've asked here.

23 If you go to the second page --

24 A. Yes.

25 Q. -- and you look at the second column --

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2 A. Yes.

3 Q. -- of the analysis, what -- what's
4 the -- the title there?

5 A. Number of fibers greater than five
6 microns per milliliter.

7 Q. Okay.

8 A. This is not -- not the TLV. This is
9 the size.

10 Q. Okay. And that answered my question
11 then.

12 A. Okay.

13 Q. And then did you find anything in the
14 report that outlined what he was -- what Morton was
15 comparing the TLV to?

16 A. 12 fibers per milliliter.

17 Q. Okay. And that was the existing TLV at
18 the time that --

19 A. That's right.

20 Q. -- he performed the sampling; is that
21 right?

22 A. That's right.

23 Q. Okay. And try -- try to let me finish
24 my -- my question before you answer. All right?

25 If we go to the next page, that's the same

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2 as Tab C; is that right? Or Exhibit C? That we've
3 already gone through?

4 A. Oh, yes. That's right.

5 Q. And the next page, the air sampling of
6 May 1, 1972, that's the same document we went
7 through under Tab E; is that correct? Exhibit E?

8 A. Yeah. That's right.

9 Q. The next document is an air sampling
10 result from samples taken April 28, '72 and
11 reported May 2nd; is that right?

12 A. That's right.

13 Q. And was it Mr. Polny that took these
14 particular samples?

15 A. That's right.

16 Q. And what was the TLV in April of 1972?

17 A. The TLV of nuisance dust at that time
18 was five million particles per cubic foot.

19 This is not the sampling for asbestos. This
20 is sampling of total dust by impinger method.

21 Q. All right. Let's go to Exhibit G.

22 First of all, this is a -- a memorandum from
23 the Ontario Ministry of Labour; is that right?

24 A. That's right.

25 Q. And it's dated February 21 of 1975?

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2 A. That's right.

3 Q. What is this particular memorandum?

4 MR. COLEMAN: Objection.

5 This individual does not appear to have been
6 carbon copied nor the author of this article. So I
7 object to its use for any purpose.

8 MR. KELLY: You can still answer.

9 THE WITNESS: This -- this is the -- this
10 memorandum, from the director of industrial safety
11 branch, Mr. McNair, to Dr. Tidey, the chief of the
12 service. And he is stating the fact that since the
13 last assessment was made in 1972 by OSPB -- and by
14 the way, that's a typo there, it should be OHPB,
15 occupational health protection branch, not "S,"
16 should be replaced by "H" -- this firm had
17 installed a new asbestos mixer.

18 So he wanted us to go and investigate it.

19 BY MR. KELLY:

20 Q. Now, we talked about before how the
21 Ministry of Labour would make a request to the
22 Ministry of Health in order to have people like
23 yourself go in and perform your evaluations, right?

24 A. Yes.

25 Q. Is this the document that made that

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2 request?

3 A. That's right.

4 MR. COLEMAN: Objection.

5 BY MR. KELLY:

6 Q. And during your time as a dust control
7 specialist, did you have happen to see documents
8 like this particular request asking for services by
9 people like yourself to assist the Ministry of
10 Labour?

11 MR. COLEMAN: Objection.

12 THE WITNESS: Yes. Because the -- the flow
13 of the paper of this kind of request will go from
14 the chief, to the officer in charge, Mr. Nelson,
15 who is shown here. And Mr. Nelson will then bring
16 that one to me because I will be the one who will
17 be conducting the visit.

18 BY MR. KELLY:

19 Q. During your time as chief, did you
20 receive inspection requests similar to the one
21 that's Exhibit G?

22 A. Yes. I did.

23 MR. COLEMAN: Objection.

24 BY MR. KELLY:

25 Q. And does this one, Exhibit G, this

1 Gyan Shankar Rajhans - 10-25-05
2 memorandum dated February 21, 1975 from McNair to
3 Tidey appear to be the same type of inspection
4 request that you were familiar with at the time in
5 1975 and later saw as chief?

6 MR. COLEMAN: Objection.

7 THE WITNESS: That's right.

8 MR. KELLY: All right. Why don't we take a
9 break?

10 (Discussion off the record at 13:20.)

11 (The above-requested question was then read
12 by the reporter.)

13 (On the record at 13:26.)

14 BY MR. KELLY:

15 Q. Now, the Exhibit G, that first page
16 that we were discussing, indicates that the firm
17 has installed a new asbestos mixer in the sheeter
18 room, also a lot of asbestos dust on hammer mill,
19 same room, and on braiding machines.

20 Whose -- whose -- whose statement is that?

21 MR. COLEMAN: Objection.

22 THE WITNESS: This is the statement of the
23 director, based on one of his inspectors'
24 observation.

25 BY MR. KELLY:

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2 Q. And -- and which inspector would that
3 have been?

4 A. In this case, the inspector got changed
5 from Cotgreave to Mr. Chapman.

6 Q. And because of the -- well, let me ask
7 you this: What part of the -- the -- what's been
8 termed "the problem" was the Ministry of Health
9 being asked to get involved in?

10 MR. COLEMAN: Objection.

11 THE WITNESS: The main problem was that
12 there was a lot of asbestos dust on hammer mill.
13 And -- and the same room which had hammer mill also
14 had braiding machines. But, also, because there
15 was new asbestos mixture, and at that time, when a
16 new machine is installed it's better to look at
17 that and -- and suggest to them the proper
18 ventilation needed for the machine rather than at a
19 later date.

20 BY MR. KELLY:

21 Q. Can you turn to the next page of that
22 Exhibit?

23 And what is this?

24 A. This is just to -- to indicate to the
25 company -- this was sent to the company to indicate

1 Gyan Shankar Rajhans - 10-25-05
2 that we have changed the asbestos limit from five
3 fibers to two fibers, and a new data sheet
4 indicating the change and the recommended control
5 measures is in this data sheet, Number 18, which is
6 being sent to them.

7 Q. And that's a February 12, 1975 letter?

8 A. That's right.

9 MR. COLEMAN: Objection.

10 BY MR. KELLY:

11 Q. Correct?

12 A. Yes.

13 Q. And was this particular letter sent to
14 all of the various companies that used asbestos
15 when this change in the TLV was made?

16 MR. COLEMAN: Objection.

17 THE WITNESS: That's right.

18 BY MR. KELLY:

19 Q. I want to talk to you about the data
20 sheet, Number 18, on asbestos.

21 Is this the same type of data sheet that you
22 described earlier?

23 A. Yes.

24 MR. COLEMAN: Objection.

25 THE WITNESS: Yes.

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2 BY MR. KELLY:

3 Q. This data sheet, Number 18, on
4 asbestos, was this simply an updated data sheet
5 with the new TLV?

6 MR. COLEMAN: Objection.

7 THE WITNESS: Yes.

8 BY MR. KELLY:

9 Q. Who, whether it be a person or a
10 particular department, was responsible for putting
11 out these data sheets on asbestos?

12 A. There was no separate department.

13 What will happen is that my boss, Hugh
14 Nelson -- H.M. Nelson -- and I at that time, would
15 get together as far as asbestos data sheet was
16 concerned.

17 There were all kinds of other data sheets on
18 other chemicals, and, but asbestos, he and I would
19 get together and review to see if there is any new
20 information, and whether that data sheet needed
21 updating.

22 Q. And we already talked before about how
23 the data sheet included the health hazards that
24 were associated with asbestos.

25 MR. COLEMAN: Objection.

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2 THE WITNESS: That's right.

3 BY MR. KELLY:

4 Q. And that included cancer?

5 A. That's right.

6 MR. COLEMAN: Objection.

7 BY MR. KELLY:

8 Q. Cancer as to all -- all of the fiber
9 types?

10 A. That's right.

11 MR. COLEMAN: Objection.

12 BY MR. KELLY:

13 Q. And the data sheets were provided, at
14 least on two occasions, one based on this
15 particular letter and one on the prior occasion
16 that you mentioned when you provided the data sheet
17 to Pilmer and Rostas that you're aware of, correct?

18 MR. COLEMAN: Objection.

19 THE WITNESS: That's right.

20 BY MR. KELLY:

21 Q. Was there anything that prevented or
22 prohibited Garlock from providing the data sheets
23 that outlined the health hazards on asbestos to its
24 workers?

25 MR. COLEMAN: Objection.

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THE WITNESS: No. No. In fact, well --

BY MR. KELLY:

Q. Let's go to Exhibit H.

First of all, this particular document is the Ministry of Health occupational health protection branch. Is that a different department than what you used to work for?

A. No. Just the name got changed.

Q. Okay. So by April 8 of 1975, you were doing the same work, but just under a different branch name?

A. That's right.

Q. And this is, again, a field visit report?

A. That's right.

Q. And what was the date of the visit?

A. March 11th, 1975.

Q. And the contacts were who?

A. Contacts were -- one of the contacts was the old contact, Mr. Rostas, who at that time had been promoted to senior plant engineer.

And there was this Mr. Popowich, who was the chief chemist.

THE WITNESS: Should I spell that for you?

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2 P-O-P-O-W-I-C-H.

3 BY MR. KELLY:

4 Q. In the second sentence of your report,
5 you indicated that the company is still handling
6 the blue asbestos rather carelessly.

7 What was it that you found that made you
8 write that statement?

9 MR. COLEMAN: Objection.

10 THE WITNESS: What I recall, as far as I
11 recall, that the spools of asbestos dust were still
12 lying without any protection in -- in few places.
13 So, that, I considered carelessly.

14 BY MR. KELLY:

15 Q. And if we go to the third page where
16 you made your comments, do you -- do you have a
17 recollection of Garlock at any point telling you
18 that they'd stopped using the blue asbestos?

19 A. Yes. I -- to the best of my
20 recollection, I was told that -- on the phone --
21 that they have stopped using blue asbestos
22 completely.

23 Q. And do you recall who was on the other
24 end of the phone --

25 A. Mr. Rostas.

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2 Q. -- that made that --

3 And was that sometime prior to this
4 particular field visit that you --

5 A. That's right.

6 Q. -- received that phone call?

7 A. That's right.

8 Q. When you went to the plant on March 11,
9 1975, did you find anything that was contradictory
10 to what Mr. Rostas had told you?

11 MR. COLEMAN: Objection.

12 THE WITNESS: Yes. As I mentioned on
13 page 3 -- this type of thing does not fail your
14 memory, because it was very disturbing to find that
15 even though the company had said they had to stop
16 using blue asbestos, the asbestos braider spools
17 were found lying uncovered in various cartons at
18 the back of the 8 Carrier heavy braider that they
19 had.

20 BY MR. KELLY:

21 Q. You had communicated to Garlock almost
22 five years prior to that that there was no safe
23 level of exposure to the blue asbestos?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's correct.

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2 BY MR. KELLY:

3 Q. You also outline in the third paragraph
4 of comment Number 1 about the amount of usage of
5 blue asbestos that Garlock had been using at the
6 Jutland location.

7 Do you know who it was that provided that
8 information to you?

9 A. I don't recall. But one of the company
10 contacts did.

11 Q. It would have been either Rostas or
12 Popowich?

13 MR. COLEMAN: Objection.

14 THE WITNESS: Yes. It could be.

15 BY MR. KELLY:

16 Q. At this time, you also indicated to the
17 company that handling and storing of blue asbestos
18 could also create exposure; is that right?

19 MR. COLEMAN: Objection.

20 THE WITNESS: That's right.

21 BY MR. KELLY:

22 Q. And do you recall if that was a
23 surprise to the company, that asbestos fibers could
24 be released into the air by operations other than
25 hammer milling and calendaring and things of that

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nature?

MR. COLEMAN: Objection.

THE WITNESS: It was. It was news to them.

BY MR. KELLY:

Q. Did the company make any attempts, that you're aware of, in order to try to reduce exposure from means other than the actual manufacturing of the material, things like handling and storing?

A. I don't recall.

Q. If you go to comment Number 3, what was found with respect to the asbestos samples that were taken in March?

A. The counts ranged from 1.8 to 4.7 fibers per cc, with seven of the eight counts below three fibers per cc.

The highest count, 4.7 fibers per cc, was obtained at the hammer mill.

The operator of the hammer mill wears -- so on.

Q. And what was the TLV at this time?

A. 2 fibers.

Q. And when did that change occur?

A. That occurred in 19 -- I have to go back to my memory. But sometime at the beginning

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2 of 1975.

3 Q. And in the second paragraph of the
4 sampling results, one of the suggestions you made
5 was that Garlock acquire its own sampling apparatus
6 to monitor the environment on a more regular basis.

7 Do you know if Garlock ever did that?

8 MR. COLEMAN: Objection.

9 THE WITNESS: No.

10 BY MR. KELLY:

11 Q. Do you know why they never did it?

12 MR. COLEMAN: Objection.

13 THE WITNESS: No, I don't.

14 BY MR. KELLY:

15 Q. But at least, as far as you recall,
16 Garlock never invested in sampling apparatuses of
17 its own?

18 MR. COLEMAN: Objection.

19 THE WITNESS: Yes, I don't think they did.

20 BY MR. KELLY:

21 Q. If we go to the next page of that
22 Exhibit, again, this is a -- inspection request
23 from Labour to the Department of Health Services,
24 correct?

25 A. Yes.

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2 MR. COLEMAN: Objection. Note my objection
3 to the use of this document because, again, it does
4 have the witness's name on it.

5 THE WITNESS: Yes, it does.

6 MR. COLEMAN: I'm sorry. I apologize for
7 that.

8 BY MR. KELLY:

9 Q. And this particular inspection request
10 was made as a result of a joint inspection that you
11 were at with which of the industrial safety branch
12 personnel?

13 A. At that time, I was with Mr. Cotton,
14 whose name is at the end. W. Cotton.

15 Q. C-O-T-T-O-N.

16 A. Bill. Bill Cotton.

17 Q. And do you recall why it was you were
18 present with Mr. Cotton when he performed his
19 investigation?

20 A. Because he had found barrels and carton
21 of blue asbestos.

22 Q. And this was in the early-1975 period
23 when Garlock had previously conveyed to you that
24 they'd stopped using the blue asbestos, correct?

25 MR. COLEMAN: Objection.

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2 THE WITNESS: That's right.

3 BY MR. KELLY:

4 Q. The next page is a document dated
5 March 24, 1975. What is that?

6 A. That is a memorandum from my boss, Hugh
7 Nelson -- by that time, his title had changed, but
8 he remained my boss, from officer in charge to
9 senior engineering consultant -- to his boss,
10 Dr. Tidey, who had become acting director at that
11 time. And this is about Garlock of Canada because
12 Dr. Tidey had asked, perhaps, to take some action.
13 I'm saying perhaps intentionally because it does
14 say reference to your action request.

15 Q. Now, would this be considered sort of
16 an internal memorandum within the Ministry of
17 Health?

18 MR. COLEMAN: Objection.

19 THE WITNESS: It is very -- it is very
20 internal, yes.

21 BY MR. KELLY:

22 Q. And as much as Garlock was being copied
23 on things like the field visit reports and the air
24 sampling results, would this be the kind of
25 document that Garlock would have received a copy

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2 of?

3 MR. COLEMAN: Objection.

4 THE WITNESS: No.

5 BY MR. KELLY:

6 Q. You received a copy of this at the time
7 it was it made?

8 A. That's right.

9 Q. And in this particular note, Mr. Nelson
10 concluded that he didn't think that another visit
11 was -- was necessary at this time?

12 A. That's right.

13 MR. COLEMAN: Objection.

14 BY MR. KELLY:

15 Q. Exhibit I, do you have that in front of
16 you?

17 A. Yes.

18 Q. Is this the document that you received?

19 A. Yes.

20 Q. And who did you receive it from?

21 A. From Garlock.

22 Q. And it actually has the Garlock of
23 Canada Limited letterhead on it, doesn't it?

24 A. That's right.

25 Q. And -- and its dated May 30, 1975?

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2 A. Um-hum. Yes.

3 Q. And -- and who is it from?

4 A. This is from Mr. Woods of Garlock
5 Canada, thanking me for the technical papers on
6 jute and hemp.

7 Q. And we went through this before, but
8 jute and hemp are two of the materials that can be
9 used, other than asbestos, in making gaskets,
10 correct?

11 MR. COLEMAN: Objection.

12 THE WITNESS: That's right.

13 BY MR. KELLY:

14 Q. Do you know why it was that you
15 provided technical on jute and hemp to Mr. Woods?

16 A. Because the company was looking for
17 using jute and hemp, and wanted to know if there
18 was any hazards associated with them, as well.
19 Just like asbestos. And I had some papers with me
20 which I forward to them.

21 Q. And the documents that are attached to
22 this particular letter, do you know why those were
23 sent by Mr. Woods to you?

24 A. They were indicating which machine and
25 what kind of jute and hemp they are going to be

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2 using or importing or bringing to the plant. And
3 then also showing where blue asbestos will be used
4 and how much that will be.

5 So, it was combination of every material
6 that they had or the list of every material that
7 they might have had or they will have in the plant.

8 Q. When you received things from the
9 company, like Exhibit I, was this something that
10 was kept -- strike that.

11 When one of the companies provided stuff to
12 the Ministry of Health regarding their operations
13 like Exhibit I, was that included in the file for
14 that particular company?

15 MR. COLEMAN: Objection.

16 THE WITNESS: That's right.

17 BY MR. KELLY:

18 Q. And that was part of the policy of the
19 Ministry of Health to --

20 MR. COLEMAN: Objection.

21 BY MR. KELLY:

22 Q. -- keep such documents?

23 THE WITNESS: That's right.

24 BY MR. KELLY:

25 Q. When you received it, you were -- you

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2 forwarded it on, it looks like, to your supervisor.
3 And it was stamped as received. And that's the
4 stamp on the bottom right corner, correct?

5 MR. COLEMAN: Objection.

6 THE WITNESS: That's right.

7 BY MR. KELLY:

8 Q. Exhibit J. What is Exhibit J?

9 MR. COLEMAN: Objection. This witness's
10 name does not appear on this document.
11 Therefore --

12 MR. KELLY: It does.

13 MR. COLEMAN: On the first cover letter? I
14 didn't see it.

15 THE WITNESS: Not the cover, but the
16 attachment.

17 BY MR. KELLY:

18 Q. What is Exhibit J?

19 A. J is just sending the air sampling
20 results to the company under the acting director of
21 occupational health protection branch signature.

22 Q. And the acting director was Mr. Tidey?

23 A. Yes.

24 Q. And this is, again, him forwarding on a
25 copy of a report to Garlock, correct?

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2 MR. COLEMAN: Objection.

3 THE WITNESS: That's right.

4 BY MR. KELLY:

5 Q. With the same type of cover letter that
6 we saw previously that was part of the policy of
7 the Ministry of Health in passing on information to
8 the company?

9 MR. COLEMAN: Objection.

10 THE WITNESS: Yes, sir.

11 BY MR. KELLY:

12 Q. And attached to the cover letter is the
13 report of November 7, 1975 referenced in the
14 letter, which you received a copy of and actually
15 requested, correct?

16 A. That's right.

17 Q. And you recall receiving this
18 particular document during your employment with the
19 Ministry of Health?

20 A. Yes.

21 Q. And what is this particular document?

22 A. This particular document, again, by
23 Mr. Polny, was our sampling technician, he did
24 asbestos sampling on various braiding machines and
25 other places like sheeter room and, again, just the

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2 braider and sheeter room. And reported the counts.

3 Q. At the place where it says "copies to,"
4 there's some names that we haven't seen before.

5 Who is Mr. Cleverdon?

6 A. Mr. Cleverdon was, at that time, acting
7 director of industrial safety branch, because
8 Mr. McNair, who was the director at one time if you
9 recall seeing his name, was on extended leave. So
10 will Mr. Cleverdon took over as acting director.

11 Mr. Morton, you saw his name appearing
12 previously, he was one of the scientists who -- who
13 had taken over an acting role from Mr. Wall, Eddie
14 Wall, that you saw previously of the lab. So he
15 was in charge of the -- Morton was in charge of the
16 lab at that time.

17 Cleverdon was in charge of industrial safety
18 branch.

19 My -- I sent a -- like, Polny sent me a
20 copy.

21 Then Dr. Vingilis was in charge of the chest
22 disease service.

23 Mr. Bell was working for me. So, he would
24 receive a copy.

25 And Mr. Woods was one of the technicians.

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2 Q. Let's go to Exhibit K. What is this
3 particular document?

4 A. This particular document is, again,
5 sampling and analysis done by Mr. Polny on February
6 the 3rd, 1977, and sending all of us the copies of
7 the reports to comment on.

8 It was requested by Jim Toth, who was my --
9 one of my hygienists working under me, and he had
10 requested a sampling.

11 Q. Okay. Let's start at the top there
12 where you see where it says Ministry, and it's
13 crossed out, and it's typed in "Labour?"

14 A. Yeah.

15 Q. And then underneath --

16 A. Because by that time, we were
17 transferred to the Ministry of Labour --

18 Q. Okay.

19 A. -- but our -- our, like, did not
20 change. The stationery does not get changed in the
21 Ministry in the government that often, and that
22 quickly, because government doesn't have that kind
23 of money.

24 Q. So this was soon after the -- the time
25 that the Ministry of Health became part of the

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2 Ministry of Labour --

3 A. That's right.

4 Q. -- at least your department, in the
5 environmental services branch?

6 A. That's right.

7 Q. And the contact here was Mr. Sibbald,
8 and then it says "Manager of Eng.?" Do you know
9 what that is?

10 A. Manager of engineering of Garlock.
11 That's all I can say.

12 Mr. Rostas must have left by then or could
13 have been promoted. I don't know, because
14 Mr. Polny contacted him. And that's how the
15 designation is shown here.

16 Q. Okay. Did any of the -- the samples
17 find asbestos fibers greater than the TLV?

18 MR. COLEMAN: Objection.

19 THE WITNESS: No. No. But, one or two was
20 close to the TLV.

21 BY MR. KELLY:

22 Q. Okay. And -- and, again, as with all
23 the prior air samples, in 1977, did the person that
24 was tasked with doing the samples still have to
25 make an appointment such that the company knew when

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2 and at what time asbestos sampling would be done in
3 the plant?

4 MR. COLEMAN: Objection.

5 THE WITNESS: Yes. That policy never
6 changed.

7 BY MR. KELLY:

8 Q. Exhibit L.

9 MR. COLEMAN: Objection to the use of this
10 document. It's not even signed.

11 BY MR. KELLY:

12 Q. Mr. Rajhans, is this a -- a document
13 that was dictated by you?

14 A. It was --

15 MR. COLEMAN: Objection.

16 THE WITNESS: -- it was -- it was dictated
17 by me. And the -- my secretary was told that
18 rather than bringing each and every cover letter to
19 me, she should just put on an stamp.

20 I -- I -- I remember this very vividly,
21 because that -- a special stamp was -- was made
22 which would indicate that original was signed by
23 me.

24 BY MR. KELLY:

25 Q. And it was part of the procedure in the

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2 department at the time that you held the position
3 of chief occupational health engineering that you
4 only signed the one copy, and then the stamp would
5 be on the other copies?

6 MR. COLEMAN: Objection.

7 THE WITNESS: Exactly.

8 Q. And do you see in the bottom left-hand
9 corner where it says "GSR?"

10 A. gg. GSR is my initials.

11 Q. And what does that indicate?

12 A. That indicates that they were typed for
13 me. That's why GSR. And gg are the initials of my
14 secretary.

15 Q. Okay. So this was a document that was
16 prepared at your request and you saw it and signed
17 the original?

18 A. That's right.

19 MR. COLEMAN: Objection.

20 BY MR. KELLY:

21 Q. And this is, again, a similar letter to
22 the ones that we saw previously signed by Nelson
23 where the chief was providing copies of reports to
24 the company, Garlock?

25 MR. COLEMAN: Objection.

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2 THE WITNESS: Yes.

3 BY MR. KELLY:

4 Q. And at this -- by this time, June 2nd
5 of 1978, you had been promoted up to the position
6 of chief of occupational health engineering?

7 A. That's right.

8 Q. So Nelson's job of passing things on to
9 the company had become yours?

10 MR. COLEMAN: Objection.

11 THE WITNESS: That's right.

12 BY MR. KELLY:

13 Q. Page 2, this is a memorandum that was
14 received by you as chief, correct?

15 A. That's right.

16 Q. And what was the purpose of this
17 memorandum?

18 A. This is the report that -- this is how
19 I had changed the process of reporting. In other
20 words, if one of my hygienists receives a report
21 from the sampling technician, then he is
22 responsible of interpreting the results and then
23 his interpretation with the sampling results will
24 be passed on to me to be forwarded to the company.

25 Q. And what were the results of this

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2 particular sample?

3 MR. COLEMAN: Objection.

4 THE WITNESS: That is shown in the attached
5 report by Latty -- or Latty, L-A-T-T-Y.

6 BY MR. KELLY:

7 Q. And by this time in 1978, did -- did
8 Mr. Latty work under your direction?

9 A. He was working. He was one of the
10 technicians.

11 Q. And you would have received in your
12 capacity as chief copies of all of the various
13 reports, whether it be a field report or a air
14 quality assessment report, of all the various
15 employees that worked under your direction; is that
16 right?

17 A. All reports have to go through my desk
18 before it went out.

19 Q. If we look at the page 2 of the June 1,
20 1978 report, the -- the first section appears to be
21 broken down by personal samples. What does that
22 mean?

23 A. These personal samples at that time
24 only were identified by certain codes because we
25 did not want to name the workers.

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2 These personal samples were done on the
3 lapel of the workers. And we did not want to name
4 those workers, because it was against our policy.

5 Q. So, just like how today you're wearing
6 an AIHA pin --

7 A. Yeah.

8 Q. -- on your lapel, the worker would wear
9 some sort of a -- a filter in order to pull air
10 through in order to measure the exposure to the
11 worker?

12 A. Yes, sir.

13 Q. And then those results were analyzed in
14 the lab and recorded in the report?

15 MR. COLEMAN: Objection.

16 THE WITNESS: That's right.

17 BY MR. KELLY:

18 Q. The -- the area samples, what does that
19 refer to?

20 A. That's just stationary samples in the
21 area.

22 Q. What kind of work was being done in the
23 sheeter room?

24 A. Just making sheets out of the milled
25 asbestos. And also cutting.

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2 Q. So in the sheeter room, they would
3 actually be rolling out the sheets of gasket
4 material and then cutting out the rounded --

5 A. That's right.

6 Q. -- gaskets from the material?

7 A. That's right.

8 MR. COLEMAN: Objection.

9 BY MR. KELLY:

10 Q. And what was the amount of asbestos
11 dust that was found in the air in asbestos -- in
12 the sheeter room?

13 MR. COLEMAN: Objection.

14 THE WITNESS: The area samples show the
15 count, and these -- these, you have to understand,
16 is the background count, because there's no --
17 personal samples are above. These are half a fiber
18 per milliliter. Half a fiber per milliliter.

19 BY MR. KELLY:

20 Q. And -- and what was the -- what was the
21 total fiber count that you found?

22 MR. COLEMAN: Objection.

23 BY MR. KELLY:

24 Q. Is that the 0.43 number?

25 MR. COLEMAN: Objection.

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2 THE WITNESS: That's right. These are
3 the -- the background counts.

4 BY MR. KELLY:

5 Q. All right. And you also, the -- the
6 Ministry also had personnel samples on two of the
7 people that worked in the sheeter room; is that
8 right?

9 A. That's right.

10 Q. And what was the fiber counts that they
11 found on the actual workers in the breathing zone
12 of the --

13 MR. COLEMAN: Objection.

14 BY MR. KELLY:

15 Q. -- people working in the sheeter room?

16 A. It varied -- it varied from 0.4 to 1.3.
17 Much -- much higher than -- than the background
18 count of the area samples.

19 Q. If we go to the folded gasket area
20 sample, first of all, what operation is the folded
21 gasket area? What do they do there?

22 MR. COLEMAN: Objection.

23 THE WITNESS: I don't recall.

24 BY MR. KELLY:

25 Q. Okay. What about the spiral -- spiral

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2 wand gasket area? Do you know what they do there?

3 MR. COLEMAN: Objection.

4 THE WITNESS: I don't recall that, either.

5 BY MR. KELLY:

6 Q. The asbestos braiding area?

7 MR. COLEMAN: Objection.

8 THE WITNESS: Yeah, that, obviously -- all
9 the braiding machines were there. So that's why
10 it's called asbestos braiding area.

11 BY MR. KELLY:

12 Q. And what was the area sample?

13 A. At that time, it was .051 fibers per
14 milliliter. And -- yeah, go ahead.

15 Q. And was there a personal sample for the
16 braiding area?

17 A. Is. Asbestos braider operator, and
18 that was 1.4.

19 Q. Exhibit M, this is an air quality
20 assessment report, correct?

21 A. That's right.

22 Q. This is a document that would
23 have crossed your desk --

24 A. That's right.

25 Q. -- as the chief in 1979?

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2 MR. COLEMAN: Objection.

3 THE WITNESS: That's right.

4 BY MR. KELLY:

5 Q. And this, again, outlines the results
6 of air sampling for asbestos and also for jute?

7 A. Yes.

8 MR. COLEMAN: Objection.

9 BY MR. KELLY:

10 Q. If you turn to the -- the second page,
11 is this sort of the -- the new format that was
12 being used in 1979 to record sampling results of
13 the Ministry of Labour, occupational health branch?

14 A. Yes.

15 Q. And on the second page of that
16 particular sampling results, I think it starts with
17 sample number 15, 13, 20, 17. Do you have that in
18 front of you?

19 A. Yeah.

20 Q. On sample number 13, what -- what's
21 gasket cutter (Relco machine,) what does that
22 reference?

23 MR. COLEMAN: Objection.

24 THE WITNESS: This was automatic cutter
25 of -- from the sheet of the gasket which will

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2 fall -- gasket will fall off, and it will go and
3 exact size of the gasket --

4 BY MR. KELLY:

5 Q. So, was it --

6 A. -- will be cut out of that sheet.

7 Q. It was an automated process by which
8 the -- the flat sheets of gasket material had the
9 rounded gasket in various diameters cut from it?

10 MR. COLEMAN: Objection.

11 THE WITNESS: Exactly.

12 BY MR. KELLY:

13 Q. And obviously, the -- the gasket
14 material contained asbestos, which is why you were
15 performing samples around it?

16 MR. COLEMAN: Objection.

17 THE WITNESS: That's right. During --
18 during the cutting.

19 BY MR. KELLY:

20 Q. And because there's that handwritten
21 S. 21, does that mean this was a personal sample?

22 MR. COLEMAN: Objection.

23 THE WITNESS: That's right.

24 BY MR. KELLY:

25 Q. And that's where basically the name of

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2 the person has been redacted?

3 A. That's right.

4 Q. And what was the amount that you found
5 of asbestos in the air on the personal sample of
6 the gasket cutter?

7 MR. COLEMAN: Objection.

8 THE WITNESS: It was less than .1, as you
9 can see. So --

10 BY MR. KELLY:

11 Q. And what about with respect to the next
12 one? Sample number 20. What -- what does packing
13 gaskets refer to?

14 MR. COLEMAN: Objection.

15 THE WITNESS: Packing gaskets, is as the
16 gaskets are cut out from the sheeter, they are
17 manually taken to the packing room and stacked up
18 and packed.

19 BY MR. KELLY:

20 Q. Like, actually, physically packing them
21 in a box?

22 A. Box.

23 Q. And there was a -- a personal sample
24 taken of the person that was responsible for
25 packing the materials --

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2 A. That's right.

3 Q. -- in boxes?

4 MR. COLEMAN: Objection.

5 BY MR. KELLY:

6 Q. And what was the amount of asbestos
7 fibers found in the air from the simple task of
8 packing gaskets in a box?

9 MR. COLEMAN: Objection.

10 THE WITNESS: Not -- not much. Not detected
11 to less than 0.1.

12 BY MR. KELLY:

13 Q. Does that mean that there were zero
14 fibers found?

15 MR. COLEMAN: Objection.

16 THE WITNESS: You can say that, but
17 nobody -- we never say zero. We say nondetected,
18 because it depends on the procedure, how the -- how
19 they instrument. That's why we never say zero.

20 BY MR. KELLY:

21 Q. The next page, is simply just a
22 memorandum that you received; is that right? From
23 Holmes?

24 A. Excuse me? Oh. Are you talking
25 about -- yeah. The first page?

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2 Q. Sorry. The first page.

3 A. Yeah.

4 MR. COLEMAN: Objection.

5 BY MR. KELLY:

6 Q. It's a memorandum dated September 6,
7 1979?

8 A. That's right.

9 Q. And that was a -- a memorandum that you
10 received in your capacity as chief?

11 A. That's right.

12 Q. Exhibit N.

13 MR. COLEMAN: Again, note my objection to
14 Exhibit N, as the witness's name does not appear on
15 the face of this document. There's no indication
16 he ever received it.

17 BY MR. KELLY:

18 Q. Who is Peter Pelmear?

19 A. Peter Pelmear had, at that time, chief
20 of occupational health and medical service.

21 And, just like me as chief of the hygiene
22 service, there was health medical service where
23 medical doctors will work. And he was head of
24 them.

25 Q. And the next page is field visit report

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2 of October 19, 1979, and you were copied on that
3 document, correct?

4 A. That's right.

5 Q. Was it the routine procedure that the
6 chief be copied on each and every report with
7 respect to a company?

8 MR. COLEMAN: Objection.

9 THE WITNESS: That's right.

10 BY MR. KELLY:

11 Q. And this particular visit report is in
12 reference to a medical audit visit. What is that?

13 A. What used to happen is that for certain
14 substances, at that time, we had started, or rather
15 the entire Ministry had started medical programs,
16 in other words, biological samples being taken,
17 x-rays being taken, and everything at the cost of
18 the government.

19 But these substances were called --
20 so-called designated substances, and only few and
21 far between. We could have not done for
22 everything. But asbestos was one of the target
23 substances or designated substances.

24 Q. And with respect to this particular
25 report, it also indicates that there's going to be

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2 an assessment of the medical surveillance program.

3 Is that a medical program that Garlock ran?

4 A. No.

5 Q. That was one that the Ministry ran?

6 A. Ministry ran.

7 Q. Do you know if Garlock ever had its own
8 medical surveillance program?

9 A. No. I don't.

10 Q. And so then the reference in the
11 comments section to The Evans Medical Clinic,
12 number 3 there, is that a reference to a clinic
13 that was utilized by the Ministry?

14 A. That's right.

15 Q. Let's go to Exhibit O.

16 MR. COLEMAN: Again, note my objection.

17 Oh, I'm sorry. Withdraw it.

18 MR. KELLY: You got rhythm, you know.

19 THE WITNESS: Yeah.

20 MR. COLEMAN: Yes, well, I still object
21 because I'm not sure if it's his signature. I
22 really can't tell. Someone signed it on behalf of
23 the doctor, so I object to its utilization here.

24 BY MR. KELLY:

25 Q. This is a January 18, 1980 cover letter

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2 under your name, correct?

3 A. Yes.

4 Q. And is the signature yours?

5 A. No. That's the signature of my
6 assistant, Sam Bell.

7 Q. And did -- did Sam have the -- have
8 your authorization to sign cover letters to the
9 various companies that included reports and other
10 assessments of -- of the company?

11 MR. COLEMAN: Objection.

12 THE WITNESS: That's right.

13 BY MR. KELLY:

14 Q. And what would occasion Sam to sign
15 such a letter on your behalf?

16 A. When I'm -- I was on vacation.

17 Q. And even though -- even though Sam
18 signed the letter, would you have still been the
19 one who have dictated it?

20 MR. COLEMAN: Objection.

21 THE WITNESS: I would have dictated it or
22 not, this was a form, a covering letter, but I
23 would have seen it as on my return each and every
24 letter that went out. And attachment.

25 BY MR. KELLY:

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2 Q. And in this instance, the air quality
3 assessment report was being sent to Mr. Millican,
4 the vice-president of Garlock?

5 A. Yeah.

6 Q. And the report itself is entitled AQA
7 Report. What does that mean?

8 A. Air quality assessment report. Which
9 is another fancy name for sampling.

10 Q. And what is the -- what -- what -- what
11 were the results of the samples that were taken?

12 MR. COLEMAN: Objection.

13 THE WITNESS: All results were below the
14 Ontario guideline value of two fibers greater than
15 five micron in length.

16 BY MR. KELLY:

17 Q. And at this point, in 1980, was Garlock
18 still using blue asbestos, do you know?

19 MR. COLEMAN: Objection.

20 THE WITNESS: I would not really know
21 firsthand unless I read the report of those people.
22 Because -- remember, that as chief, I would not go
23 to the plant as often. So whatever the report
24 said, I will have to agree.

25 BY MR. KELLY:

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2 Q. And -- and based on that report, it
3 doesn't say one way or the other, does it?

4 A. No.

5 Q. Okay. And in the next attachment to
6 your cover letter to the company is enclosing the
7 January 14, 19800 --

8 A. Are you still on Tab O?

9 Q. Yes.

10 A. Oh, I'm sorry. Okay.

11 Q. It's -- it's a -- includes the
12 January 14th, 1980 report of Polivka?

13 A. That's right.

14 MR. COLEMAN: Objection.

15 BY MR. KELLY:

16 Q. And who is Polivka?

17 A. Polivka was one of the technicians, the
18 sampling technicians, just like Polny.

19 Q. And, again, this particular report
20 included asbestos sampling results; is that right?

21 A. That's right.

22 Q. Exhibit P.

23 MR. COLEMAN: Again, note my objection.
24 That is not the witness's signature.

25 BY MR. KELLY:

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2 Q. Is this a similar situation as the last
3 one where Sam Bell was given the authority to sign
4 in your absence?

5 A. That's right.

6 Q. And you would have reviewed what Sam
7 signed on this particular form letter after your
8 return, correct?

9 MR. COLEMAN: Objection.

10 THE WITNESS: That's right.

11 BY MR. KELLY:

12 Q. This is a document you've seen before?

13 A. That's right.

14 Q. And at this instance, you're providing
15 to Garlock a copy of the April 23, 1980 visit
16 report which is actually an April 28th report,
17 isn't it?

18 A. That's right.

19 Q. Exhibit Q, that is a memorandum that
20 you received from Pikk. Who is Pikk?

21 A. Pikk was one of the hygienists working
22 for me. Haddus Pikk. P-I-K-K.

23 Q. And is this a document that you've seen
24 before?

25 A. Yes.

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2 Q. And it appears to be in the same format
3 of other memorandums that were written in 1980
4 internally in the Ministry of Labour?

5 MR. COLEMAN: Objection.

6 THE WITNESS: That's right.

7 BY MR. KELLY:

8 Q. The next part of Exhibit Q is the air
9 quality assessment report of Dutka. Who is Dutka?

10 A. Dutka was one of the technician hired.

11 Q. And Dutka had performed samplings, is
12 that the basis of this report?

13 A. That's right.

14 Q. Sampling for asbestos?

15 A. Requested by Mr. Pikk, who was one of
16 the hygienists.

17 Q. And based on this, Garlock was still
18 using asbestos in its operations in October of
19 1980, or sorry, September of 1980, correct?

20 A. That's what -- what the report says.

21 Q. And this is, again, a report that you
22 would have received at the time in your capacity as
23 chief?

24 MR. COLEMAN: Objection.

25 THE WITNESS: That's right.

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2 BY MR. KELLY:

3 Q. Last is Tab R.

4 MR. COLEMAN: Same objection. It doesn't
5 appear to be the witness's signature.

6 BY MR. KELLY:

7 Q. Do you recognize the signature that's
8 above your name as chief on this document?

9 A. Very well. This was Henry Todd. And
10 he was one of the senior hygienists under me.

11 If I and Sam Bell -- the way it worked is if
12 I'm away for anything, Sam Bell will sign. If both
13 of us are away, then Henry will sign for me.

14 Q. And in this instance, Henry signed when
15 he was providing certain documents to Garlock that
16 are included in this Exhibit?

17 A. That's right.

18 MR. COLEMAN: Objection.

19 BY MR. KELLY:

20 Q. This is a document that you would have
21 seen upon your return back at the office, correct?

22 MR. COLEMAN: Objection.

23 THE WITNESS: That's right.

24 BY MR. KELLY:

25 Q. Now, we've already gone through this

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2 before in some detail, but, you were provided -- I
3 think it was -- 211 documents that were received
4 through basically the equivalent of a Freedom of
5 Information Act request directed to the Province of
6 Ontario.

7 And you've had an opportunity to go through
8 all of those various documents, haven't you?

9 MR. COLEMAN: Objection.

10 THE WITNESS: That's right.

11 BY MR. KELLY:

12 Q. And all of those documents were
13 documents that you're familiar with from having
14 drafted them or received them or simply having
15 reviewed them in your various capacities at the
16 Ministry of Health and later the Ministry of
17 Labour, correct?

18 MR. COLEMAN: Objection.

19 THE WITNESS: That's -- that's -- that's a
20 correct statement.

21 BY MR. KELLY:

22 Q. And all of those documents were made
23 and maintained by the Ministry of Health during its
24 ordinary course of business, correct?

25 MR. COLEMAN: Objection.

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THE WITNESS: That's right.

BY MR. KELLY:

Q. And --

A. And Ministry of Labour. I'm sorry to interject. Both Ministries.

Q. Right. Both the Ministry of Health and the Ministry of Labour --

A. Right.

Q. -- made those documents in the ordinary course of business, and also maintained them in the ordinary course of business?

A. That's right.

MR. COLEMAN: Objection.

BY MR. KELLY:

Q. The documents that we've gone through in detail today -- well, let me ask you this more broader question.

The documents that you went through today were a part of those various documents totaling about 211 pages, correct?

MR. COLEMAN: Objection.

THE WITNESS: That's right.

BY MR. KELLY:

Q. And of all of the -- the various

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2 documents, they appeared not only to be of the kind
3 utilized by the Ministry of Health and the Ministry
4 of Labour, but they appeared to be authentic in the
5 sense that they were not altered or tampered with
6 in any way?

7 MR. COLEMAN: Objection.

8 THE WITNESS: Yes.

9 MR. KELLY: I have no more questions.

10 MR. COLEMAN: Should we take a break, then,
11 before we begin?

12 MR. KELLY: Let's do that.

13 (Luncheon recess, off the record at 14:14.)

14 (On the record at 14:53.)

15

16 EXAMINATION BY MR. COLEMAN:

17

18 Q. Mr. Rajhans, my name is Bob Coleman,
19 and I am going to be asking you some questions.
20 And the same rules apply.

21 If you do not understand any question that
22 ask you, just let me know and I'll rephrase the
23 question.

24 Even though it's an informal setting, if you
25 simply go ahead and answer the question, I will

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2 assume that you understood it, and I'll hold you to
3 it at a later time. Okay?

4 A. Thank you. Okay.

5 Q. Okay. Now, sir, first, are you -- when
6 were you first contacted regarding this deposition,
7 do you recall?

8 A. Yes. I recall very well. It was
9 Thanksgiving -- Canadian Thanksgiving weekend.

10 Q. Okay. And when is that?

11 A. Oh. October. October. I'm sorry,
12 it's Thanksgiving weekend, I know, but it's 15th or
13 something, October 15th or something.

14 Q. And that would have been October of the
15 year 2004?

16 A. No, 2005.

17 Q. Oh, okay. This year.

18 And was it the beginning of October? I
19 mean, we just --

20 A. No, no, no. It was -- the Thanksgiving
21 weekend the towards the second or third week of
22 October.

23 Q. Okay. So within the last week you were
24 contacted?

25 A. Yeah. Two -- two weeks.

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2 Q. Today is October 25th, I believe. So,
3 if you were contacted two weeks ago, you were
4 first --

5 A. Two weeks.

6 Q. Okay. Sometime around October 11th?

7 A. Something like that yes.

8 Q. Okay. And who was it that first made
9 contact with you concerning this case?

10 A. John Comerford.

11 Q. Okay. And was that by telephone? Or
12 was there a letter written?

13 A. By telephone.

14 Q. Okay. And what, if anything, did
15 Mr. Comerford tell you?

16 A. He just asked me if I would like to
17 take part in this deposition.

18 Q. Okay. Did he tell you what the
19 parameters of the deposition would be? Or what you
20 would be testifying about?

21 A. He -- no, he didn't. He just asked me
22 if I would be willing to do it.

23 Q. Okay. And I see that you have with you
24 a book, and a number of documents?

25 A. Yes.

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2 Q. Okay. When had you received that book
3 and who sent it to you?

4 A. This was sent to me by Comerford's
5 office.

6 Q. Okay. And do you recall when it was
7 that you received that book?

8 A. Just last -- in last ten days.
9 Exactly, I would not know. But in last ten days.

10 Q. Okay. And may I see that, sir?
11 Thank you.

12 MR. COLEMAN: Can we go off the record for
13 just a second?

14 (Discussion off the record at 14:55.)

15 (On the record at 14:56.)

16 BY MR. COLEMAN:

17 Q. And Mr. Rajhans, had you ever received
18 anything other than that binder -- did you receive
19 any correspondence, for instance -- letting you
20 know when and where the deposition would be?

21 A. I received -- by E-mail? Or by
22 writing? Or --

23 Q. By either.

24 A. Yes, I did receive --

25 Q. Okay.

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2 A. -- an E-mail --

3 Q. Okay.

4 A. -- saying --

5 Q. And what was it --

6 A. -- saying when the deposition would
7 take place.

8 Q. Other than by E-mail, did you receive
9 anything in writing? Other than --

10 A. No.

11 Q. -- the binder that's before you?

12 A. No.

13 Q. The E-mails that you did receive, how
14 many E-mails did you get?

15 A. Just one, I think.

16 Q. Okay. Did you bring a copy of that
17 E-mail with you today?

18 MR. KELLY: That assumes that he was asked
19 to do so.

20 MR. COLEMAN: I -- it's not assuming
21 anything.

22 BY MR. COLEMAN:

23 Q. I'm just asking if you brought a copy
24 with you.

25 A. No, I didn't.

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2 Q. Okay. Do you recall what E-mail did
3 say? What was contained within the E-mail?

4 A. The E-mail was from John Comerford
5 saying that the date of deposition is now on 25th
6 of October, but didn't give any specific time.

7 And then if it is okay with me. Something
8 of that.

9 Q. Okay. And since that initial telephone
10 call which was followed up by an E-mail, you then
11 received the binder that is before you.

12 Have you received anything else concerning
13 this deposition?

14 A. I did receive one CD which contained
15 all the Garlock documents they had received from
16 the Ministry.

17 Q. Okay. So, did you bring that CD with
18 you here today?

19 A. No.

20 Q. Okay. Do you still --

21 MR. KELLY: I'll represent for the record,
22 though, that has been disclosed in this case. All
23 those documents of which the Exhibits marked today
24 are a copy of.

25 MR. COLEMAN: Are you representing that the

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2 CD contained nothing other than the what is
3 contained in that three-ring folder?

4 MR. KELLY: No. What I'm indicating is that
5 the CD contained all of the 200, and I think, 11
6 documents --

7 MR. COLEMAN: Okay.

8 MR. KELLY: -- received from the Ministry.
9 And those documents, of course, include the
10 documents which we've marked today and gone
11 through.

12 BY MR. COLEMAN:

13 Q. Did you ever receive a copy of all 202
14 documents other than by the CD?

15 A. No.

16 Q. Okay. So when you had received the
17 material, someone had already culled down the
18 number of documents to what is in that blue folder
19 right now; is that correct?

20 A. That's right.

21 Q. Okay. The CD, did it have any
22 introductory letter or anything with it?

23 A. No.

24 Q. Okay. And how had you received the CD?

25 A. By mail.

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2 Q. Okay.

3 A. By Fed-Ex.

4 Q. Okay. And when you received that, was
5 there a letter contained within the Fed-Ex
6 envelope? Or was it the CD by itself?

7 A. Just the CD.

8 Q. Okay. Now, prior to this deposition,
9 have you ever talked to Mr. Kelly concerning the
10 deposition?

11 A. Yes. Mr. Kelly came to see me on that
12 long weekend, Canadian Thanksgiving long weekend --
13 because your Thanksgiving is separate, different
14 than our Thanksgiving -- to see me for about an
15 hour.

16 And then he called me last Friday to tell me
17 if I'm ready for the deposition, and what will be
18 the procedure, who will go first who will go next,
19 and who will not -- and just be truthful and
20 honest.

21 Q. Okay. And other than the one-hour
22 meeting that you had on the Canadian Thanksgiving
23 weekend, and the one phone call that you had with
24 Mr. Kelly, did you have any other communications
25 with Mr. Kelly --

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2 A. No.

3 Q. -- up until today?

4 A. No. No. Sorry.

5 Q. Did you have any communications with
6 anyone else from Mr. Kelly's firm at any time?

7 A. No.

8 Q. What about Mr. Comerford? Did you ever
9 talk to him again about the deposition other than
10 when he first contacted you several weeks ago?

11 A. No.

12 Q. And when you did receive the documents
13 that are before you, and they're marked as
14 Exhibits A through, I believe, Q --

15 MR. KELLY: R.

16 MR. COLEMAN: -- R, I'm sorry.

17 BY MR. COLEMAN:

18 Q. -- A through R, how long did you spend
19 going through those documents prior to your meeting
20 with Mr. Kelly?

21 A. Prior to meeting with Mr. Kelly?

22 Q. Yes.

23 A. When? That weekend? I'm -- I had not
24 received this binder at all.

25 Q. When you did receive the binder in

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2 preparation for your meeting with Mr. Kelly, how
3 long had you gone through the binder for your
4 meeting? Or were you -- actually, strike that.

5 Were you presented with that binder during
6 your meeting with Mr. Kelly?

7 A. No.

8 Q. Okay. Did you receive that binder
9 prior to the time you met with Mr. Kelly?

10 A. No.

11 Q. Okay. When was it, then, that you did
12 receive the binder?

13 MR. KELLY: Objection. Asked and answered.
14 He's already stated he got it after the meeting
15 sometime within the last ten days.

16 THE WITNESS: Ten days.

17 BY MR. COLEMAN:

18 Q. Okay. And my understanding is that you
19 are currently charging \$100 American an hour for
20 your time?

21 A. That's right.

22 Q. Okay. Your bill, as it stands right
23 now, do you know what it is? Prior to today's
24 deposition, how much time you've spent in total
25 preparing for this deposition, including meetings?

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2 A. I would say that -- you're not talking
3 about including travel time to here?

4 Q. Not travel time. That's correct.

5 A. Okay, I would say about -- oh, I must
6 have spent two hours on -- on 20th, 19th, 20th --
7 about four hours.

8 Q. Okay. And when you met with Mr. Kelly,
9 what did you discuss to the best of your
10 recollection? What was discussed at that time?

11 A. At that time, Mr. Kelly just wanted to
12 know how long I worked with the government, and he
13 just wanted to know about my background.

14 Q. Okay. Did you discuss anything about
15 your proposed testimony when you met that one time
16 for an hour prior to today?

17 A. No. It was -- no.

18 Q. Okay.

19 A. The answer is no.

20 Q. And were you shown any documents or
21 Exhibits of any nature during that meeting?

22 A. No.

23 Q. Okay. And I had had an opportunity to
24 review your curriculum vitae prior to today's
25 deposition. And one of the things that you had

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2 listed on first page was that as the president of
3 the -- is it pronounce announced Gyan Rajhans?

4 A. They call me in different ways, but --

5 Q. You stated that business in 2002,
6 correct?

7 A. Yeah.

8 Q. Okay. One of the things that you have
9 listed is you have served as an expert advisor on
10 asbestos-related claims?

11 A. That's right.

12 Q. What did you mean by that?

13 A. That meant that -- there had been in
14 Ontario several compensation -- WSI -- we call it,
15 compensation claims for asbestos.

16 And I have been contacted, and I have been
17 asked to meet with adjudicators to -- to -- to
18 adjudicate some of those claims.

19 And, also, I have been expert witness on
20 some of the litigations where I have advised the
21 lawyers.

22 Q. And you previously told us you've never
23 been deposed before, correct?

24 A. No.

25 Q. Have you ever given court testimony

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2 before --

3 A. No

4 Q. -- in an asbestos claim.

5 When you say you've been called upon to give
6 testimony, what is it that you did?

7 A. I wrote report, and I was ready to --

8 Q. Ready to testify?

9 A. -- to testify, but my report appeared
10 to be adequate.

11 Q. Okay. And what percentage of your
12 business is legal consulting work at the current
13 time?

14 A. At the current time? I would say about
15 30 percent.

16 Q. The documents that you have before you,
17 I know that specific binder you've only seen
18 approximately 11 days ago. But those documents in
19 general, had you ever seen them at any point prior
20 to being contacted for this deposition?

21 MR. KELLY: Are you talking about other than
22 when he first saw them when he was working at the
23 Ministry?

24 MR. COLEMAN: That's a very bad question.

25 BY MR. COLEMAN:

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2 Q. Had any attorney ever -- for any legal
3 proceeding, have you ever been shown those
4 documents since you left the government's service?

5 A. No.

6 Q. Okay. And did you ever do anything to
7 contact the Canadian government to try to
8 authenticate the documents that are currently
9 before you?

10 A. No.

11 Q. And did you speak to anyone within the
12 Canadian government at any time concerning those
13 documents?

14 A. No.

15 Q. And did you review each and every
16 document to see whether or not it had been altered
17 in any way?

18 A. Yes. I reviewed them very carefully.

19 Q. And is that the two hours that you had
20 spent prior to this deposition?

21 A. Four hours, you mean?

22 Q. Four hours.

23 A. Yes.

24 Q. Other than to look at those documents
25 for four hours, did you do anything to try to

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2 authenticate those documents to determine where
3 they came from?

4 A. No.

5 MR. KELLY: Wait --

6 THE WITNESS: Sorry.

7 MR. KELLY: That's okay.

8 BY MR. COLEMAN:

9 Q. Now, did -- during the course of your
10 testimony, you had indicated that you would go to
11 the different sites and you would have a
12 handwritten log of the different observations that
13 you made.

14 Did you ever keep any of those logs? Your
15 work book, I believe you called it? A field book?

16 A. Field book.

17 Q. Field book?

18 A. No.

19 Q. What happened to the field books after
20 they were completed?

21 A. The field books were kept by the branch
22 for about ten years in case we have to take a
23 company to court. And after ten years, they were
24 shredded.

25 Q. When you left the government's service

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2 in January of 2000, did you retain any original
3 documents that you had authored or that you had
4 reviewed?

5 A. No. We are not allowed to.

6 Q. At any time during your government
7 service, were you ever called upon to act as a
8 custodian of records in any proceeding?

9 A. No.

10 Q. Now, the documents themselves -- and we
11 might as well start with the first one.

12 Going to what has been marked as Exhibit A,
13 I did actually have some questions about that.

14 First, the seal that does appear on the
15 bottom right-hand corner, when you would actually
16 author a document, did you have your own seal?

17 A. No.

18 Q. You had indicated that this was someone
19 else's seal?

20 A. Yeah.

21 Q. Okay. Did you have your own seal?

22 A. No.

23 Q. Okay. Once you actually wrote a
24 report, what did you do with the report? Just hand
25 it to your supervisor?

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2 A. Yes.

3 Q. Okay. Did you have any responsibility
4 for the filing of that report?

5 A. No.

6 Q. The document that is listed as
7 Exhibit A, other than what appears to be your
8 signature, is any of the other handwriting on that
9 document yours?

10 A. Except my signature? I'm sorry.

11 Q. Except for your signature.

12 A. No.

13 Q. Okay. Next to what is your name, GSR,
14 there are initials RS. Who is RS?

15 A. RS are the initials of my secretary --
16 or -- or not my secretary, sorry. The secretary to
17 the officer in charge, that is the service she --
18 she worked for, professional hygiene service,
19 she -- she worked for three or four people.

20 Q. Okay.

21 A. Okay? And she would type my report, as
22 well. And it was Ryiah Sysko or something like
23 that. S-Y-S-K-O. That, I remember very vividly.

24 Q. Now, when you would complete a report
25 such as this, and you would send it to Mr. Tidey,

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2 did you retain a copy for your own personal file?

3 A. Yes. I did. I did. For follow-up
4 visits, yes, I did.

5 Q. Okay. And where was that file
6 maintained?

7 A. That was with Ryiah Sysko, to -- what
8 Ryiah Sysko had, let me just explain to you that
9 all three consultants, all three specialists, had
10 their -- their shelves. And whenever she would
11 type up a report, she would always keep a copy, put
12 a copy in our slots.

13 Q. When you had indicated earlier that you
14 would go back and occasionally review different
15 documents, were they from your own files?

16 A. No. The -- the -- there was a branch
17 file that was whole room full of files.

18 Q. Okay.

19 A. And then there was -- there was a desk
20 files of recent documents which stayed with Ryiah.
21 And if they were within, say, that in the recent
22 past, which will be four or five months or six
23 months, rather than going to -- and if it was my
24 own report, then I would go to her desk for easy
25 retrieval.

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2 Otherwise, I have to go to the --

3 Q. To the main --

4 A. Pass.

5 Q. -- storage room?

6 So that as I understand it, then, when you
7 were talking about the files that are maintained,
8 they're kept near you on the shelves for
9 approximately three to six months, and then they go
10 to a separate storage area?

11 A. I'm sorry, no.

12 Q. No?

13 A. One copy will always go to the main
14 files room --

15 Q. Okay.

16 A. -- under the company.

17 Q. Got ya.

18 A. Company's name.

19 Another -- another copy will be kept in our
20 secretary's drawer, desk drawer, for four or five
21 months in case we wanted a quick -- quick retrieval
22 before we go and see the plant again or visit the
23 plant again.

24 Q. Okay. And were there any other copies
25 that were kept, other than to the people that were

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2 carbon copied or to the person who this was sent
3 to?

4 A. Not -- no.

5 Q. Okay. Any of the copies of the
6 documents that you produced in the main branch, is
7 that a separate area from what I'm looking at here?
8 This stamp appears to be from Mr. Tidey, I believe
9 it is.

10 A. I believe it is.

11 Q. Did the main branch have its separate
12 set of documents other than this? Or is this a
13 separate filing that I'm looking at here?

14 MR. KELLY: Objection. Compound.

15 MR. COLEMAN: Okay. Oh.

16 BY MR. COLEMAN:

17 Q. Did the main branch, well, I'll break
18 it down to each individual section then.

19 Did the main branch keep a copy of every
20 document that you authored?

21 A. That's right.

22 Q. Okay. The document that I'm looking at
23 here, this stamp is from Mr. Tidey?

24 A. Yeah.

25 Q. Did you ever have occasion to go into

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2 Mr. Tidey's filing area to look up documents?

3 A. No.

4 Q. So, you do not know, do you know
5 personally, from firsthand knowledge, how Mr. Tidey
6 kept his documents in his office?

7 MR. KELLY: Objection. Relevance.

8 THE WITNESS: Yes.

9 BY MR. COLEMAN:

10 Q. And what is your under -- and how did
11 you come to this information? Did -- do you have
12 any information of how he personally --

13 A. We were -- we were on the same floor.
14 We could watch each other. It was an open office
15 concept.

16 Q. Okay.

17 A. Everybody can see everybody.

18 Q. All right. And where did Mr. Tidey
19 keep his documents stored within the office itself?

20 A. He never kept any.

21 Q. Okay. What I'm looking at here appears
22 to have a seal from Mr. Tidey. Okay?

23 Where did this document -- do you know where
24 this was stored, personally?

25 A. Yes. Let me just give you the flow of

1 Gyan Shankar Rajhans - 10-25-05

2 the documents.

3 Q. Okay.

4 A. He will look at it. He will initial

5 it. This will go to his assistant, Gordon

6 Sinclair, whose initials you see on the left of the

7 seal. And he will put it to the file.

8 Q. And where is that file kept?

9 A. The file was the main branch file.

10 Q. Okay. So this is a main branch file?

11 A. That's right.

12 Q. Okay. Your file, is that something
13 different in the main branch? Or is that separate
14 under your name?

15 I'm trying to get a concept of how many
16 files -- copies of this document I might find if I
17 went to the main branch.

18 A. Main branch would have only one copy.

19 Q. Okay. Now, on those documents, I
20 noticed next to Mr. Turton, there's a number two.
21 The numbers appear different on different
22 documents. Do you know what that number two
23 represents?

24 A. That means he was sent two copies.

25 Q. Okay. And do you know why he would be

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2 sent two copies?

3 A. Because he would keep one copy in his
4 branch file, which was in the Ministry, and one
5 copy would go to the field inspector.

6 Q. And Mr. Moore, do you know why he would
7 receive two copies?

8 A. He would do the same. He would keep
9 one file in the chest disease section, and another
10 he will give it to the x-ray technician.

11 Q. And earlier in your questioning, you
12 had testified that you believe that the first time
13 you may have had an opportunity to go to the
14 Garlock plant in Ontario was in 1969, and I believe
15 it said it was September?

16 A. Yes.

17 Q. Okay. Do you have a specific memory of
18 the plant outside of what's contained within the
19 document that has been marked as Exhibit A?

20 A. Yes, I do.

21 Q. Okay. Would you please tell me what
22 you do recall from your first visit to Garlock,
23 without referring to the document?

24 A. Yes. I recall very well that it was a
25 huge plant.

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2 Q. Okay.

3 A. And they had very nice reception area
4 in the -- in the front.

5 And then I would go and present my card.
6 And then ask for the senior-most person to come and
7 see me.

8 Q. Okay.

9 A. And that's how it really started in the
10 plant.

11 Q. And I believe you said the contact on
12 your first visit was Mr. Rostas?

13 A. Rostas, yeah.

14 Q. And could you describe him for me? Do
15 you recall him?

16 A. Rostas? I recall him well.

17 He -- now, this is -- some of the faces in
18 your memory are very vivid, you can never forget.
19 Like, you will never forget me because I'm bald.

20 But similarly, I would never forget
21 Mr. Rostas. He was -- he was well built, and
22 medium height. And lots of hair on the -- not
23 anywhere else, I mean. And a good personality.

24 Q. Okay. And did you recall having a
25 conversation with him on that first meeting?

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2 A. Yeah.

3 Q. Do you recall anything that was
4 discussed at that time?

5 A. That, well, he just wanted to know
6 about my background. He was very, very -- in a
7 way, he was a little bit surprised. He looked very
8 surprised that I was born in India and -- and came
9 all the way to Canada to do my study.

10 So he wanted to know about my background
11 before we started visiting.

12 Q. Okay.

13 A. He was very curious how I ended up
14 here.

15 Q. And do you recall in total how many
16 times you had an opportunity to visit the Garlock
17 plant on Jute Street?

18 MR. KELLY: Objection.

19 THE WITNESS: Jutland.

20 BY MR. COLEMAN:

21 Q. Jutland. Sorry.

22 A. Jutland, yeah. Jutland Street.

23 Q. Do you recall how many times?

24 A. I -- specifically, it would be
25 difficult. But several times. I mean, at times,

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2 it just appeared that I kept going again and again.

3 Q. And can you give me your best estimate?

4 Are we talking more than 20 times? Less than 50?

5 Just your best estimate, without outright guessing,

6 how many times you had an occasion to go to the

7 Garlock plant in Ontario?

8 A. At least 15 times, I would say.

9 Q. Okay. So during your time with the
10 Ontario Department of Health and its different
11 names after that, approximately on 15 occasions you
12 had an opportunity to go to the Garlock plant?

13 A. Yes, approximately.

14 Q. When you would go to the plant, how
15 long would you actually spend there during one of
16 your inspections?

17 A. On the average? At least five to seven
18 hours, not including lunchtime. Because at times,
19 we will eat lunch almost like working lunch and
20 then go on and -- and do the visit.

21 Q. So, when you would go there, you would
22 spend basically the entire workday at just the
23 Garlock plant?

24 A. Yes.

25 Q. Okay. On that first occasion, when you

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2 met with Mr. Rostas, do you recall the names of any
3 of the other individuals that you met with?

4 A. No.

5 Q. And for what period of time do you
6 recall meeting with Mr. Rostas until you met
7 someone other than him when you went to the plant?

8 MR. KELLY: Object to form. I don't
9 understand what you're asking.

10 THE WITNESS: Yeah.

11 BY MR. COLEMAN:

12 Q. Fair enough, then. I'll rephrase the
13 question.

14 Did you meet with anyone other than
15 Mr. Rostas at any time during the first year that
16 you went to visit the Garlock plant?

17 A. Not the first year, no.

18 Q. Okay. When is the first time that you
19 met someone other than Mr. Rostas?

20 A. After a couple of years, I would say
21 three years when I met Mr. Pilmer, who was the
22 president of -- of Garlock.

23 Q. Other than Mr. Rostas and Mr. Pilmer,
24 do you recall the names of any of the other
25 individuals that you met with?

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2 A. No.

3 Q. And when you would meet --

4 MR. KELLY: They're indicated on the
5 reports, but --

6 MR. COLEMAN: Well, that's why I'm asking
7 his recollection, as opposed to what's on the
8 reports.

9 BY MR. COLEMAN:

10 Q. Other than Mr. Rostas and Mr. Pilmer,
11 as you sit here right now without reviewing the
12 reports, you can not recall anyone else's name; is
13 that correct?

14 A. No.

15 Q. Okay. Mr. Pilmer himself, do you
16 recall what he looked like?

17 A. No.

18 Q. Do you recall any specific
19 conversations with him?

20 A. No.

21 MR. COLEMAN: Okay. Can we go off the
22 record?

23 (Videotape Number 2 was then concluded at
24 15:19.)

25 (Discussion off the record at 15:19.)

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2 (Videotape Number 3 was begun and on the
3 record at 15:22.)

4 BY MR. COLEMAN:

5 Q. Again, I want you to go back to what
6 has marked at Exhibit A. On the first page, other
7 than your signature that was only handwriting. On
8 the second page, is any of the additional
9 handwriting yours?

10 MR. KELLY: What handwriting are you
11 referring to?

12 MR. COLEMAN: There's handwriting in the
13 lower right-hand corner, it appears.

14 THE WITNESS: No, that's Dr. Sinclair.

15 BY MR. COLEMAN:

16 Q. Okay. And the underlining, was that
17 something that you would have done --

18 A. No.

19 Q. -- or was that something that would
20 have been added after the fact?

21 A. No. The secretary will do it for
22 filing purposes so that she would know where to
23 file, under what company.

24 Q. Okay. Now, when you would go to the
25 plant you already told us you would have your

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2 handwriting logbook.

3 Did you ever take any photographs while you
4 were there?

5 A. Not in case of Garlock, not -- no.

6 Q. Okay. Did you ever make any diagrams
7 of the plant itself?

8 A. Yes. In the field book.

9 Q. Okay. Just in the field book?

10 Outside of the field book, did you have any
11 other notes or pictures or diagrams other than what
12 was contained in the field book that you already
13 told us would have been destroyed after ten years?

14 A. No.

15 Q. Now, the report itself appears -- part
16 one, it appears to be titled as an abstract.

17 Was there a longer report that would have
18 accompanied this?

19 To me, an abstract and a shortening of a
20 longer report?

21 A. Sorry. Excuse me. If you could tell
22 me where --

23 Q. Sure. On page 2 on the left-hand side
24 just under where, oh, it's being said, it says
25 "abstract."

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A. Yes.

Q. Was there a longer report?

A. No. No, sir.

Q. Okay.

A. Abstract is the first part before you see all those asterisks.

Q. Okay. So when it says abstract, it --

A. That means --

Q. -- doesn't mean --

A. No.

Q. -- there's a short --

A. It does a summary of what you're going to read further.

Q. And would this appear to you to be a complete report?

A. Yes, sir.

Q. Is there anything else that would have been attached to this report?

A. No, sir.

Q. Okay. Now, you've been asked numerous times concerning all the different times that this appears to be a similar-type form as to which you would have written.

My question to you is slightly different.

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2 Do you have a specific memory of seeing this
3 specific report in the past --

4 MR. KELLY: Seeing it?

5 BY MR. COLEMAN:

6 Q. -- as opposed --

7 Yes.

8 Do you specifically recall this document,
9 which is dated September 30, 1969, other than the
10 fact that it appears to be in a correct format and
11 your signature seems to appear on the document, do
12 you specifically recall this document?

13 A. Yes. I recall this one. I'm glad that
14 you asked about this one.

15 I recall this one because this was one of
16 the most important reports I ever wrote on Garlock
17 up until that time.

18 Q. Okay.

19 A. So I recall very vividly this report.

20 Q. Okay. Do you recall any of the
21 subsequent reports --

22 A. Yes.

23 Q. -- other than the fact that they are in
24 a format that is familiar to you that appears to
25 have been similar to the type of reports you would

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2 have filed?

3 A. After going through the report, it
4 refreshed my memory. And now, I recall.

5 Q. Okay. Why is it that you specifically
6 recall -- well, strike that.

7 In a given year, how many different
8 factories and mines might you have an opportunity
9 to visit?

10 A. It -- it will depend. Sometimes a mine
11 will take more than two weeks --

12 Q. Okay.

13 A. -- because mines are big, and you have
14 to wait for the cages and all that to go up.

15 I would say 70 to 75 --

16 Q. Okay.

17 A. -- in a year.

18 Q. All right. And you've been with the
19 department how many years prior to moving up to an
20 administrative position where you would have
21 written reports?

22 A. Ten years, before I moved to the chief
23 job.

24 Q. Okay. And of the 75 a year of the
25 approximately 750 reports, is there anything in

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2 particular about this report that you remember that
3 stands out to you?

4 A. Yes.

5 Q. And what was it?

6 A. Excuse me. Let's go back.

7 Q. Sure.

8 A. We are talking about September 30th,
9 1969 report?

10 Q. That's correct.

11 A. Okay. The reason that report stands
12 out is because this was the first time that I
13 talked extensively with the plant people, plant
14 management, about blue asbestos and -- and -- and
15 various -- I did extensive ventilation
16 measurements. And I can just close my eyes
17 and -- and visualize those braiders, and -- and
18 this -- this was one -- I was proud of this report.

19 Q. Okay. Other than Mr. Rostas, do you
20 remember anyone else from that first visit -- you
21 said you had discussions with management. That
22 appeared to be plural to me.

23 Do you remember anyone other than him that
24 you talked to specifically?

25 A. No, I don't.

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2 Q. With your engineering background, did
3 you have any special classes or special knowledge
4 as to gaskets as opposed to some other type of
5 product?

6 A. No.

7 Q. Did you ever have access to the
8 ingredients that went into gaskets that were
9 manufactured by Garlock as part of your job duties,
10 other than to know that you saw asbestos? I mean,
11 the actual ingredients that were -- or the formula,
12 for lack of a better word. As to how they made
13 their gaskets?

14 MR. KELLY: You're asking did he know that
15 in '69 when he was there, or did he ever learn
16 that?

17 MR. COLEMAN: I'm asking in '69 first, and
18 then I'll go from there.

19 BY MR. COLEMAN:

20 Q. In 1969, did you have access to the
21 actual formula that Garlock may have used for any
22 of its gaskets?

23 A. No.

24 Q. At any time, did you actually have
25 access to any formula as to how Garlock made its

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2 gaskets?

3 A. Garlock did -- every -- every time I
4 visited Garlock, one of the management people,
5 Rostas or whoever, would come to receive me.
6 Rostas mostly.

7 In the beginning, first one, they would take
8 me through one of their brochures; tell me what
9 ingredients and raw materials they are using; what
10 is the procedure of making the gasket; where they
11 are selling it; what are they doing with -- with
12 various machines; and where their other plants are.

13 Q. Do you have any memory as a result of
14 this conversation as to whether or not any of the
15 gaskets that were manufactured in Ontario were ever
16 specifically sold in Illinois?

17 A. No.

18 Q. And as a result of those conversations,
19 do you recall what percentage of gaskets might have
20 contained asbestos as opposed to those gaskets
21 manufactured by Garlock that did not contain any
22 type of asbestos?

23 A. If I recall correctly -- and I do
24 recall correctly -- all gaskets at that time
25 contained asbestos.

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2 Q. Okay. So as you sit here right now,
3 your belief is that every gasket that was
4 manufactured at the Ontario Garlock plant contained
5 asbestos?

6 A. That's right.

7 Q. Okay. And do you know what -- or, do
8 you have a belief, if at all, as to whether or not
9 Garlock, during the time you would make your
10 visits, ever manufactured gaskets that did not
11 contain asbestos?

12 A. No.

13 Q. Okay. So to your knowledge, then,
14 during the ten years you did visit, all gaskets
15 manufactured by Garlock at that facility contained
16 asbestos?

17 A. That's right.

18 Q. Okay. Do you have any idea as to --
19 well, we won't go there.

20 When you were testifying as to Exhibit A,
21 you said that some of the workers appeared to be
22 wearing a NIOSH-approved mask. Do you remember
23 that?

24 MR. KELLY: Does he remember the testimony?

25 BY MR. COLEMAN:

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2 Q. Do you remember the testimony, first.

3 MR. KELLY: He's talking about page 2.

4 BY MR. COLEMAN:

5 Q. I'm talking about page 2. The
6 respirator.

7 MR. KELLY: The September report?

8 MR. COLEMAN: Correct.

9 MR. KELLY: Exhibit A.

10 THE WITNESS: Oh. Oh, okay. Thank you for
11 clarifying.

12 MR. COLEMAN: Right.

13 MR. KELLY: Page 2, it's like the fourth
14 paragraph. Page 2 of that report, actually, the
15 next page.

16 THE WITNESS: Oh, thank you.

17 MR. KELLY: There you go.

18 THE WITNESS: Thank you.

19 MR. KELLY: The big paragraph.

20 THE WITNESS: One, two, three -- this is the
21 fourth one, am I right?

22 MR. KELLY: Yes.

23 THE WITNESS: Yes, the operator wears an
24 approved type, that's right. Okay.

25 BY MR. COLEMAN:

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2 Q. Do you know what year NIOSH was formed?

3 A. NIOSH was formed in 1969 or '70.

4 Q. Did you ever talk to Mr. Moore

5 concerning his findings with the x-rays?

6 You had mentioned him in reference to

7 Exhibit A. And you said that you had conversations

8 with Mr. Moore?

9 A. Mr. Moore? Yes, I had. And Mr. Moore

10 would tell me if any abnormalities are on any of

11 the x-rays were ever found in the employees that --

12 that they -- they -- they examined.

13 Q. Do you specifically recall any

14 conversations with Mr. Moore back in 1969

15 concerning x-rays of Garlock employees?

16 A. The only thing I remember is that

17 Mr. Moore would say that they are going to be

18 monitoring these plans on a regular basis.

19 Q. Okay. Other than Mr. Moore telling you

20 that the plants, in general, will be monitored on a

21 regular basis, do you have any specific

22 recollection of talking to Mr. Moore about the

23 Garlock plant in particular?

24 A. That's what I meant.

25 Q. Okay.

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2 A. He said Garlock plant will be
3 monitoring --

4 Q. I misunderstood, and I apologize.

5 A. I'm sorry.

6 Q. Did you ever have any follow-up
7 conversations with Mr. Moore after he told you that
8 the plants will be monitored?

9 A. We would be talking on almost every
10 second or third week.

11 In fact, not only that, but I just remember
12 also that I would go to his place, his office,
13 which was about five kilometers from our office.
14 And every second week as a dust control specialist,
15 I was supposed to talk to the chest disease
16 services and find out if they have monitored all
17 the places where dust exposures could be there.

18 Q. Now, the next time you had gone, I
19 believe from your previous testimony, was in July
20 of 1970. And that was reflected in what has been
21 marked as Exhibit B.

22 Do you specifically recall this memo other
23 than the fact that it appears to be in a form
24 familiar to you?

25 A. This memo, I remember specifically,

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2 also because -- this -- this is amazing that I
3 would recall this.

4 This is the first time I met the president,
5 which was a big thing, because president of the
6 company usually does not come out from their office
7 to meet anyone.

8 And for that reason, I would remember that.

9 Q. Okay. Do you remember any
10 conversations you had with Mr. Pilmer?

11 A. No.

12 Q. Okay. Do you remember anything other
13 than the fact that you met him, without looking at
14 the document itself, from just your recollection?

15 A. What I do remember, and
16 this -- this -- this is going to my recollection of
17 quite a few years -- what I do remember, Mr. Pilmer
18 was very much impressed with my qualification. I'm
19 not trying to put myself up, but I'm just trying to
20 remember everything and visualize. Very much
21 impressed. Patted on my back, as well.

22 And Mr. Pilmer -- no, except that, I don't
23 remember anything he said.

24 But, then we went into the plant. There was
25 some blue asbestos that I observed. And that made

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2 me upset, because I knew blue asbestos was bad.

3 And I do remember a velometer -- this is to
4 measure the velocity -- I had the velometer which
5 had its limited range of measuring the velocity.
6 In other words, I could not measure less than 100
7 feet per minute, if it was going through the hood.
8 And I could not measure more than 500 feet per
9 minute. It one of these small velometers. I
10 remember that.

11 And, so those are some of the things that
12 come to my mind.

13 Q. Okay. Do you remember anything other
14 than the fact that he discussed your qualifications
15 with you and that you had this velometer with you?
16 Do you remember anything else about the visit?

17 A. Blue asbestos.

18 Q. Okay. Do you remember any
19 conversations other than your qualifications with
20 Mr. Pilmer?

21 A. No.

22 Q. Do you know whether or not he was with
23 you when you saw this --

24 A. No.

25 Q. -- blue asbestos?

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2 A. No.

3 Q. What about Mr. Rostas? Do you recall
4 any conversations with him during this time?

5 A. All the time through -- throughout, he
6 was with us, with me, through all the plant visit.

7 And every time I would find out about blue
8 asbestos or inadequate ventilation on any of the
9 machines, he would agree with my wholeheartedly,
10 not question me, and say next time he is going to
11 fix it.

12 Q. Okay. And you saw this, as I recall,
13 at one specific winder or braider rather?

14 A. Braider.

15 Q. Behind a braider?

16 And it was in a yarn form? The blue
17 asbestos, as you called it?

18 A. It was in a spool, yes.

19 Q. Okay. How did you know that it was
20 blue asbestos as opposed to some other type of
21 asbestos or substance?

22 A. It looked blue, and the -- the fibers
23 were asbestos. You can see it. Because it had
24 fibrils.

25 Q. Okay. Was there anything written on

1 Gyan Shankar Rajhans - 10-25-05

2 the material itself that led you to that conclusion
3 that it was blue asbestos, other than the coloring
4 and that it appeared to be fibrous?

5 A. No. It did. But Mr. Rostas agreed
6 that it was blue asbestos.

7 Q. Do you recall what the spool itself
8 looked like?

9 A. Yes.

10 Q. And could you describe that for me?

11 A. It was, like, about one-and-a-half feet
12 diameter, the spool.

13 Q. Okay.

14 A. And it was a vertical -- it was lined
15 vertically, a vertical spool, quite a few of them.
16 Vertical spools. And that's all I can remember.

17 Q. Okay. Do you remember any writing on
18 the spools or anything of that nature?

19 A. No, there was no writing.

20 Q. Were they kept in a separate area of
21 the plant at the time, behind the braider?

22 A. No, I was hoping they would but not --
23 it was not kept in a segregated area. No. And
24 that's what infuriated me.

25 Q. Did you find it anywhere other than

1 Gyan Shankar Rajhans - 10-25-05

2 behind this braider?

3 A. No.

4 Q. Do you recall anything else about that
5 second visit, other than the fact that you --
6 Mr. Pilmer told you about your qualifications, that
7 you saw the blue asbestos, and that you took the
8 tour with Mr. Rostas?

9 MR. KELLY: You're asking other than what
10 he's already testified to?

11 MR. COLEMAN: Well, I'm asking him without
12 looking at the document what he recalls. You asked
13 him with the document.

14 THE WITNESS: No, I don't recall anything
15 else.

16 BY MR. COLEMAN:

17 Q. Now, what has been marked as Exhibit B,
18 again, there's some writing down on the bottom
19 right-hand corner. Is that any of your writing?

20 A. No.

21 Q. Can you recognize who wrote that?

22 A. Yes.

23 Q. And who was that?

24 A. Again, it was by Gordon Sinclair.

25 Q. And that was the assist?

1 Gyan Shankar Rajhans - 10-25-05

2 A. Of V.L. Tidey.

3 Q. And the writing on the top right-hand
4 corner --

5 (Interruption by the court reporter.)

6 THE WITNESS: Sorry, sir, but you were
7 asking me something. I'm sorry.

8 BY MR. COLEMAN:

9 Q. The other writing that appears on this
10 document, in the upper right-hand corner, where it
11 says "IF-82," do you recognize whose writing that
12 would be?

13 A. That would be by the secretary before
14 she files it.

15 Q. Okay. Do you know which secretary that
16 would have been?

17 A. That would have been the person who
18 signed that, Ryiah Sysko.

19 Q. Do you recall the name?

20 MR. KELLY: He said Ryiah Sysko.

21 MR. COLEMAN: Oh, okay. Oh, I see what
22 you're saying.

23 BY MR. COLEMAN:

24 Q. Do you recall the name of RS, or who
25 that is?

1 Gyan Shankar Rajhans - 10-25-05

2 A. As I said before, Ryiah Sysko.

3 Q. And for the court reporter, could you
4 possibly spell that?

5 A. I did spell already.

6 Q. Oh, you did already? I apologize.

7 Now, in the next document, when you went for
8 what I believe would have been your third visit,
9 that would have been in May of 1970?

10 A. Are we on B now?

11 Q. Yes, what is marked now as Exhibit C.

12 A. C.

13 Q. May of 1971, I apologize.

14 A. Oh, that was -- okay.

15 My visit is dated July 26th, and date of
16 visit is July 23rd. And, yes, Mike Polny's visit
17 was May 23rd.

18 Q. All right. I was thinking of July
19 1970. And again, back to Exhibit B.

20 A. Oh, I'm sorry.

21 Q. You said that you recall giving papers
22 to Mr. Rostas at that time? In your earlier
23 testimony, you said you gave him some papers?

24 MR. KELLY: He's on the --

25 MR. COLEMAN: I'm on Exhibit B again.

1 Gyan Shankar Rajhans - 10-25-05

2 MR. KELLY: -- Exhibit B.

3 THE WITNESS: Oh, okay.

4 BY MR. COLEMAN:

5 Q. When you were discussing Exhibit B with
6 Mr. Kelly, you said that you recall giving --

7 MR. KELLY: Hang on.

8 MR. COLEMAN: -- Mr. Rostas --

9 MR. KELLY: Just let him get to it.

10 MR. COLEMAN: Sure.

11 MR. KELLY: The Exhibit. Here. Let me help
12 you.

13 THE WITNESS: I'm totally confused, because
14 I went to "C" first, and --

15 MR. COLEMAN: Right. That was my fault. I
16 apologize.

17 MR. KELLY: Go ahead.

18 THE WITNESS: Okay.

19 BY MR. COLEMAN:

20 Q. You said you recall giving Mr. Rostas
21 some papers.

22 My question is: Do you recall the names of
23 any of the titles of the papers that you gave him?

24 A. I gave him our data sheet.

25 Q. Data sheet?

1 Gyan Shankar Rajhans - 10-25-05

2 A. Which was asbestos data sheet.

3 Q. All right.

4 A. And some of the British publications on
5 blue asbestos which, at that time, were coming out
6 telling us -- telling the hygienists, by the
7 medical people, that we should be careful of this
8 product.

9 Q. Do you recall the names of any of the
10 authors of any of those articles that you gave to
11 Mr. Rostas at that time?

12 A. No.

13 Q. Do you recall where any of the
14 publications came from, the names of any of the
15 journals, magazines, books --

16 A. Oh, yes. This came from the two
17 articles that I was talking about came from
18 British -- British Occupational Hygiene Society
19 journal. And American Industrial Hygiene journal.

20 Q. And the data sheet, do you know what
21 number was?

22 During the course of your testimony, you did
23 tell us about data sheet Number 18 --

24 A. Yeah.

25 Q. -- down the road.

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2 Do you recall what version of the data sheet
3 that you had given to Mr. Rostas back in July of
4 1970?

5 A. Number, I would not remember.

6 Q. And other than the two articles and the
7 data sheet, do you recall giving him anything else?

8 A. No.

9 Q. Did you hand them to him there? Or did
10 you subsequently go back to your office and write a
11 letter to him enclosing the articles?

12 A. No. I gave it to him there, because in
13 my previous visit I thought I might need to educate
14 him on that.

15 Q. Did you give it with a cover letter or
16 anything --

17 A. No.

18 Q. -- or did you just hand them to him?

19 A. No, I just handed them to him.

20 Q. And now we're going to go fast forward
21 to Exhibit F. And I'm going to ask you, did you
22 ever, prior to receiving that binder that is
23 currently before you, prior to receiving the binder
24 that is before you, do you ever recall seeing this
25 cover letter before?

1 Gyan Shankar Rajhans - 10-25-05

2 A. Yeah.

3 Q. And when would you have seen this cover
4 letter?

5 A. Because every time Mr. Nelson would
6 write any or send any material outside from the
7 occupational health protection branch, he was
8 obliged to send or show me in one way or the other
9 as dust control specialist, because I was the only
10 dust control specialist that he had.

11 Q. Okay. Did he have to run every letter
12 to you before he sent it out to a client?

13 A. He would either send me a copy, or he
14 would say, Gyan -- because our offices were close.
15 Side by side.

16 Q. All right. Now, I'm asking you about
17 this letter in particular, because you do not
18 appear to have received a carbon copy.

19 A. No.

20 Q. Okay. Did you see this letter prior to
21 receiving it today?

22 A. Yeah.

23 Q. And do you have a specific memory of
24 that?

25 A. Yes.

1 Gyan Shankar Rajhans - 10-25-05

2 Q. Okay. What about this letter, this
3 cover letter of June of 1972, draws your attention
4 to it such that you would remember that from
5 hundreds or even thousand of letters you may have
6 seen during the course of your career?

7 A. Well, you know, Garlock being one of
8 those companies that we were watching very closely,
9 I remember these letters.

10 Mr. Breckon was a nontechnical manager of
11 Garlock. And this was sent to him.

12 And that's how this will strike my memory.

13 Q. And I understand you said that
14 Mr. Breckon would receive different copies. But
15 you specifically recall just the cover letter going
16 to -- seeing it before it was actually mailed to
17 him?

18 A. And -- and the attachment, yeah.

19 Q. Okay. Going fast forward again to H.
20 When you were talking as to this document,
21 you had told us that you remember being on the
22 phone with Mr. Rosatis (phonetic).

23 MR. KELLY: Rostas, is that?

24 MR. COLEMAN: Rostas. I keep saying
25 Rosatis. I apologize.

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2 MR. KELLY: There might have been a Rosatis,
3 but the only one I know of is the Rostas.

4 BY MR. COLEMAN:

5 Q. Do you specifically recall the phone
6 conversation you had with him? You had referenced
7 it during the course of your testimony concerning
8 Exhibit H.

9 A. What? Could you --

10 Q. Sure. When you were testifying as to
11 Exhibit H.

12 A. H. Yeah?

13 Q. You said you had testified that you
14 remember talking to Mr. Rostas concerning blue
15 asbestos?

16 A. That's right.

17 Q. Okay.

18 A. And he said that he had to stop using
19 it.

20 Q. Right. Now, do you recall how long
21 before your visit that you had this conversation
22 with him?

23 A. No. I would not remember how long,
24 exactly how long.

25 Q. Do you recall anything about the

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conversation, exactly what was said?

A. The conversation was, I think purely, if I remember correctly, purely about the use of blue asbestos.

Q. Okay.

A. And I wanted to know once and for all that they stopped using it.

Q. Okay. Do you recall anything other than -- about the conversation other than the fact that you wanted him to stop using blue asbestos? Anything else? Any details?

A. Anything else I would not remember, because that was my focus.

Q. And, again, in March of 1975, when you had this meeting which is referenced in Exhibit H, Mr. Rostas is listed as a person that you met with. And Mr. Popowich, a chemist. Do you remember Mr. Popowich?

A. No.

Q. So other than the fact that his name is referenced on this memo, you don't recall him?

A. No. I don't recall him.

Q. And going, again, fast forward to Exhibit K.

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2 Do you ever recall meeting Mr. Sibbald?

3 A. No, I do not.

4 Q. Okay. Then I guess you have no
5 recollection of any conversations you may have had
6 with him?

7 A. Mr. Sibbald? No.

8 MR. KELLY: This is a Polny-authored
9 document, though.

10 MR. COLEMAN: I understand. I'm just
11 asking.

12 MR. KELLY: Okay.

13 BY MR. COLEMAN:

14 Q. Now we've gone through a lot of the
15 documents.

16 Do you recall anyone else other than
17 Mr. Rostas or Mr. Pilmer at the Garlock plant?

18 A. No, I don't.

19 MR. COLEMAN: Okay. Could we go off the
20 record for a second?

21 (Discussion off the record at 15:50.)

22 (On the record at 15:53.)

23 BY MR. COLEMAN:

24 Q. During the course of your testimony,
25 you said that one of the reasons you might go back

1 Gyan Shankar Rajhans - 10-25-05
2 to a plant is that a union may actually request
3 such a visit.

4 Do you ever recall any union at Garlock
5 requesting such a visit where you would go in to do
6 studies?

7 A. Did I say that?

8 Q. You had indicated earlier during the
9 course of your testimony that your agency might be
10 requested by a union to come in to do an
11 inspection.

12 My question is: Do you have any knowledge
13 as to whether or not a Garlock union member or the
14 union on behalf of Garlock had ever requested --

15 A. Okay. Let me just clarify it.

16 Q. Okay.

17 A. Union, at times, could request the
18 industrial safety officer who visits their plant on
19 a regular and cyclical basis that, hey, I think --
20 or the union leader will say, hey, I think this
21 plant has become worse. Come and see. Or, they
22 have added another machine. So, although you
23 visited it last week, come back and visit again.

24 During the course of his subsequent visit,
25 industrial safety branch would ask us, if required,

1 Gyan Shankar Rajhans - 10-25-05

2 to go and visit.

3 Q. Do you know that -- that -- any union
4 member from Garlock had ever requested such a
5 visit?

6 A. No, I don't.

7 MR. COLEMAN: That's all I have.

8 MR. KELLY: No more questions.

9 Unless you have any?

10 MR. FERGUS: No. Based on the 213
11 disclosure, this witness is only being called
12 against Garlock. So John Crane has no questions at
13 this time.

14 MR. KELLY: Under Illinois court rules, you
15 have an opportunity to review the transcript after
16 it's been all typed up for accuracy. Under the
17 rules, though, you can't actually change your
18 answer, you can just do things like spelling and
19 stuff like that.

20 But you have a right to review it, if you'd
21 like to. Otherwise, you can waive signature. It's
22 sort of up to you. If you want to receive a copy
23 and review it, I suggest that you ask -- ask to
24 reserve signature.

25 THE WITNESS: I would like to review it.

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2 MR. KELLY: Okay. We'll show signature as
3 reserved, then.

4 We're all done.

5 THE COURT REPORTER: Within 30 days or 60
6 days?

7 MR. KELLY: Within 30 days.

8 (Proceedings of 10/25/05 were then concluded
9 at 15:55 on Videotape Number 3.)

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I hereby CERTIFY that I have read the foregoing 245 pages, and that they are a true and accurate transcript of the testimony given by me in the above entitled action on October 25, 2005.

GYAN SHANKAR RAJHANS

Sworn to before me this

----- day of -----, 2005.

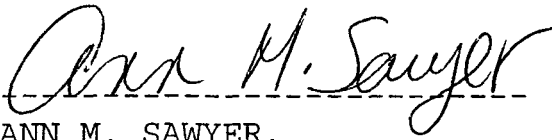
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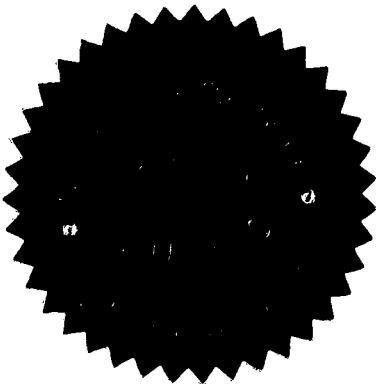
STATE OF NEW YORK)

ss:

COUNTY OF ERIE)

I DO HEREBY CERTIFY as a Notary Public in and for the State of New York, that I did attend and report the foregoing deposition, which was taken down by me in a verbatim manner by means of machine shorthand. Further, that the deposition was then reduced to writing in my presence and under my direction. That the deposition was taken to be used in the foregoing entitled action. That the said deponent, before examination, was duly sworn to testify to the truth, the whole truth and nothing but the truth, relative to said action.


ANN M. SAWYER,
Notary Public.



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