

1 CAUSE NO. 03CV0588

2 LOUISE ALTIMORE * IN THE DISTRICT COURT OF
3 VS. * GALVESTON COUNTY, TEXAS
4 QUIGLEY COMPANY, INC., ET AL. * 405TH JUDICIAL DISTRICT
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10 ORAL DEPOSITION OF

11 BRUCE LARSON

12 MARCH 23, 2004
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15

16 THE ORAL DEPOSITION OF BRUCE LARSON, duly sworn, produced as
17 a witness at the instance of the PLAINTIFF LOUISE ALTIMORE,
18 was taken in the above styled and numbered cause on the 23rd
19 of March, 2004, from 10:56 a.m. to 1:32 p.m., before Suzi
20 Gladney, CSR, RPR, Certified Shorthand Reporter in and for
21 the State of Texas, reported by machine shorthand, at the
22 offices of Abrams, Scott & Bickley, LLP, 700 Louisiana,
23 Suite 1800, Houston, Texas, pursuant to the Texas Rules of
24 Civil Procedure and the provisions stated on the record.
25

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1 (Larson Exhibit Nos. 1 through 19 were marked)

2 MR. HEARD: Let's just start with some sort
3 of -- I don't know if it's an agreement; but I know that
4 Mr. Larson needs to be done by 3:00, 3:30. I need to be
5 done by 1:00 something so I can get over to the
6 courthouse. I'm not ordered to be there and I'm not
7 lead counsel in the case but I need to be there to help
8 with some matters. So, if that's okay with y'all,
9 wherever we are at that time, I'm going to cut it off.
10 We don't have a notice for this deposition, an official
11 notice; is that right?

12 MR. GARDNER: That's right. We're taking
13 it by agreement.

14 MR. HEARD: So, we'll just plow as far
15 ahead as we can; and if we need to come up to Virginia
16 and visit your lovely country up there before trial
17 again, we'll do that --

18 THE WITNESS: Fine. You're invited.

19 MR. RADCLIFFE: Let me just jump in. I'm
20 from Baltimore.

21 MR. HEARD: Oh, you are?

22 MR. RADCLIFFE: My pro hac in the case has
23 not been filed yet. I have not been admitted. I'm not
24 going to participate, but we're willing to work with
25 you. We want to make sure that everybody knows what is

1 going on. My only concern is just timing and scheduling
2 and making sure that we get everything done. And so,
3 understand that time constraints -- let's get done what
4 we can get done; but we can't just pick any date if you
5 decide that you need to talk to him a little bit more.
6 And we can't go on endlessly if you decide that you need
7 to talk to him a little bit more.

8 MR. HEARD: I agree, and we won't. So,
9 what I think -- I'm just talking about purely from the
10 perspective of time -- I mean, I've been provided a
11 stack of documents I haven't looked at yet. I'll look
12 at them. We'll discuss them here today together; but if
13 we don't get through all this stuff, as long as y'all
14 can make him available at a mutually convenient time
15 between now and trial, it's fine with us.

16 MR. RADCLIFFE: We'll work with you. If
17 y'all need more time, we'll work with you to --

18 MR. HEARD: Right. Thank you.

19 THE REPORTER: What about signature?

20 MR. GARDNER: Would you like to read and
21 sign the deposition?

22 MR. RADCLIFFE: Yes, he does.

1 BRUCE LARSON,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. HEARD:

5 Q. State your name for the record, please.

6 A. My name is Bruce Allen Larson.

7 Q. Mr. Larson, my name is Denman Heard. You
8 understand that I represent the plaintiff in this case; do
9 you not?

10 A. Correct.

11 Q. We've never met before?

12 A. No, sir.

13 Q. Have you ever given a deposition before?

14 A. I have on, I believe, three other occasions.

15 Q. Can you tell me about those, when and what they
16 were for?

17 A. There was one in 1996. I gave a deposition in
18 Washington involving, I guess, a case involving Mobil Oil. I
19 really don't recall the specifics of it, but I did give a
20 deposition then.

21 Q. Do you know what kind of case it was, in other
22 words, what the basis of the lawsuit was?

23 A. It had to do with several -- part of it was related
24 to asbestos. Part of it was related to benzene. Part of it
25 was related to 1-3 butadiene. It was a number of issues.

1 Q. Was it a single-plaintiff case, or were there
2 multiple plaintiffs involved?

3 A. I don't recall.

4 Q. But that was in about 1996?

5 A. Yes, correct.

6 Q. Do you know where that deposition was taken? In
7 Washington --

8 A. In Washington.

9 Q. -- you said? Do you know who the lawyers were who
10 were representing the plaintiffs?

11 A. Yes, it was Hershal Hobson.

12 Q. And you don't recall the name of the plaintiff; do
13 you?

14 A. Not -- no.

15 Q. How long did that deposition last?

16 A. I think probably about three hours.

17 Q. Was that the first deposition you had ever given?

18 A. Correct.

19 Q. Did you give that deposition in a capacity as an
20 expert witness or a fact witness, or do you know?

21 A. Don't really know. I really don't.

22 Q. Obviously, y'all talked about industrial hygiene
23 issues?

24 A. Right. They basically wanted to find out about my
25 experience with OSHA and then further with Exxon and finally

1 with Mobil.

2 Q. We're going to be doing some of that here today;
3 and if they asked you a bunch of questions about your
4 background, it may be helpful to me to cut some time off,
5 also. Maybe I can read from that other deposition --

6 A. They did. They did that.

7 Q. Okay. Good. What was the second time you gave a
8 deposition?

9 A. Second time, I believe, was last year. I think it
10 was in November.

11 Q. I'm going to back up because I forgot to ask you
12 something: Were you presented by Mobil in that deposition?

13 A. I think so.

14 Q. So, you testified on Mobil's behalf in the 1996
15 deposition in Washington?

16 A. I believe so.

17 Q. And were you paid for your time to show up and
18 testify in that case?

19 A. As an employee, no. It was part of my job.

20 Q. You were an employee for Mobil at the time?

21 A. Correct.

22 Q. Are you currently an employee?

23 A. No.

24 Q. We'll come back to these depositions in a minute.
25 Who do you work for now?

1 A. I work for myself.

2 Q. Doing what?

3 A. Well, basically I'm retired; but I have a small
4 farm in Edinburg, Virginia; and I've been doing some
5 consulting work part time for ExxonMobil.

6 Q. Do you do any other consulting work for other
7 companies besides ExxonMobil?

8 A. No.

9 Q. What is your financial arrangement with ExxonMobil?
10 Currently I mean.

11 A. Okay. Currently I'm paid by the hour.

12 Q. How much?

13 A. 300.

14 Q. Does that increase if you have to -- have you ever
15 testified in a trial?

16 A. Once.

17 Q. Did the \$300-an-hour fee, did that increase for
18 trial; or did it remain the --

19 A. No, it was just time per hour.

20 Q. All right. After the 1996 deposition, when was the
21 next time you testified?

22 A. I believe it was November of 2003. It was a
23 deposition.

24 Q. So, your trial was sometime after that?

25 A. Yes.

1 Q. In November, 2003, who paid for your time to be
2 present at the deposition?

3 A. ExxonMobil.

4 Q. Did you testify as an industrial hygienist, an
5 industrial hygienist --

6 A. Correct.

7 Q. On behalf of ExxonMobil?

8 A. Correct.

9 Q. Was there a particular facility involved in that
10 testimony?

11 A. Let's see. I'm trying to remember. I believe it
12 was the Beaumont refinery and the Beaumont olefins and
13 aromatics facility.

14 Q. Who was the plaintiffs' lawyer who took your
15 deposition?

16 A. You know, I don't really recall.

17 Q. Were they a Beaumont law firm?

18 A. Yes.

19 Q. And it wasn't Mr. Hobson's firm?

20 A. No.

21 Q. Provost & Umphrey? Does that sound right?

22 A. I think it is. I believe that was it.

23 Q. But you don't remember the name of the actual
24 lawyer who took --

25 A. Not off the top of my head. I have a copy of the

1 deposition. I could probably refer to that.

2 Q. I'll tell you what would really help me -- if you
3 guys don't mind -- could I have copies of these three
4 depositions so that I can review them?

5 MR. RADCLIFFE: I don't know if we have
6 them, to tell you the truth.

7 Q. (BY MR. HEARD) Okay. You have them, correct?

8 A. I think I have two out of the three. I may have
9 all three, but I'm not sure. But I know I have several.

10 Q. You have the Hershal Hobson deposition?

11 A. Correct.

12 Q. And you just mentioned you have the Provost &
13 Umphrey deposition in 2003?

14 A. I'm not sure if I do or not. I know I've got at
15 least two depositions, but I'm not sure which ones I have. I
16 know I've got the one from '96.

17 Q. You know you have the one from '96?

18 A. Right.

19 Q. And you have another one out of the remaining two
20 depositions --

21 A. Correct. And I know --

22 Q. -- that you did, and you have --

23 A. -- I have at least one --

24 Q. -- at least one?

25 A. Correct.

1 Q. Would you mind when you get home today finding
2 those depositions and giving them to the lawyers, to the
3 lawyers for ExxonMobil who are present here today?

4 A. If that's acceptable, sure.

5 Q. I'll make a request from them for them; and if they
6 feel it's appropriate, they can give them to me. I'm just
7 asking you since --

8 A. Fine.

9 Q. -- you have them to give them to me.

10 A. Fine.

11 Q. Thank you. Now, were you being paid \$300 an hour
12 for that 2003 deposition; or was it a different charge?

13 A. It might have been 250. I'm not sure. 250 or 300.

14 Q. When is the next time you testified in a deposition
15 after that?

16 A. The third would have been -- I believe it was here
17 in Houston in January of this year because it was during the
18 week of the Super Bowl. I remember that.

19 Q. That's pretty convenient. Did you get to go?

20 A. No, but I got involved with all the congestion at
21 the airport.

22 Q. Who was the plaintiffs' attorney in that case?

23 A. Again, off the top of my head, I really don't -- it
24 was a very short deposition, lasted only about an hour.

25 Q. What was it about?

1 A. It was about -- I think it was about an alleged
2 exposure to asbestos at one of Mobil Chemical's plastic
3 fabricating facilities in Temple, Texas.

4 Q. Did you provide documents in that deposition as you
5 provided me with here today?

6 A. I think we did provide a few.

7 Q. All right. Well, let me tell you what I'm going to
8 do since we're limited on time here. I'm going to hope that
9 one of those other depositions covers in detail your
10 background and what you've done.

11 A. I think at least two --

12 Q. Okay. Great.

13 A. -- two will that I have access to.

14 Q. And so, what I'm going to do, just in case there's
15 a problem with those, I'm going to run through your
16 background but probably not spend the normal amount of time
17 on it.

18 A. All right. Fine.

19 Q. Where did you grow up?

20 A. Grew up in Houston.

21 Q. You went to Spring Branch High School?

22 A. Correct.

23 Q. And after high school, what did you do?

24 A. After high school, I attended University of Texas
25 at Austin.

1 Q. You received a degree from UT?

2 A. Correct.

3 Q. What was your degree in?

4 A. Natural science.

5 Q. Did you have any kind of special focus? Was it a
6 BS degree?

7 A. Yes, and I also had a minor in chemical
8 engineering.

9 Q. What year did you receive that degree in?

10 A. 1972.

11 Q. Now, during your time at University of Texas, did
12 y'all talk about OSHA or study about OSHA and what it was
13 about to do?

14 A. Somewhat about both EPA and OSHA since they were
15 both established in 1970.

16 Q. That was a pretty hot issue at that time, correct?

17 A. Right.

18 Q. So, that would have been the subject of some of
19 your classes, I take it, at least in chemical engineering?

20 A. It come up -- yeah. It was also something that I
21 was looking toward in terms of a career.

22 Q. So, you already knew in 1972 when you graduated
23 that you may want to have some sort of career involving work
24 with OSHA?

25 A. Correct.

1 Q. Did you ever intern for OSHA prior to graduating
2 from UT in 1972, or the EPA?

3 A. Well, no, that was back during Nixon's hiring
4 freeze for the government. So, initially upon graduation I
5 submitted an application; but I couldn't actually be hired
6 until the hiring freeze was lifted; and when it was, in '73,
7 I went to work for OSHA.

8 Q. What did you do between 1972 when you graduated and
9 1973 when you went to work for OSHA?

10 A. I worked here in Houston for MD Anderson Hospital
11 and Cancer Research Institute as a research biochemist.

12 Q. What years did you spend with OSHA?

13 A. 1973 through 19 -- well, the latter part of 1976,
14 July of '76.

15 Q. You spent approximately three years with OSHA?

16 A. Approximately.

17 Q. Can you run through for me briefly your job duties
18 during that time?

19 A. I was an industrial hygienist with the Houston area
20 office of OSHA. Geographically we covered the area of
21 Houston metropolitan area over to the Golden Triangle area --
22 Beaumont, Port Arthur, Orange -- up to the Austin area.

23 Q. How long did that last?

24 A. Well, for the three years that I was employed.

25 Q. You had the same job all three years?

1 A. Correct.

2 Q. Gotcha. Did you have a specific title, or was it
3 just industrial hygienist?

4 A. Well, the official title was compliance safety and
5 health officer, CSHO; but I was an industrial hygienist. You
6 could either be a safety specialist or industrial hygienist,
7 and my speciality was industrial hygiene.

8 Q. What were your day-to-day job duties as a
9 compliance safety and health officer?

10 A. It varied, but primarily it was investigating
11 working conditions in the working environment of the
12 facilities located in my area of responsibilities. And it
13 could be anything from a bakery to a steel mill to a chemical
14 plant or a refinery, just the mix of industries that you
15 would find in this area.

16 Q. What would bring about the need for you to go
17 investigate a facility?

18 A. Generally it would stem from three -- well, four,
19 actually -- potential sources. One would be fatality
20 investigations, complaint investigations, general scheduled
21 inspections, and special emphasis inspections.

22 Q. What's the special emphasis inspection?

23 A. In the early '70s OSHA had what they called their
24 "target health hazards programs," THHP; and it focused in on
25 I believe it was five agents that were special priority,

1 involved cotton dust, silica, asbestos, lead. And I believe
2 those were the materials of interest.

3 Q. So, as part of the target health hazards program,
4 OSHA would go and inspect facilities where there was possible
5 silica or asbestos or lead contamination?

6 A. Correct. That was basically what we did when we
7 weren't either investigating fatalities or complaints. Those
8 were the first two priorities. Then the special emphasis was
9 the third priority, and then general scheduled or random
10 inspections were the last.

11 Q. Is there any way for you to go through this list of
12 kind of your job duties -- fatalities, complaints, and
13 scheduled inspections and special emphasis inspections -- and
14 during the three years there give me a percentage breakdown
15 on how much of your time you spent doing each category?

16 A. I'd say probably the least was the fatalities.
17 Generally fatality inspections were done by the safety
18 complaints officers. So, I was probably less than 10 percent
19 of my time involved fatalities.

20 Complaints, I would say probably about 20 to 25 percent.
21 The special emphasis program was probably maybe 20 percent,
22 and the balance would be the general scheduled.

23 Q. How many times did you investigate facilities owned
24 by Exxon during the 1973 to 1976 time period?

25 A. As I recall there was one instance where I

1 accompanied a safety compliance officer, and I believe that
2 was at the Baytown refinery. As I recall there were no
3 violations or citations issued as a result of that site
4 inspection.

5 Q. What was the purpose of y'all's inspection in that
6 instance --

7 A. I really don't recall.

8 Q. It wasn't part of the special emphasis --

9 A. No.

10 Q. So, it wasn't an inspection where you went and
11 looked at asbestos contamination --

12 A. No.

13 Q. -- or silica contamination?

14 A. No.

15 Q. Now, from the compliance safety -- I'm sorry.
16 Start over.

17 Is that a division, compliance safety and health? You
18 were a compliance safety and health officer --

19 A. That was just the title of any, quote, "OSHA
20 inspector." That was their overall title, and within that
21 you could have the safety specialist or an industrial
22 hygienist. But under credentials and with your picture, it
23 would say "United States Department of Labor, Occupational
24 Safety and Health Administration, Compliance Safety and
25 Health Officer."

1 Q. Is that another way of saying OSHA inspector?

2 A. Yeah.

3 Q. How many OSHA inspectors were there in your office?

4 Was it one office in the Houston to Golden Triangle area?

5 A. At that time. Later it became two after I left
6 OSHA.

7 Q. So, from 1973 to 1976 when you were there, there
8 was one OSHA office for the greater Houston and Golden
9 Triangle --

10 A. Correct.

11 Q. How many people -- how many OSHA inspectors worked
12 in that office?

13 A. I think initially when I joined OSHA in 1973, we
14 had approximately ten OSHA inspectors. By the time I had
15 left in '76, I think that number had risen to about 25.

16 Q. I know you weren't there, but do you know when they
17 opened the second office?

18 A. I think it was about 1978; and I think about the
19 time I was leaving, they opened a Beaumont district office
20 where they had two or three employees in the Beaumont area.

21 Q. So, around 1976 they actually opened up a second
22 office in that area; and that was located in Beaumont,
23 correct?

24 A. Correct.

25 Q. They had two or three compliance officers there --

1 A. Right.

2 Q. Or OSHA inspectors?

3 A. Right.

4 Q. Then in about 1978 they opened a second office in
5 Houston. This would have been the third office total --

6 A. Correct. There was a Houston north and a Houston
7 south office at that point.

8 Q. Which one was the main office, the original office?
9 Was that Houston north or Houston south?

10 A. I believe it would have been Houston north.

11 Q. In 1978 do you know if they added any more OSHA
12 inspectors when they opened up the second office; or did they
13 transfer out of the existing 25 inspectors for --

14 A. I really don't know, but that was after I actually
15 had left.

16 Q. Sure. Of the 25 inspectors who were with OSHA in
17 the greater Houston and Golden Triangle office in 1976 when
18 you left, have you kept up with any of them after you left?
19 Were you friends with any of them?

20 A. I did for probably the first five or six years
21 because I was still in the Houston area at the time, but I
22 couldn't tell you where they are now.

23 Q. So, you stayed in the Houston area?

24 A. Correct.

25 Q. After you left OSHA?

1 A. Yes.

2 Q. How many years did you stay in the Houston area?

3 A. Well, let's see. I was here until 1981.

4 Q. So, about five years after you are left?

5 A. Correct.

6 Q. That's what you said.

7 A. Uh-huh.

8 Q. So, during that time period, at least, you still
9 had -- I mean, you worked with those guys on a daily basis at
10 OSHA, right, when you were there?

11 A. Sure.

12 Q. And I mean, you knew who they were, I guess is what
13 my point is --

14 A. Right, correct.

15 Q. -- because you worked with them on a daily basis.
16 But then you lost kind of your -- whatever your relationship
17 with them after you left Houston? You didn't keep up with
18 them --

19 A. That's basically when I didn't really have any
20 further -- you know, I'd see them occasionally, like, at the
21 annual hygiene conference I attended.

22 Q. Right.

23 A. But I didn't have any day-to-day relationship with
24 them.

25 Q. All right. But you don't know what they're doing

1 today, is my point?

2 A. No, I sure don't.

3 Q. But back when you were working in the OSHA office,
4 y'all were friends, right, with -- I mean, the 25 inspectors.

5 A. Well, I wasn't -- I wouldn't say I was friends with
6 all 25. I knew them, and I don't really recall doing
7 anything socially with them. I mean, we'd go out to lunch,
8 that type of thing.

9 Q. That's not what I meant. I'm sorry.

10 A. Okay.

11 Q. You had a working relationship with them when you
12 left OSHA, correct?

13 A. Yes.

14 Q. Of those 25 inspectors -- and you didn't have any
15 enemies over there; did you?

16 A. Not that I know of. In fact, I went back several
17 times and I demonstrated some technology that I had developed
18 actually when I was with Exxon.

19 Q. Okay. Can you tell me about that?

20 A. It was a computer system, and it's covered in the
21 depositions that you'll see.

22 Q. Okay. Great.

23 A. And I went back to show them how we were
24 computerizing this for industrial hygiene records. So, yeah,
25 we had an ongoing relationship.

1 Q. Do you know out of those 25 inspectors how many
2 ended up leaving OSHA for jobs in industry?

3 A. I'm only aware of, that I know of, one.

4 Q. And do you know who he went to work for? He or
5 she?

6 A. I believe he went to work for Exxon. Bruce
7 Simpson.

8 Q. Did you know Bruce Simpson after he left OSHA? Did
9 you ever see him?

10 A. Occasionally I would see him.

11 Q. Y'all were in the same department?

12 A. No.

13 Q. Was he an industrial hygienist?

14 A. Yes.

15 Q. All right. So, we're up to 1976. After 1976 or
16 after you left OSHA in 1976, what did you do?

17 A. I went to work for Exxon Chemical Company in
18 Houston at the Houston chemical plant on the ship channel.

19 Q. How long did you work with Exxon Chemical?

20 A. I believe it was about two years.

21 Q. Let me get a time line, and we'll come back to
22 that. What did you do after that?

23 A. Went to work for Mobil, Mobil Chemical in Houston.

24 Q. Were you at the plant?

25 A. I was located in Greenway Plaza. I had a regional

1 responsibility for several plants.

2 Q. How long did you do that?

3 A. Did that until 1981.

4 Q. 1981?

5 A. Correct.

6 Q. What did you do after that?

7 A. I was transferred -- and promoted -- to Edison, New
8 Jersey, and was supervisor of industrial hygiene for Mobil
9 Chemical Company.

10 Q. How long did you hold that position?

11 A. Until 1984.

12 Q. What next?

13 A. Then I was transferred and promoted to Mobil
14 corporate and safety hygiene department. And let's see.
15 Where was I located?

16 Q. Wait. So, after 1978 -- we're up to 1984 right
17 now. Did you spend your time in the plants even though you
18 held -- you had an executive office?

19 A. Yes. In terms of my job with Mobil Chemical, that
20 was, like, a working supervisor's job. So, I did do quite a
21 bit of fieldwork. And as the industrial hygienist in
22 Houston, I was responsible for industrial hygiene for any
23 facilities west of the Mississippi; and that included about
24 18 facilities.

25 Q. Have you read any of the records regarding

1 Mr. Altimore's employment with Exxon?

2 A. Well, yes, just by reading the deposition --

3 Q. Yes, sir.

4 A. -- of his wife.

5 Q. Right.

6 A. I have a general feeling for what he did.

7 Q. What's your understanding of when he worked for
8 Exxon, what he did?

9 A. It's my understanding that he went to work for
10 Exxon in Baytown in the early 1940s. Then he worked
11 initially for just several weeks as a laborer. Then he
12 became a machinist trainee and then eventually became a
13 machinist. And then in 1968 he transferred from the refinery
14 to the Baytown polyolefins plant where he worked until he
15 retired, I believe, in the early '70s, early to mid '70s.

16 Q. Are those two separate facilities?

17 A. They're located contiguous to each other. You can
18 see on this chart.

19 Q. There's a fence separating them?

20 A. I believe so.

21 Q. So, like one of these chain-link fences?

22 A. Correct.

23 Q. Just from an operational perspective, how do you
24 describe the difference between the olefins plant and the
25 Baytown refinery?

1 A. Well, there's quite a bit of difference. A
2 refinery obviously makes petroleum products whereas a
3 polyolefins plant makes basically polypropylene, which is a
4 plastic material.

5 Q. Do both processes involve high heat --

6 A. Well, obviously the refinery does. The
7 polypropylene plant has very -- the only area where you have
8 a high temperature is in the reactors themselves. Other than
9 that, all the operations are at ambient or room temperature.

10 Q. Let me show you what has been marked as Larson
11 Exhibit No. 19. Could you just take this little pink
12 highlighter --

13 A. Is that what that is?

14 Q. Isn't that neat? They have everything up here.
15 -- and mark the boundary of both plants? In other
16 words, with the pink I want you to mark the boundary; and
17 then we can mark the dividing line.

18 A. (Witness complies) Basically it would be this.
19 Anything north of that pink mark would be the chemical side.

20 Q. Now, so, you have not marked the entire boundary,
21 though, of the Baytown refinery, correct?

22 A. I could if you'd like me to. It's just
23 basically --

24 Q. Would you mind doing that for me?

25 A. Let me make sure that's right before I do it. This

1 is used as a railroad track. So, the vast majority of the
2 site is devoted to refinery operations.

3 Q. Great. Thank you very much. So, on Larson No. 19,
4 you have outlined the outer perimeter of the Baytown Exxon
5 refinery, correct?

6 A. Correct.

7 Q. And to the north of the perimeter is the olefins
8 plant you mentioned, correct?

9 A. Correct. As we see it labeled --

10 Q. We can say that they're adjacent to one another?

11 A. Correct.

12 Q. And it's your understanding that Mr. Altimore
13 worked in the Baytown refinery, the part that's surrounded by
14 the pink marks here, from the early 1940s until at least
15 1968, correct?

16 A. Initially, yes, that part of his career, he did.

17 Q. And you don't have any records that would indicate
18 otherwise, correct?

19 A. No.

20 Q. Now, can you --

21 MR. GARDNER: Actually, here is a copy of
22 the records which might speed that along a little bit.

23 Q. (BY MR. HEARD) Well, let me hand you what has been
24 marked as Larson Exhibit No. 2. What is that document?

25 A. It looks like his personnel records in terms of his

1 job assignments during the period that he worked for Exxon.

2 Q. Is that all the personnel records that you've ever
3 seen pertaining to Mr. Altimore?

4 A. I believe it is, yes.

5 Q. For instance, looking on Page 1, what does Page 1
6 tell us?

7 A. This page?

8 Q. No, sir, the first page. Just in summary.

9 A. In summary it shows the department, the position,
10 the rate of pay, and the date of each of his job assignments.

11 Q. May I see that?

12 A. Uh-huh.

13 Q. Thanks. Is it related to a particular year here?
14 I don't know how to read that.

15 A. Yes, in this column it gives the dates
16 (indicating).

17 Q. I see. Okay. Now, is Page 2 a continuation of
18 Page 1; or is that a separate, completely separate document?

19 A. Okay. It looks like when he moved from the
20 refinery to the chemical company, they used a different form;
21 but it basically shows the same information for his
22 assignment in Mobil Chemical. I mean, Exxon Chemical.

23 Q. So, Page 2 at the top is entitled "Exxon Chemical
24 Personnel Record," correct?

25 A. Correct.

1 Q. And it shows that Mr. Altimore was a machinist,
2 correct?

3 A. Correct.

4 Q. And the date begins in 1968? Did I read that
5 correctly?

6 A. Correct.

7 Q. Now, I notice over here on Page 1 that the records
8 that y'all had go from when to when with respect to
9 Mr. Altimore?

10 A. Let's see. They start in 1942 through 1955 at the
11 refinery and then from 1968 to -- let's see -- 1976 for Exxon
12 Chemical.

13 MR. GARDNER: Just let --

14 MR. HEARD: Please help me out in any
15 way --

16 MR. GARDNER: On this document it looks
17 like it actually has a date of 1966 when he transferred
18 to the chemical side.

19 Q. (BY MR. HEARD) But here is my question: You
20 understand that Mr. Altimore was employed by Exxon between
21 1955 and 1968, correct?

22 A. Well, actually till, what, in the '70s, actually.

23 Q. Yes, sir. And he was employed after 1968. I
24 understand that.

25 A. Correct. Correct.

1 Q. But I'm just wondering: Would there be any other
2 records? Am I missing something here? Would there be --

3 A. There seems to be a gap on these two sheets of a
4 period from -- let's see -- March of 1955 until January of
5 '68.

6 Q. Why would there be a gap there?

7 A. I don't know; but from reading, I guess, the
8 deposition of Mr. Stovall, and his wife, I came to the
9 conclusion that he continued to work as a machinist in the
10 refinery until I guess it was 1966 when he moved to Exxon
11 Chemical.

12 Q. Well, yeah, their testimony can bear that out; but
13 I guess what I'm saying is: Is there any kind of document
14 retention problem that you envision as to why they wouldn't
15 have records regarding Mr. Altimore between 1955 to 1968?

16 A. I can't really speak to that. I just assume it
17 wasn't available for some reason, either it was misfiled or
18 misplaced. That's all I can --

19 Q. All right. That's fine. In your duties with OSHA,
20 did you ever visit the Exxon olefins or Exxon-Baytown
21 Chemical plant as an inspector?

22 A. No, not when I was with OSHA.

23 Q. During your time at OSHA, could you just share with
24 us how many chemical plants, refineries, and other facilities
25 were under y'all's jurisdiction in the greater Houston area

1 and Golden Triangle area from 1973 to 1976?

2 A. I would say probably be in the range of hundreds.
3 Probably, I'd say, between two or 300.

4 Q. Two to 300?

5 A. Uh-huh.

6 Q. No way that y'all are going to visit everyone, I
7 guess, during your three-year period?

8 A. Not me personally. I would imagine between the 25
9 compliance officers within a three- to five-year period
10 probably each of those facilities had been inspected at some
11 point.

12 Q. Either for a fatality --

13 A. Complaints.

14 Q. -- a complaint --

15 A. Special emphasis or general schedule.

16 Q. But under the special emphasis program at OSHA,
17 there's no way for y'all to go test every facility under your
18 jurisdiction, at least while you were there, correct?

19 A. That's correct. We had to set priorities. We had
20 to rank facilities by what we felt the risk would be.

21 Q. And the priorities were fatalities, complaints, and
22 then special --

23 A. Special emphasis.

24 Q. -- special emphasis?

25 A. Correct.

1 Q. That was the one where you look at asbestos and
2 silica and things of that nature?

3 A. Right. Lead, cotton dust.

4 Q. When you performed a special emphasis inspection,
5 what were you looking for? Were you looking for industrial
6 hygiene controls, air monitoring, respiratory protection
7 programs?

8 A. Yes, all of that. Typically do exposure monitoring
9 to determine exposure levels and also document what type of
10 protective measures were in place, what types of training
11 were in place.

12 Q. How many facilities do you think that you
13 personally visited under the special emphasis program at
14 OSHA?

15 A. I would estimate -- let's see -- like I said, it
16 was about 20 percent. I performed 300 inspections. So, it
17 would be 20 percent of that.

18 Q. 60 about? Neighborhood?

19 A. Yeah.

20 Q. 60. Probably visited 60 facilities?

21 A. Sure.

22 Q. Between 1973 and 1976?

23 A. Approximately.

24 Q. And many of those facilities would be visited
25 because of their use of asbestos insulation?

1 A. Some.

2 Q. During that time period, did you ever visit a
3 facility that required its workers to wear respiratory
4 protection products while they were working around asbestos
5 insulation?

6 A. I can recall one in particular, yes.

7 Q. Which one was that?

8 A. Standco Industries on the ship channel. It was a
9 textile operation where they were weaving asbestos into the
10 brake blocks for the oil rigs.

11 Q. Other than that, no others required respiratory
12 protection when working around asbestos, say, pipe insulation
13 and block insulation, as an example?

14 A. When it was being removed, yes, I can recall
15 several chemical plants and also the British Petroleum
16 refinery in Port Arthur.

17 THE REPORTER: Wait. Which one?

18 THE WITNESS: British Petroleum.

19 A. It was FINA at one time. Then it was British
20 Petroleum.

21 Q. (BY MR. HEARD) What kind of respiratory protection
22 was provided, if you recall, when you went to inspect those
23 places?

24 A. Would have been a NIOSH approved dust respirator.
25 That's what we look for.

1 Q. Cartridge respirator?

2 A. Either cartridge or there's an 8710 model that's
3 approved for asbestos.

4 Q. Did you find that most of the companies, if ever
5 anybody required respiratory protection, that the most
6 popular protection that they would provide would be the 8710
7 respirator?

8 A. It varied. Some did. Some didn't. It was
9 basically, I think, personal choice. I think most people
10 when they develop a respiratory protection program offer the
11 employees a selection to give them the opportunity to find
12 what they feel is the most comfortable as long as it's
13 effective.

14 Q. Right. When you left OSHA in 1976, was it your
15 understanding that the 8710 was effective to protect against
16 asbestos and silica --

17 A. In '76, I believe, yes, that was approved by NIOSH
18 for use with pneumoconiosis.

19 THE REPORTER: I'm sorry? Approved by
20 what?

21 THE WITNESS: Approved by NIOSH.

22 MR. HEARD: N-I-O-S-H.

23 THE WITNESS: For pneumoconiosis-producing
24 dust.

25 MR. RADCLIFFE: Mr. Larson, you are

1 answering very quickly. If you'll let Mr. Heard finish,
2 you're sometimes stepping on the end of his question.

3 MR. HEARD: Well, the reason you do that is
4 because I talk so slow that it's just miserable for
5 people to sit here and listen. You want to start
6 talking before I finish, and I understand it. I take no
7 offense whatsoever, but he's right. It's hard for the
8 court reporter.

9 THE WITNESS: Sorry.

10 MR. HEARD: No. No problem.

11 Q. (BY MR. HEARD) My question was a different
12 question. My question was: Was it your understanding at the
13 time you left OSHA in 1976 that a 3M 8710 dust mask was
14 effective against protecting against pneumoconiosis-producing
15 dust such as asbestos and silica?

16 MR. GARDNER: Objection; form.

17 A. I believe in 1976, my answer would have been yes.

18 Q. (BY MR. HEARD) Did you ever change that opinion?

19 A. I've been out of the industrial hygiene field for a
20 while, and I practiced industrial hygiene until about --
21 let's see. That would have been about 1989; and I believe
22 during the time I was a professional industrial hygienist, I
23 felt the 8710 was effective. Now it may -- things may have
24 changed since then.

25 Q. You would agree that Mr. Altimore would have been

1 exposed to asbestos on a consistent and routine basis in his
2 job at Exxon-Baytown refinery up until 1966 or 1968, correct?

3 MR. GARDNER: Objection; form.

4 A. I don't think so. I don't think there is any
5 information that would show that he was routinely exposed,
6 no.

7 Q. (BY MR. HEARD) How do you think he was exposed, as
8 an industrial hygienist who worked with Exxon who was in
9 charge of that facility?

10 MR. GARDNER: Objection; form.

11 A. I really don't believe he would have any
12 significant exposure as a machinist.

13 Q. (BY MR. HEARD) So, your opinion at this trial is
14 going to be that Mr. Altimore had no exposure to asbestos
15 during the time he worked for Exxon?

16 MR. GARDNER: Objection; form.

17 A. I wouldn't say that. I can't agree with that, but
18 I'd say he did not have a significant exposure to asbestos
19 based on the information concerning his job and what he did
20 at the refinery.

21 Q. (BY MR. HEARD) How do you define "significant" in
22 your mind?

23 A. I'd say, as an industrial hygienist, a significant
24 exposure would be an exposure that exceeded either the
25 threshold limit value or the OSHA permissible exposure limit.

1 Q. Do you know of any information where the areas in
2 which Mr. Altimore worked during his time at Exxon were
3 tested for asbestos dust levels?

4 A. He was primarily assigned to the machine shop, and
5 to my knowledge, there is some information available on that.

6 Q. Is it here today with us?

7 A. I don't think so.

8 Q. Have you seen it?

9 A. No, I haven't.

10 Q. So, it's your understanding that there are -- well,
11 that first, that the only place Mr. Altimore worked as a
12 machinist at Exxon was in the machine shop?

13 A. No, no. I'm not saying that. I'm saying that was
14 his primary work location. He did do work out in the units
15 from time to time.

16 Q. Yes, sir. And what is your understanding of his
17 work?

18 A. He worked primarily on rotating equipment in the
19 units from time to time if he would be required to go to a
20 location and remove a piece of equipment and either replace
21 it or take it back to his shop to repair it.

22 Q. What kind of equipment? Do you recall?

23 A. Things such as pumps, that type of thing.

24 Q. Is it your testimony that equipment and products
25 containing asbestos were never taken to the machine shop for

1 repair or for work on them?

2 A. It's my understanding that if there was a piece of
3 equipment that was insulated potentially with an
4 asbestos-containing insulation, that it was the
5 responsibility of either the insulator or the operating
6 personnel to remove the insulation before the machinist
7 actually took possession of the equipment.

8 Q. Your understanding of Mr. -- let me make sure I
9 understand this -- Mr. Altimore's exposure during his time at
10 Exxon is based upon two things, from what I gather so far:
11 One is the testimony that you have read in this case,
12 correct?

13 A. Correct.

14 Q. That would be the testimony of who?

15 A. It would have been -- her name is Louise Altimore,
16 Mr. Altimore's wife and -- let's see -- Mr. Stovall.

17 Q. Jessie Stovall?

18 A. I believe that's correct. And then I read one
19 other deposition. I think his name was Kilian.

20 Q. So, your understanding of Mr. Altimore's exposure
21 to asbestos during his time at Exxon is based upon your
22 review of the testimony of Mrs. Altimore, correct?

23 A. Partially.

24 Q. Mr. Stovall, correct?

25 A. Partially.

1 Q. And Mr. Kilian --

2 A. Partially. And it's just my general understanding
3 of what a machinist does.

4 Q. The second thing that your opinion of his exposure
5 is based upon is your general understanding of what a
6 machinist does, correct?

7 A. Correct. And there's the third component, too.

8 Q. What is the third thing that your understanding of
9 Mr. Altimore's exposure while he was at Exxon was based on?

10 MR. GARDNER: Objection; form.

11 A. My understanding of Exxon's safety and health
12 programs and their procedures for handling asbestos or
13 asbestos-containing insulation, I should say.

14 MR. HEARD: Would you read back that
15 answer?

16 (Requested testimony was read back)

17 Q. (BY MR. HEARD) Before coming here today, you had
18 an opportunity to meet with the lawyers for Exxon, correct?

19 A. For a time, yes.

20 Q. And you're being offered as an expert witness on
21 industrial hygiene matters?

22 A. That's my understanding.

23 Q. What is your understanding as to the purpose of
24 your testimony? What are you going to be testifying about?

25 MR. GARDNER: Objection; form.

1 A. Testifying about the -- I think I just basically
2 covered this but about Exxon's safety and health programs and
3 their procedures for handling asbestos insulation safely.

4 Q. (BY MR. HEARD) Is that basically the area of
5 testimony that you've given in the past for Mobil?

6 A. Yes, as it pertains to Mobil primarily.

7 Q. So, as you appreciate your job in this case, it's
8 to testify about Exxon's safety program as it relates to the
9 handling of asbestos?

10 MR. GARDNER: Objection; form.

11 A. Correct.

12 Q. (BY MR. HEARD) Have you ever worked as a
13 machinist?

14 A. Personally, no.

15 Q. You brought with you some documents here today that
16 are numbered Larson Exhibits 1 through 19, correct?

17 A. Correct.

18 Q. Are these documents that came from your files?

19 A. They came from Exxon's file.

20 Q. Well, did the attorneys give them to you?

21 A. Correct.

22 Q. When did you come in to meet with the attorneys to
23 prepare for this deposition?

24 A. It was late yesterday afternoon.

25 Q. So, have you had an opportunity to review these

1 documents, Larson Exhibit Nos. 1 through 19?

2 A. Yes.

3 Q. Some of these documents, are they the safety and
4 health programs and procedures you were just talking about
5 regarding the handling of asbestos?

6 A. Correct.

7 Q. Now, from 1976 to 1981 you were actually in
8 Houston, correct?

9 A. That's correct.

10 Q. And from 1976 to 1978 you were in Houston working
11 at the Exxon Chemical plant, the physical location?

12 A. Correct.

13 Q. And that is the plant that borders the
14 Exxon-Baytown refinery?

15 A. No, no, it was actually on the ship channel.

16 Q. That's the ship channel?

17 A. Uh-huh.

18 Q. When you moved to Greenway Plaza and you were
19 working for Mobil -- you with me?

20 A. Uh-huh.

21 Q. Did you have any further involvement with Exxon
22 facilities?

23 A. No, but I did maintain contacts with Exxon
24 personnel.

25 Q. And during your 1976 to 1978 employment with Exxon,

1 you never visited the Exxon-Baytown refinery, correct?

2 A. No. I did.

3 Q. You did visit it?

4 A. Yes.

5 Q. In what capacity?

6 A. Let me back up. When I first joined Exxon, as part
7 of the orientation program --

8 Q. Yes, sir.

9 A. -- I spent one month in Houston with the corporate
10 medical and industrial hygiene staff. After that month then
11 I spent two weeks each at each of Exxon's major refineries:
12 I spent two weeks at Baytown learning about their programs.
13 Then I spent two weeks in Baton Rouge learning about their
14 programs; and then finally I spent an additional two weeks in
15 Bayonne, New Jersey, learning about their industrial hygiene
16 programs.

17 Q. When you say "learning about their industrial
18 hygiene programs," what do you mean? What did you learn
19 about them?

20 A. Basically their approach to industrial hygiene as
21 it related to their facility, and that would cover a wide
22 variety of potential hazards. It would cover things like
23 noise exposure. It would cover things like hydrocarbon
24 exposure. It would cover safe handling of
25 asbestos-containing insulation procedures, respiratory

1 protection, their medical surveillance programs, their
2 training programs. I believe that covers most of what they
3 would review with me.

4 Q. That's an awful lot of information; isn't it?

5 A. It is.

6 Q. How many hours a day did y'all work during those
7 two weeks?

8 A. Probably about ten hours a day.

9 Q. And did they have a classroom or something where
10 they taught you all this stuff?

11 A. No, it was hands-on, one-on-one.

12 Q. With who?

13 A. With the senior industrial hygienist at each
14 location.

15 Q. So, you would go -- let's focus on Baytown since
16 that's where we are in this case. You spent two weeks at the
17 Exxon-Baytown facility --

18 A. Correct.

19 Q. And let's start with this: Other than that two
20 weeks at that Exxon-Baytown facility, you never visited the
21 facility, correct?

22 A. No, I did go back several times.

23 Q. For what purpose?

24 A. At the time industrial hygiene for both Exxon
25 Chemical and the refining side was provided by the industrial

1 hygienist at the refineries. So, for example, Eric LaBrock
2 was a senior industrial hygienist at the Baytown refinery;
3 but he also had responsibilities for the chemical facilities
4 that were there. So, we had a common connection in that I
5 was responsible for the chemical facility on the Houston ship
6 channel; and we met several times to discuss approaches that
7 were being taken at, say, the Baytown chemical site that
8 would also apply to the facility that I had responsibility
9 for. Plus they started building what they called the Baytown
10 olefins plant back in 1976, and I was given the primary
11 responsibility for developing the industrial hygiene programs
12 for that facility as it was being constructed. So, I had to
13 have a liaison with the Beaumont industrial hygiene staff in
14 that regard.

15 Q. With the Beaumont staff?

16 A. I'm sorry. The Baytown staff.

17 Q. So, the olefins facility is different from this
18 Exxon Chemical --

19 A. It's part of this north section here (indicating).

20 Q. But that wasn't developed until when?

21 A. It started up, I believe, in 1978, just about the
22 time I was leaving.

23 Q. You didn't have any supervisory involvement in the
24 industrial hygiene actual practices at the olefins plant,
25 correct?

1 A. I did. I was responsible for developing the
2 programs that went into effect upon startup.

3 Q. Gotcha. You did not have that role with respect to
4 the Exxon-Baytown facility -- refinery?

5 A. The refinery, no. That's correct.

6 Q. Right. And you did not have that role with respect
7 to the Exxon-Baytown chemical facility, correct?

8 A. Well, with regard to the olefins plant, yes. Not
9 with the polyolefins where Mr. Altimore worked, no.

10 Q. That's what I'm talking about.

11 A. Right.

12 Q. And certainly it wasn't your job to tell
13 Mr. LaBrock what to do, right?

14 A. No.

15 Q. Mr. LaBrock had been with Exxon before you joined
16 the company, correct?

17 A. Correct.

18 Q. And he was the person who was in charge of
19 industrial hygiene at the Baytown refinery, correct?

20 A. Yes.

21 Q. Who was the person in charge of industrial hygiene
22 at the Baytown chemical plant? And when I say "chemical
23 plant," let's have the agreement, just as you stated, that
24 we're talking about where Mr. Altimore worked.

25 A. It would also have been the same person, LaBrock.

1 Q. And Mr. LaBrock -- do you remember when he started
2 working for Exxon?

3 A. I could only estimate. I would say probably around
4 '73 or '74.

5 Q. It was after OSHA came out, correct?

6 A. I think so. I can't say for sure.

7 Q. All right. Now, what year did you spend your two
8 weeks at the Exxon-Baytown facility?

9 A. It would have been the first year. That would have
10 been 1976.

11 Q. Other than the two weeks that you spent at the
12 Exxon-Baytown facility in 1976 and the discussions that you
13 would have with Mr. LaBrock regarding the industrial hygiene
14 at the Exxon Chemical and refinery in Baytown --

15 A. Uh-huh.

16 Q. -- you did not have any other involvement in the
17 industrial hygiene aspects of those two facilities, correct?

18 A. I'll agree with that in general although I did have
19 many discussions with Eric LaBrock and his assistant.

20 Q. Right. That's fair. I'm just trying to
21 understand --

22 A. As far as being physically present?

23 Q. Yes, sir.

24 A. After those two weeks, I was there several times
25 for meetings; but I'd say that was the extent of it.

1 Q. I mean, you weren't out in the field testing
2 workers and things of that nature. I'm trying to figure out
3 where to go with this deposition.

4 A. No, that's correct.

5 Q. Your time after the two weeks and other than the
6 discussions that you and Mr. LaBrock would have, your time
7 would be time that was spent talking with Mr. LaBrock or his
8 staff about industrial hygiene issues, correct?

9 A. Correct.

10 Q. And then you could use that information hopefully
11 maybe to help you with your industrial hygiene issues at the
12 olefins plant or the other facility at the ship channel?

13 A. Right.

14 Q. Or maybe they could use some of your information at
15 their facility, correct?

16 A. Right.

17 Q. That was the purpose of it?

18 A. Correct. And I think they relied on me, also, due
19 to the fact that I had the experience with OSHA; and I was
20 very familiar with the OSHA regulations including asbestos.

21 Q. So that I can understand, then, the hands-on,
22 out-in-the-field experience that you had at the Exxon-Baytown
23 facility where Mr. Altimore worked was limited to the two
24 weeks you spent getting your industrial hygiene training at
25 that facility; is that correct?

1 A. Specific to Baytown?

2 Q. Yes, sir.

3 A. That is correct, but I've had quite a bit of
4 experience at other Exxon refineries and Mobil refineries.

5 Q. Right.

6 A. So, I understand the basic refining operation and
7 what a machinist does.

8 Q. I understand. But I just want to limit it to
9 Baytown.

10 A. Okay.

11 Q. So, with respect to Baytown, the only hands-on,
12 out-in-the-field experience you had was during your two weeks
13 in 1976, correct?

14 A. Correct.

15 Q. All right. Now, you brought with you some --
16 you've never met Mr. Altimore, correct?

17 A. No.

18 Q. You've brought with you some safety program
19 information and things of that nature from Exxon?

20 A. Correct.

21 Q. We're going to go through these.

22 MR. HEARD: Can we take about a
23 three-minute break before we go through these? I want
24 to figure out what these are and educate me.

25 MR. GARDNER: Sure.

1 (Recess from 11:59 a.m. to 12:06 p.m.)

2 (Larson Exhibit No. 20 was marked)

3 Q. (BY MR. HEARD) Mr. Larson, I want you to briefly
4 take a look at Larson Exhibits No. 2 through 20 and tell me
5 if these are all the documents that you're relying upon for
6 your testimony in this case.

7 MR. GARDNER: Objection; form.

8 A. (Views documents) That's all the documents that we
9 have here today. So, my answer, I guess, would be yes.

10 Q. (BY MR. HEARD) Let's go through these as quickly
11 as we can. We've already looked at No. 2. There is an
12 Exhibit No. 1 -- here it is.

13 MR. GARDNER: Just so that we're clear,
14 these aren't the only documents he's relying on for his
15 opinion. These were the ones that were presented to him
16 to refresh his recollection.

17 MR. HEARD: Okay. What other documents are
18 there that are not here today?

19 MR. GARDNER: Other documents he's reviewed
20 in the past or were present when he was an employee.
21 These are just the ones that are offered for his review
22 in this case so far.

23 MR. HEARD: Just to put y'all on notice, if
24 you want to give me those documents when we resume in
25 Virginia, if we do, that will be fine. But I would

1 certainly like an opportunity to review any documents
2 that he's looking at because I will be forced to object
3 to any testimony based on other documents that we
4 haven't gotten.

5 MR. GARDNER: Really, I just didn't want
6 him to be limited because I know he's looked at
7 industrial hygienist books and so forth in the past
8 which aren't here today. And I didn't want you to say
9 that these were all the documents that he's going to
10 rely upon for all of his opinion.

11 MR. RADCLIFFE: I think one of the problems
12 was that there is no notice of deposition. So, there's
13 no document request; and we just selected a couple
14 representative documents, not to be complete. Of
15 course, when we give you your exhibits, when we exchange
16 exhibits -- you give us yours, and we give you ours --
17 we'll have a complete set of exhibits that we intend to
18 offer at trial. So, there won't be any problem with
19 that.

20 MR. HEARD: But respectfully, you know, I'm
21 not going to have an opportunity to ask him questions in
22 the deposition about those exhibits, is my problem.
23 Since we haven't been involved in the discussion on how
24 we got here today, let's leave that to other people; and
25 let's move on with the deposition.

1 MS. KYLE: That's a good idea.

2 Q. (BY MR. HEARD) All right. What is Larson No. 3?

3 A. Larson No. 3 is an accident prevention manual for
4 the Baytown refinery dated October 1st, 1949.

5 Q. Who drafted it?

6 A. Would have been drafted, in my opinion, by a
7 committee at the refinery that was given the responsibility
8 for writing the safety manual.

9 Q. What refinery?

10 A. Baytown.

11 Q. Why do you say that?

12 A. Because it says "Humble Oil and Refining
13 Department."

14 Q. Did Humble Oil only have one refinery at that time?

15 A. Let's see. In '49? I'm not sure. It was either
16 just Baytown or Baytown and Baton Rouge. It could have
17 possibly been two. I can't really answer your question. I
18 think probably -- let's see. It's signed by Mr. Ferguson.
19 So, if we knew if he was at Baytown or Baton Rouge, we would
20 probably have the answer to that.

21 Q. Did you ever draft one of these types of similar
22 documents when you were in the employ of Exxon?

23 A. Yes. I was secretary of the safety committee at
24 the Houston chemical plant on the ship channel, and it was my
25 responsibility to help draft and revise safety manuals for

1 that plant.

2 Q. Can you mark in Exhibit No. 3 the discussion
3 regarding protecting workers against hazards of asbestos?

4 MR. GARDNER: Objection; form.

5 A. (Views document)

6 MR. GARDNER: Denman, just so I can be
7 clear on what your question is, you want him to actually
8 mark all the places in that manual --

9 MR. HEARD: I just want him to show -- he
10 understands the question. I just want him to show me
11 where it talks about things that protect from asbestos.

12 A. Well, it's covered on Page 146 under "respiratory
13 protection," specifies the respirators that are to be used
14 specifically for when handling asbestos-containing materials.

15 Q. (BY MR. HEARD) What page is that on?

16 A. Be Page 146.

17 Q. Just take this highlighter. Don't highlight the
18 whole section. Highlight the title of the section.

19 A. Okay.

20 Q. And does what you just highlighted on Page 146, the
21 words entitled "dust respirators," does that represent -- the
22 paragraphs following that title -- the respirator protection
23 program in place at the Baytown facility during 1949?

24 A. Well, no, it specifies the type of respirator to be
25 worn when handling asbestos materials.

1 Q. Okay. So, is that the only area in Exhibit No. 3
2 that discusses protection against asbestos?

3 A. In this particular manual it would be. It's also
4 my understanding that there were more details, specific
5 procedures, regarding work practices.

6 Q. I want to focus on Larson No. 3 since that's what
7 was produced here --

8 A. Sure.

9 Q. There may have been a whole host of other stuff --

10 A. Okay.

11 Q. In Larson No. 3, Accident Prevention Manual, dated
12 October 1, 1949, correct?

13 A. Correct.

14 Q. This is a manual that is used by the safety people
15 at Exxon, correct?

16 A. It would be available to the safety people as well
17 as employees.

18 Q. Right. But accident prevention manuals of this
19 nature in 1949 aren't handed out in their entirety to all the
20 employees, correct?

21 A. It's my understanding that they would be available
22 in each unit in the refinery.

23 Q. Right. Let's say you had an employee who was
24 working as a pipefitter. I see "pipefitter" right there
25 (indicating).

1 A. Uh-huh.

2 Q. This isn't something that was the customary
3 operation of Exxon to give each employee a separate copy of
4 this document? That doesn't happen, correct?

5 A. No, it wouldn't fit in his hip pocket. That's for
6 sure. They did have a condensed safety rules that each
7 individual had, but each individual had access to this in
8 their work area. It's so comprehensive you couldn't distill
9 it into something that was --

10 Q. That's my point. That's normal industrial hygiene
11 practice. You don't give employees a 173-page, you know,
12 somewhat scientific document to read over and understand?

13 A. They wouldn't physically give it to them but they
14 would have it available and they would base a lot of their
15 training programs on the contents of the manual.

16 Q. I forgot what I was asking way back when. Oh, so
17 this is the -- I mean, is this kind of the main document, the
18 accident prevention manual, as far as safety goes at this
19 time?

20 A. It's the, I guess, the core program basically.

21 Q. For workers' safety?

22 A. Right.

23 Q. Okay. And I'm simply asking you -- you mentioned
24 Page 146. Is there anywhere else besides 146, once I get
25 home and I can read this whole thing, that I need to look for

1 protection against asbestos?

2 A. In this particular manual?

3 Q. Yes, sir.

4 A. To my knowledge, that's the main section.

5 Q. But to your knowledge, there are no other sections?

6 A. In that particular manual, no. There may have been
7 other procedures that aren't part of the manual.

8 Q. But we're going to get through this, and I'm going
9 to politely ask you to just keep in mind what my question is
10 because you're going way beyond what my question is. Is that
11 okay?

12 A. Fair enough.

13 Q. All right. Larson No. 4, what is that document?

14 A. This is a document that summarizes the industrial
15 health program at one of Exxon's refineries. I believe in
16 this case it's for the Baton Rouge refinery. Talks about
17 measures that are taken to prevent exposures to toxic
18 materials and the medical surveillance programs that have
19 been developed to monitor employees' health in ways that
20 employees can stay fit and healthy basically.

21 Q. Exhibit No. 4 is from what year?

22 A. That would have been, I believe, 1962.

23 Q. Exhibit No. 4 is entitled what, sir?

24 A. "To Your Good Health at Esso."

25 Q. This is a document that pertains to the Baton Rouge

1 facility, correct?

2 A. It's my understanding.

3 Q. So, this is not a document that pertains to the
4 Baytown facility, correct?

5 A. Correct. Although I believe they had similar
6 approaches.

7 Q. Well, again, I didn't ask you if you believe they
8 have similar approaches. Okay?

9 A. Okay.

10 Q. I asked: This is not a document that pertains to
11 the Baytown facility; and your answer was no, right? I mean,
12 your answer was it does not pertain to the Baytown --

13 A. Correct.

14 Q. -- facility?

15 A. Correct.

16 Q. Is the word "asbestos" mentioned in here?

17 A. I don't recall.

18 Q. I'm showing you Larson No. 5. Could you tell us
19 what that is, please?

20 A. All right. It's a "Safety Rules and Safe
21 Practices" for the refining department dated June 22nd, 1936,
22 for Humble Oil and Refining.

23 Q. Did you say 1936?

24 A. Correct.

25 Q. What is the purpose of that document?

1 A. It's similar to the later document that we just
2 discussed in that it outlines some of the core safety and
3 health programs for the refineries.

4 Q. This will be something that would apply to the
5 Baytown facility, correct?

6 A. Correct.

7 Q. Where Mr. Altimore worked?

8 A. Correct.

9 Q. Now, with respect to Exhibit No. 3, you said this
10 was the core program, correct?

11 A. Uh-huh. This is an earlier version.

12 Q. This is an earlier version of the core safety
13 program for workers' safety, correct?

14 A. Correct.

15 Q. Would you show me the parts that pertain to
16 protection against asbestos?

17 A. Okay. (Views document) Okay. It would be on
18 Page 96; and if you'd like me to, I'll mark it.

19 Q. Thank you. You're going to mark the part
20 pertaining to asbestos with the yellow highlighter, correct?

21 A. Correct.

22 Q. And that is Exhibit No. 5, right?

23 A. Correct. Just to clarify, I don't know if it
24 specifically addresses asbestos. It's under "Toxic Dust" and
25 it gives examples of toxic dust and I don't know if I see

1 asbestos listed or not.

2 Q. But you believe that's the part of Exhibit No. 5
3 that would deal with protecting workers against the asbestos
4 hazard, correct?

5 A. Yes.

6 Q. And so, here in this document entitled "Safety
7 Rules and Safe Practices, June 22nd, 1936," Exxon is taking
8 steps -- it would be your opinion, I guess -- to protect
9 workers against the asbestos hazard, correct?

10 A. Virtually any toxic dust, and that includes
11 asbestos.

12 Q. Well, that's my question. Is asbestos not other
13 toxic dust? In this document, "Safety Rules and Safe
14 Practices, 1936," Exxon, you believe, is taking steps to
15 protect their workers against the asbestos hazard, correct?

16 MR. GARDNER: Objection; form.

17 A. I would assume that would include asbestos, yes.

18 Q. (BY MR. HEARD) Well, that's what you said earlier,
19 right, when you said that's the steps they're taking in this
20 document to protect the workers against the asbestos hazard,
21 correct?

22 MR. GARDNER: Objection; form.

23 A. It's respiratory protection. It covers respiratory
24 protection.

25 Q. (BY MR. HEARD) So, is that a "yes" or "no"? Does

1 that protect against asbestos hazard?

2 A. Respiratory protection?

3 Q. Yes, sir.

4 A. Correct.

5 Q. So, is it your testimony in this document, Larson
6 Exhibit No. 5, that this is Exxon's attempt -- this section
7 you've highlighted -- to protect workers against the asbestos
8 hazard?

9 MR. GARDNER: Objection; form.

10 A. Only with respect to respiratory protection. It
11 doesn't address work practices and that type of thing.

12 Q. (BY MR. HEARD) Work practices are not in there?

13 A. Not in there. It's respirators.

14 Q. But this is the core of the program in 1936?

15 A. Core, but there would be other procedures for
16 specialized operations.

17 Q. My question is: With respect to the respirator
18 section here that you highlighted in Exhibit No. 5, that is
19 Exxon's attempt, in your opinion, to protect workers against
20 the asbestos hazard in 1936, correct?

21 MR. GARDNER: Objection; form.

22 A. That would only be part of it.

23 Q. (BY MR. HEARD) That was part of their attempt --

24 A. Part of --

25 Q. Is that going to be your --

1 A. Correct.

2 Q. Do you have any other documents here that show
3 Exxon's other attempts in 1936 to protect workers against the
4 asbestos hazard?

5 A. Let's see. Yes.

6 Q. Thank you. I'm handing you Larson Exhibit No. 18.
7 Would you tell me what that is, please?

8 A. It's a report that was issued by Exxon's chief
9 safety inspector titled "Dust Producing Operations in the
10 Production of Petroleum Products and Associated Activities";
11 and it's dated July, 1937.

12 Q. Would you please turn to the sections of Exhibit
13 No. 18 which deal with protecting workers against the
14 asbestos hazard?

15 A. Okay. That would be Page 73 -- if I can read
16 this -- titled "Measures for Reduction of Dust Hazards."

17 Q. So, when I'm looking at this document later,
18 Page 73 is where the section begins on protecting the workers
19 from asbestos hazard, correct?

20 MR. GARDNER: Objection; form.

21 A. Asbestos among other dust hazards but asbestos
22 would definitely be included, yes.

23 Q. (BY MR. HEARD) And that's 1939?

24 A. '37.

25 Q. 1937. We just looked at a document, Exhibit No. 5,

1 from 1936 entitled "Safety Rules and Safe Practices," right?

2 A. Correct.

3 Q. You mentioned that that was a core kind of safety
4 rules and practices but that there was other information
5 also?

6 A. Yes. Things such as engineering standards and
7 specific, like, confined space entry procedures, lockout/tag
8 out. Yes, there would be corollary procedures for specific
9 jobs.

10 Q. Larson No. 18, is this a core safety document for
11 Exxon in 1937?

12 MR. GARDNER: Objection; form.

13 A. I would say yes.

14 Q. (BY MR. HEARD) This, again, is not something that
15 Exxon hands out to employees, correct?

16 A. The report was basically the basis for establishing
17 safe work practices.

18 Q. Right. But this is something that the industrial
19 hygiene people or -- did Exxon have industrial hygiene people
20 on staff back in 1937 that you know of?

21 A. I think that came a little bit later.

22 Q. Right.

23 A. I think safety handled the health aspects.

24 Q. So, the safety department?

25 A. Correct.

1 Q. So, this is something that the people who weren't
2 working with supervisors and things of that nature would talk
3 with the supervisors about, correct?

4 MR. GARDNER: Objection; form.

5 A. Obviously that's before my time, but I would assume
6 that they would.

7 Q. (BY MR. HEARD) That's a good point. All of these
8 documents you have here today are before your time, correct?

9 MR. GARDNER: Objection; form.

10 A. Correct, although I have had the opportunity to
11 talk to some of the people that were involved with it. For
12 example, Jim Hammond was the first industrial hygienist for
13 Humble Oil. And I've known him for a number of years. I'm
14 familiar with the background on some of these documents.

15 MR. HEARD: Objection; nonresponsive.

16 Q. (BY MR. HEARD) Let me ask my question again: All
17 of these documents that we're going over that you brought
18 with you today are from a time period before you were
19 employed with Exxon, correct?

20 MR. GARDNER: Objection; form.

21 A. I don't know if all of them are. I'd say the
22 majority are, at least.

23 Q. (BY MR. HEARD) If they're dated before 1973, it's
24 before your time?

25 A. Correct.

1 Q. You didn't have any involvement with Exxon --

2 A. Right.

3 Q. -- industrial hygiene program or anything else with
4 Exxon before 1973, correct?

5 A. Correct.

6 Q. So, all of these documents that are dated prior to
7 1973 were drafted by or put together by or utilized by people
8 other than yourself?

9 A. That's correct.

10 Q. And you have no personal knowledge other than the
11 conversations with people at Exxon about how they were
12 implemented?

13 A. That's correct.

14 Q. And that would apply, for example, to Larson No. 18
15 as an example of these documents that are before your time,
16 then, correct?

17 A. Correct. Can I add one thing?

18 Q. Well, if it's about a conversation you had with
19 somebody, no.

20 A. From my own experience, I can say that we had --
21 when I came to the company, we had programs that were very
22 similar to the ones that were drafted at that early date.
23 That's what I would say.

24 MR. HEARD: I would say "Objection;
25 nonresponsive."

1 A. Okay.

2 Q. (BY MR. HEARD) I would be remiss if we left this
3 deposition and I didn't ask you some questions about while
4 you were at Exxon. So, can I do that real quick with you
5 just so I can know and continue going through these
6 documents?

7 A. Sure.

8 Q. From 1973 to 1976 is it going to be your testimony
9 at this trial that safety issues related to protecting
10 workers from dust hazards were the same at all the various
11 refineries that Exxon owned?

12 MR. GARDNER: Objection; form.

13 A. Well, first of all, it would have been '76 to '78
14 that I was with Exxon.

15 Q. (BY MR. HEARD) I'm sorry. My fault. Thank you.
16 During that time period?

17 A. I would say, yes, they were comparable.

18 Q. They were comparable?

19 A. Comparable.

20 Q. Can't say the same, but your position would be they
21 were comparable?

22 A. Based on the times I spent and during the
23 orientations and just conversations I've had, I'd say they
24 were comparable.

25 Q. How many different refineries were there that Exxon

1 owned?

2 A. There were a total of -- in the U.S. there were
3 probably about five, three major and then two smaller ones.

4 Q. Did each have different industrial hygiene controls
5 in place for protection against the asbestos hazard?

6 MR. GARDNER: Objection; form.

7 A. I'd say no, but they were comparable. There was a
8 single program that was implemented out of Houston, and I
9 have a copy of that here.

10 Q. (BY MR. HEARD) Where is that document?

11 A. It's dated 1972. This is it.

12 Q. I hand you Larson Exhibit No. 13. Can you tell us
13 what that is, please?

14 A. This is "Asbestos Handling Guidelines for Humble
15 Oil and Refining Company" and "Enjay Chemical Company" by
16 James W. Hammond, dated September 1st, 1972.

17 Q. Is Larson Exhibit No. 13 the first time Exxon came
18 out with an asbestos handling guide?

19 A. Not to my understanding.

20 Q. When was the first time, to your understanding?

21 A. I believe it dates back to this 1937 record by
22 Mr. Bonsib.

23 Q. Do you have that here with you today?

24 A. That's the one we just reviewed.

25 Q. Well, that's not an asbestos handling guideline, is

1 it, like Exhibit No. 13?

2 A. It goes into virtually the same areas as this one.
3 This one was modified to meet specific OSHA regulatory
4 requirements in terms of type of placarding the wording, for
5 example; but it addresses many of the same topics.

6 Q. So, you think that Larson Exhibit No. 13 is just
7 kind of an updated version of Larson No. 18 from 1937 in
8 order to comply with OSHA?

9 MR. GARDNER: Objection; form.

10 A. It's been -- what's the right word -- tailored to
11 meet the regulatory specifics that were contained in the OSHA
12 asbestos regulations.

13 Q. (BY MR. HEARD) Who was this sent to, the asbestos
14 handling guidelines?

15 A. That would have been sent to essentially any
16 facility where it was known that asbestos-containing
17 materials were present.

18 Q. How many copies would they make of it?

19 A. I would guess -- I'm just -- I have no way of
20 knowing, but I would estimate -- I don't know -- 40 or 50 and
21 in turn would be copied at the site.

22 Q. Was this document, the asbestos-handling guidelines
23 evidenced in No. 13, in place when you joined Exxon?

24 A. In '76?

25 Q. Yes, sir.

1 A. Yes, sir, it was. In fact, it was one of the
2 programs I reviewed when I spent the one month in Houston.

3 Q. Why were you reviewing it?

4 A. So I'd be familiar with what Exxon was doing.

5 Q. You weren't reviewing it to critique it and suggest
6 changes?

7 A. No. And I was familiar already with the OSHA
8 asbestos regulations, but I wanted to make myself familiar
9 with what they had, in fact, implemented.

10 Q. Is this the type of document that's supposed to be
11 given to all the employees?

12 A. You know, I don't know that it was given to all
13 employees; but it was used for training employees, as a
14 source document for that. But I don't know for a fact that
15 it was provided to all employees.

16 Q. After 1972, then, is it your testimony that all the
17 employees who worked around asbestos at an Exxon facility
18 were trained according to the asbestos handling guidelines in
19 Exhibit No. 13?

20 A. That's my understanding.

21 Q. Well, you were in charge of industrial -- or you
22 were in the industrial hygiene department with Exxon, right?

23 A. Correct.

24 Q. So, your understanding would be a pretty good
25 understanding, wouldn't it, if I was talking to somebody from

1 Exxon, correct?

2 A. Absolutely.

3 Q. So, your understanding from 1976 to 1978 while you
4 were with Exxon was that any Exxon employee or any person who
5 is working -- like Mr. Altimore -- there for a long time
6 would be instructed and trained on these asbestos handling
7 guidelines if they worked around asbestos, correct?

8 MR. GARDNER: Objection; form.

9 A. If they worked around asbestos and that would
10 include not only employees but also contractors.

11 Q. (BY MR. HEARD) That would include contractors?

12 A. Right.

13 Q. So, then, what should be happening at the Exxon
14 refinery in Baytown from Exxon's industrial hygienist
15 perspective is that all employees and contractors who worked
16 around asbestos -- at least as of 1972 when this document was
17 written -- should be trained according to the asbestos
18 handling guidelines by Exxon, correct?

19 A. Correct.

20 Q. And you expected that as a member of the industrial
21 hygiene staff?

22 A. Absolutely.

23 Q. You expected that the people who were in charge of
24 industrial hygiene at the representative Exxon facilities to
25 train all those Exxon employees and contractors according to

1 the asbestos handling guidelines in No. 13, correct?

2 A. Well, the industrial hygienist didn't actually do
3 the training. The safety department did that. Industrial
4 hygiene served as basically a resource to the safety
5 department.

6 Q. So, you expected the safety department at
7 Exxon-Baytown refinery and chemical plant to train all
8 employees and contractors who were exposed to asbestos
9 pursuant to the asbestos handling guidelines in No. 13,
10 correct?

11 MR. GARDNER: Objection; form.

12 A. Okay. Let me clarify this with regard to the
13 contractors. Some of the larger contractors like Brown &
14 Root had their own full-time safety or industrial hygiene
15 department. In that case, the larger contractors would do
16 their own training. There was no need for us to get directly
17 involved. If it was a smaller contractor who didn't have the
18 resources of, say, Brown & Root, then in that case we would
19 provide the training.

20 Q. (BY MR. HEARD) Who were the smaller contractors?
21 Or maybe it would be easier if you told me who the bigger
22 contractors were.

23 A. I'd say Brown & Root.

24 Q. So, if it wasn't a Brown & Root contractor, then it
25 would fall into this kind of -- there may be an exception or

1 something --

2 A. Correct, yeah; but --

3 Q. All right. With that understanding, then -- so I
4 can move onto another document -- during your time with Exxon
5 from 1976 to 1978 you expected that the safety department at
6 Exxon-Baytown refinery and chemical plant would train all
7 employees and contractors other than Brown & Root according
8 to the asbestos handling guidelines represented in Exhibit
9 No. 13?

10 A. If they were deemed to have potential asbestos
11 exposure.

12 Q. If they were deemed to have potential asbestos
13 exposure, the answer to that question is yes?

14 A. Yes. We wouldn't train office workers, for
15 example, if they didn't go out into the refinery.

16 Q. But assuming that they were going to be exposed to
17 asbestos, then they needed to be trained by Exxon, correct?

18 MR. GARDNER: Objection; form.

19 A. I'll agree with that.

20 Q. (BY MR. HEARD) And one of the reasons you agree
21 with that is because they were on Exxon's property, right?
22 They were working for Exxon, correct?

23 MR. GARDNER: Objection; form.

24 A. Well, they were Exxon employees; and we had a
25 responsibility for that training, yes.

1 Q. (BY MR. HEARD) Right. And people who weren't
2 Exxon's employees who were contractors who weren't with
3 Brown & Root, they needed to have that same kind of training
4 from Exxon because they were working at Exxon's request on
5 Exxon's property --

6 MR. GARDNER: Objection; form.

7 A. Well, let me explain that. Ultimately it comes
8 down to -- it's the contractor's responsibility.

9 THE REPORTER: Sir, I need you to slow down
10 for me just a little bit.

11 THE WITNESS: Sorry. Sorry.

12 A. I need to clarify in that ultimately it's the --
13 the contractor as the employer of the contract employees
14 ultimately has the responsibility. But again, if they were
15 smaller contractors that didn't have the resources that Exxon
16 had, then we would provide that expertise to them.

17 Q. (BY MR. HEARD) Right. Because I mean, y'all, like
18 you said, y'all had the resources to do that, right?

19 A. Correct.

20 Q. And the knowledge?

21 A. Correct.

22 Q. And they hired people like you from OSHA, correct,
23 who had some knowledge about OSHA guidelines and things of
24 that nature, correct?

25 A. Correct.

1 Q. And Exxon knew -- we found today -- at least by
2 1937 -- was fully aware about the asbestos hazard, correct?

3 MR. GARDNER: Objection; form.

4 A. They were aware that asbestos is a potential
5 hazard, correct.

6 Q. (BY MR. HEARD) Right. I mean, if they weren't
7 aware of the asbestos hazard, then, they wouldn't be writing
8 protection manuals from asbestos in 1937, right?

9 MR. GARDNER: Objection; form.

10 A. Correct.

11 Q. (BY MR. HEARD) So, you're aware, you know, that
12 just a regular worker or a small, say, mom-and-pop shop type
13 contractor who doesn't have Exxon's resources even in the
14 '70s, many of them didn't know about the hazard that asbestos
15 presented? You agree with that?

16 MR. GARDNER: Objection; form.

17 A. I don't agree with that, no. By that time there
18 was an OSHA regulation in effect.

19 Q. (BY MR. HEARD) That's right. There was an OSHA
20 regulation, but that didn't necessarily translate to
21 everybody knowing about it unless they were told. That's why
22 Exxon was telling them, according to your testimony, about
23 the hazard and how to prevent it, right?

24 MR. GARDNER: Objection; form.

25 A. Well, what Exxon told them was that there was

1 asbestos-containing insulation present and that they needed
2 to be aware of that and to comply with the OSHA regulation.

3 Q. (BY MR. HEARD) Right, but what I'm saying is: You
4 would train them on asbestos handling guidelines when they
5 came to your property. That's what you expected your safety
6 people to do, right?

7 A. Correct.

8 Q. And all I'm saying is that one of the reasons y'all
9 did that, I think you acknowledged, was because many of those
10 people didn't have the resources and knowledge, et cetera,
11 that Exxon had?

12 MR. GARDNER: Objection; form.

13 A. In some cases.

14 Q. (BY MR. HEARD) In this document, even when you
15 were there in 1976, four years later, you still expected your
16 safety people at the various refineries to train all those
17 workers pursuant to these same guidelines, right?

18 A. Well, if they didn't have the expertise that they
19 needed.

20 Q. We've already established that. And so, let's set
21 aside Brown & Root or whoever else it was; but you've
22 testified on numerous -- at least two or three times today
23 that you expected your safety people to train contractors'
24 employees even in 1976 --

25 A. No, I didn't say that the safety people would train

1 contractor employees. To make sure the contractor --

2 Q. Contract --

3 A. -- had the knowledge for them --

4 Q. Let me restate my question. Okay? "Contractor
5 and." I probably ran my words together. Let's go back.

6 You have stated that Exxon -- you in the industrial
7 hygiene department at Exxon expected the safety people to
8 train Exxon employees even when you were there in 1976 with
9 respect to the hazards of asbestos according to these
10 asbestos handling guidelines, right?

11 MR. GARDNER: Objection; form.

12 A. If they had potential exposure, yes.

13 Q. (BY MR. HEARD) If they had potential exposure,
14 right. If they didn't have exposure to any asbestos, there
15 wasn't, I guess, any need from Exxon's perspective to train
16 them about that, right?

17 A. They were trained on many things, and they didn't
18 need to be trained on something they weren't concerned with.

19 Q. Right. And that's fair. What I'm saying is that
20 one of the reasons that y'all would do that -- I'm not saying
21 it's a bad thing. I'm just saying one of the reasons y'all
22 would do that is because an employee who comes to work for
23 Exxon doesn't have the knowledge when he first steps on the
24 plant about those hazards that Exxon has, right?

25 MR. GARDNER: Objection; form.

1 A. When he first comes to work?

2 Q. (BY MR. HEARD) Yes, sir.

3 A. Right. And, of course, we had an orientation
4 program to train them.

5 Q. And that's my whole point. So, my whole point is:
6 You've got to train them, right?

7 A. Sure.

8 Q. So you can give the worker the same appreciation of
9 the risk of the asbestos hazard, right?

10 MR. GARDNER: Objection; form.

11 A. I'd say hazard. I don't know if I could say risk.
12 I don't know if --

13 Q. (BY MR. HEARD) Well, asbestos kills people;
14 doesn't it?

15 MR. GARDNER: Objection; form.

16 Q. (BY MR. HEARD) Asbestos can kill people?

17 MR. GARDNER: Objection; form.

18 A. You have to qualify that. I mean, at what level or
19 for how long?

20 Q. (BY MR. HEARD) Well, let me ask the question
21 again. Do you take issue with this statement: Asbestos can
22 kill people.

23 MR. GARDNER: Objection; form.

24 A. Well, I guess to the same extent that you could say
25 water kills people.

1 Q. (BY MR. HEARD) So, your testimony is that the
2 statement that asbestos can kill people is the same thing as
3 saying that water can kill people?

4 MR. GARDNER: Objection; form.

5 A. No, I'm not saying it's the same thing. I'm saying
6 "hazard" does not necessarily equal a risk depending upon the
7 intensity of the exposure and the duration of the exposure.
8 Obviously both water and asbestos under certain conditions
9 can be hazardous, but that doesn't mean they are inherently
10 hazards.

11 Q. (BY MR. HEARD) So, you cannot agree with the
12 statement that asbestos can kill people.

13 MR. GARDNER: Objection; form.

14 A. I'll agree with it to the extent that it also
15 relies upon the level of exposure and the duration of
16 exposure. And then I'll agree with it.

17 Q. (BY MR. HEARD) Okay. Do you think asbestos is
18 more hazardous than water?

19 MR. GARDNER: Objection; form.

20 A. I don't think you can say that. Obviously if you
21 fall out of a boat without a life preserver, it's probably
22 more hazardous.

23 Q. (BY MR. HEARD) Water, you mean?

24 A. Right.

25 Q. With respect to Larson Exhibit No. 15, did you

1 already tell me what that document is?

2 A. No, this is titled "Hot Equipment Insulation
3 Application." And it is a Baytown engineering standard for
4 the refinery and the chemical plants, and it is dated March
5 of 1972.

6 Q. What was the point of that document?

7 A. It's a revised specification for insulation,
8 thermal insulation, to be used in the refinery and chemical
9 plants.

10 Q. What type of asbestos insulation was Exxon using on
11 its pipes and in boilers and things of that nature when you
12 arrived there?

13 A. There was several different types when I arrived in
14 '76. There were some that contained asbestos in the range of
15 10 to 30 percent, and that was primarily chrysotile asbestos.

16 Q. Which company names were those that y'all were
17 using at that time?

18 A. I don't recall the company names, but I'm sure it
19 was probably something like -- may have included
20 Johns-Manville. It may have included Raybestos. I'm just --
21 you know, those are some of the manufacturers. I'd say of
22 all the insulation, the asbestos-containing insulation was
23 typically only used on the very high temperature processes in
24 the refineries and somewhat in some of the chemical plants;
25 and it probably made up maybe -- I'm just -- rough estimate

1 maybe 30 percent of the insulation that was found at the
2 refinery and much, much less in the chemical facilities.

3 I'd say the other types of insulation that were used did
4 not contain asbestos; and they consisted of rock wool,
5 fiberglass and ceramic insulation. You want me to explain
6 the application guide?

7 Q. Please, if you don't mind.

8 A. I believe the tone of the guide was to specify that
9 where available only nonasbestos-containing insulation
10 products should be purchased for future insulation
11 applications. That's the gist of it.

12 Q. Who authored this document?

13 A. It would have been the engineering department for
14 Humble Oil.

15 Q. What do you define as high-temp pipe insulation?
16 In other words, what does the temperature need to be for
17 high-temp application?

18 A. I think it's specified in there. Off the top of my
19 head, I'm not sure.

20 Q. I think I saw -- where did I read that from? I
21 thought you were reading when you told me "We're not going to
22 use asbestos."

23 A. Oh, do you want me to find out --

24 Q. Did I misunderstand that?

25 A. -- where it's referred to?

1 Q. Yes, sir.

2 A. Section 4.1. You want me to highlight it for you?
3 It's right here (indicating).

4 Q. All right. No. 6, what is that document?

5 A. Okay. This is called "Safety Highlights, 1956,
6 Humble Oil and Refining Company, Baytown, Texas." And it
7 essentially covers potential hazards of gases and dust that
8 may be found in the refinery and the approved types of
9 respirators to use when working around any of these
10 potentially toxic materials.

11 Q. You said found in a foundry? Did I hear that
12 right?

13 A. In a refinery.

14 Q. Okay.

15 A. And on page -- let's see. I think it's the first
16 page it lists under "hazardous dust." It lists a number of
17 items including asbestos.

18 Q. This is obviously something that was probably
19 posted around the plant?

20 A. I assume it was. It could also have been handed
21 out at safety meetings, that type of thing.

22 Q. But you wouldn't know, would you, because this is
23 1956, first-hand knowledge?

24 A. First-hand, no; but I mean, obviously it was meant
25 for employee distribution.

1 Q. No. 7 is another accident prevention manual. Is
2 this another core of the safety program but from a different
3 year?

4 A. Correct. This is for the Baytown refinery, dated
5 September, 1959.

6 Q. Could you briefly just highlight the parts that
7 pertain to asbestos hazard?

8 MR. GARDNER: Objection; form.

9 A. Again, it will refer to approved respirators for
10 asbestos because that changed from time to time. Would be
11 Page 111.

12 Q. (BY MR. HEARD) So, the portion of Exhibit No. 7
13 that you highlighted on Page 111, that is the portion that
14 deals with protection of workers against the asbestos hazard,
15 correct?

16 A. Respiratory protection.

17 Q. That's the portion that deals with respiratory
18 protection?

19 A. Correct.

20 Q. To protect against the --

21 A. Correct.

22 Q. -- dust hazard, correct?

23 A. Right.

24 Q. Just so I can understand when I'm going back and
25 looking at this document, there's nothing else in this

1 document that deals with protecting workers against the
2 asbestos hazard, correct?

3 MR. GARDNER: Objection; form.

4 A. As I mentioned earlier, there would be a corollary
5 program for work practices.

6 Q. (BY MR. HEARD) Okay. Let me ask my question and
7 try to see if you can answer. My question is: There's
8 nothing else in Larson Exhibit No. 7, the accident prevention
9 manual, that discusses protecting workers against the
10 asbestos hazard other than what you highlighted on Page 111,
11 correct?

12 MR. GARDNER: Objection; form.

13 A. Correct, in that manual.

14 Q. (BY MR. HEARD) All right. Now, with respect to
15 No. 8, I'm just going to ask you the same questions real
16 quick. If you can just -- what is No. 8?

17 A. Okay. It's a comparable document titled "Accident
18 Prevention Manual," dated March, 1962, for Humble Oil and
19 Refining.

20 Q. And we've established that No. 7 was dated
21 September, 1959, correct?

22 A. Correct.

23 Q. All right. Go ahead. I'm sorry.

24 A. Again, it will designate the proper type of
25 respirator for handling asbestos-containing insulation. Same

1 as the other ones, just another update. Actually I don't
2 even know if this document pertains to that or not.

3 THE WITNESS: Correct me if I'm wrong, but
4 I don't think this addresses protective equipment in
5 this particular manual.

6 A. I don't know why it got in the pile, but this
7 doesn't pertain.

8 Q. (BY MR. HEARD) Exhibit No. 8 does not pertain to
9 protection of any dust hazard at Exxon-Baytown --

10 A. No, it has to do with other procedures.

11 Q. What is Larson No. 9?

12 MR. HEARD: Wait a minute. Is this
13 supposed to be part of that?

14 MR. RADCLIFFE: I want to see it.

15 MR. HEARD: You want to take this --

16 THE WITNESS: Unless I overlooked
17 something, I don't think it addresses anything, any
18 protective equipment or procedures.

19 MR. HEARD: Is this supposed to be attached
20 to that, what he's looking at there, because that's
21 nothing?

22 MR. GARDNER: No, these are two separate
23 documents.

24 A. What this is --

25 Q. (BY MR. HEARD) Let me ask the question first:

1 What is Exhibit No. 9?

2 A. It appears to be a notice of a meeting that
3 Standard Oil Company of New Jersey was hosting for medical
4 and safety personnel in New York from March 15th through the
5 22nd, 1946. And it indicates some of the presenters at that
6 conference; and it also shows, I guess, photographs of them.
7 And I guess the one significant person involved here would
8 have been Roy Bonsib who was the author of that 1937 report
9 concerning dust producing operations in the petroleum
10 industry.

11 Q. He was with Exxon?

12 A. Well, he was with Standard Oil in New Jersey which,
13 I guess, later became Exxon.

14 Q. Any other significance you can see about that
15 document?

16 A. No.

17 Q. When you got to Exxon, what industry groups was
18 Exxon a member of? API? A gazillion, right?

19 A. Oh, yeah. API --

20 Q. Did y'all have anybody that sat on the board of,
21 say, the API?

22 A. I don't recall.

23 Q. You weren't involved with communications with any
24 of the industry groups of which Exxon --

25 A. Not really at this time. I think later --

1 Q. Hang on. I'm sorry.

2 -- of which Exxon was a member? You weren't -- let me
3 start the question over again because she can't take it down.

4 You weren't involved with communicating with any
5 industry groups of which Exxon was a member during your
6 tenure with Exxon?

7 A. Not at that time.

8 Q. Were you involved at some other time?

9 A. Not with Exxon.

10 Q. With who?

11 A. With Mobil.

12 Q. With Mobil? Which reminds me, I didn't finish out
13 your career. Let's do that real quick. What did you do
14 after 1984?

15 A. 1984, I was transferred to Mobil's corporate safety
16 and industrial hygiene department.

17 Q. Did you consult with Mobil pertaining to asbestos
18 insulation matters or asbestos exposure matters?

19 A. I helped develop company comments on revision to
20 OSHA's asbestos regulations.

21 Q. Did you disagree with OSHA's regulations?

22 A. No.

23 Q. How long did you work in that capacity for Mobil?

24 A. I was in the corporate safety and industrial
25 hygiene department until 1989, but I had various duties. In

1 1984 for one year, my title was manager of regulatory
2 affairs.

3 Q. What did you do in that capacity?

4 A. In that capacity I developed company comments on
5 the revision to OSHA's asbestos regulations among other
6 things.

7 Q. Do you have any comments that you developed?

8 A. No, I don't.

9 Q. What was the gist of them?

10 A. The gist of it was making comments regarding in
11 some cases operational improvements to a standard that would
12 enable us to comply without -- well, consistent with some of
13 the programs we had in place already at the time.

14 Q. That would allow you to comply with what?

15 A. Well, that would allow us to comply with the OSHA
16 regulations?

17 Q. I just don't understand what you mean by that.

18 A. I'm trying to remember specifically what we
19 commented about, and quite frankly it's really a little
20 difficult for me to recall at this point. But I think the
21 gist of our comments were we basically supported the
22 revisions; but we made some suggestions, I guess, for making
23 them more user friendly.

24 Q. As I understand what you're telling me, your
25 suggestions to OSHA were suggestions that would allow Mobil

1 in its day-to-day operations to better comply with the OSHA
2 regulations, correct?

3 A. Correct.

4 Q. You weren't saying "OSHA, your regulations need to
5 be more stringent than they are"? That wasn't Mobil's
6 position; was it?

7 MR. GARDNER: Objection; form.

8 A. Well, I think in general we agreed with the
9 approach they were taking --

10 Q. (BY MR. HEARD) No, sir, that wasn't my question.
11 My question was --

12 A. That we objected to them?

13 Q. -- in your position at Mobil, you did not take the
14 position with OSHA that their regulations needed to be more
15 stringent than what they proposed?

16 A. They were already proposing more stringent
17 requirements.

18 Q. And you were not taking the position that --

19 A. No.

20 Q. -- they were not stringent enough, the proposals?

21 A. I think that's probably fair to say.

22 Q. And while you were with Exxon, the same would be
23 true? You never took the position with OSHA that their OSHA
24 regulations needed to be more stringent?

25 MR. GARDNER: Objection; form.

1 A. I never took a position while I was at Exxon on
2 that.

3 Q. (BY MR. HEARD) You don't know anybody with Exxon
4 who took such a position, correct?

5 MR. GARDNER: Objection; form.

6 A. I really have no way of knowing. I don't recall
7 that there was any rule making going on at the time I was
8 there.

9 Q. (BY MR. HEARD) You're not aware of any letters
10 Exxon ever sent to OSHA saying "Y'all need to have more
11 stringent regulations to protect our employees"?

12 A. Well, first of all, I think Exxon and Mobil's
13 policy was to keep exposure to a minimum no matter what the
14 regulation was. So, to that extent, no, I'm not.

15 MR. HEARD: Objection; nonresponsive.

16 Q. (BY MR. HEARD) I'm just asking you if you know.

17 A. Okay.

18 Q. My question is: You're not aware of any
19 correspondence or communications with OSHA while you were an
20 industrial hygienist with Exxon where Exxon told OSHA that
21 their standards or regulations needed to be more stringent to
22 protect Exxon employees?

23 MR. GARDNER: Objection; form.

24 Q. (BY MR. HEARD) You're not aware of any is all I'm
25 asking?

1 MR. GARDNER: Objection; form.

2 A. Well, if I answer "yes" or "no," it's not going to
3 be a complete answer.

4 Q. (BY MR. HEARD) Well, are you aware of any?

5 MR. GARDNER: Objection; form.

6 A. No, because employees were not being -- I mean,
7 exposures were kept at a minimum. So, there would be no
8 reason to.

9 MR. HEARD: Objection to the nonresponsive,
10 everything after "no."

11 Q. (BY MR. HEARD) What did you do after 1989?

12 A. '89 I moved into the product safety division of
13 Mobil; and it took me completely -- well, 99 percent out of
14 the industrial hygiene profession.

15 Q. What does the product safety division do?

16 A. Product safety included Mobil's toxicology
17 personnel, labeling experts, regulatory advisers to deal with
18 the whole area of communicating potential -- well,
19 determining, evaluating the potential hazards of products and
20 making sure that customers were warned of any potential
21 hazards that might arise from their use.

22 Q. So, you weren't really focused on the hygiene
23 issues with respect to the employees of Mobil?

24 A. No, but we were concerned mainly with the customer.

25 Q. More of an outward focus?

1 A. Exactly.

2 Q. Is that what you did up until the time you retired?

3 A. Yes, basically.

4 Q. What year did you retire from Mobil?

5 A. 2000.

6 Q. 2000. Now, was it ExxonMobil at that time?

7 A. The merger was just going on at that time
8 basically. It was still Mobil. I retired as a Mobil
9 employee.

10 Q. Gotcha. Other than the \$300 an hour that Exxon
11 pays you to testify in these kinds of cases, do you have any
12 other financial arrangements with that company?

13 A. No, I own no stock. I don't receive an annuity.

14 Q. You receive no other benefits from Exxon?

15 A. Correct.

16 Q. While you were an OSHA inspector from 1973 to 1976,
17 did you ever receive any communication from any industry
18 member that the OSHA regulations needed to be more stringent
19 to protect industry employees?

20 A. No.

21 Q. Are you aware of whether the Houston and greater
22 triangle office ever received any such communication?

23 A. I'm not aware of any.

24 MR. HEARD: Could you mark that as the next
25 exhibit?

1 (Larson Exhibit No. 21 was marked)

2 Q. (BY MR. HEARD) I'm handing you Larson No. 10. Can
3 you tell me what that is?

4 A. Okay. It's apparently a company article concerning
5 an award for industrial health that Humble Oil received in
6 1957.

7 Q. Can you quickly point to me the parts of Exhibit
8 No. 10 that relate to asbestos?

9 A. I don't see anything in here specific to asbestos,
10 but it did address the medical and industrial hygiene
11 programs that were in place.

12 Q. But does it address it with respect to asbestos
13 exposure or just the general?

14 A. I would have to say it addresses it in general.

15 Q. That's not an award that Exxon got for protecting
16 people from asbestos, in other words?

17 MR. GARDNER: Objection; form.

18 A. That was one of many. It's one of many elements
19 that was included in their health and medical programs.

20 Q. (BY MR. HEARD) No. My question is: That
21 document, Exhibit No. 10, doesn't pertain to any award or
22 acknowledgement that Exxon -- that they received about
23 protecting workers from asbestos?

24 MR. GARDNER: Objection; form.

25 A. It's not specific to any material.

1 Q. (BY MR. HEARD) Including asbestos, correct?

2 A. Correct.

3 Q. I'm showing you Larson Exhibit No. 11. What is
4 that document?

5 A. Okay. It is a document entitled "Methods of
6 Surveying Toxic Exposure in Occupational Environments" by
7 James W. Hammond of Humble Oil and Refining Company.

8 Q. What's the date?

9 A. The date is -- it's November of 1965.

10 Q. What does that document have to do with Exxon's
11 procedures for protecting workers against asbestos hazard?

12 A. It goes into the program that was in place for
13 monitoring employee exposure to asbestos and the types of
14 medical surveillance programs that were implemented to
15 monitor employee health relative to potential asbestos
16 exposure.

17 Q. And you have no first-hand knowledge about the
18 implementation of any of those programs, correct, at that
19 time before you arrived?

20 A. Not at that time. Only after I arrived.

21 Q. Okay. Larson No. 12, what is that document?

22 A. It's an article titled "Occupational Cancer Now" by
23 Robert Eckardt, director of medical research division, Esso
24 research and engineering.

25 Q. What is the significance of that document?

1 A. It was a presentation that was made at MD Anderson
2 Hospital and Tumor Institute on March the 3rd, 1971; and it
3 addresses, I believe, the current understanding of the
4 potential health effects of asbestos.

5 Q. Who is that presented to?

6 A. Presented to the Symposium on Fundamental Cancer
7 Research, and it reviews the hazards of asbestos and current
8 knowledge of health effects.

9 Q. In what year?

10 A. 1971.

11 Q. Before you got to Exxon, right?

12 A. Correct.

13 Q. The information that's contained in this document
14 entitled "Occupational Cancer Now," were you taught that in
15 your classes at University of Texas?

16 A. Yes, very much similar information.

17 Q. Now, speaking about health effects such as cancer,
18 you would acknowledge that asbestos can cause the disease
19 mesothelioma, correct?

20 A. Asbestos is one of several causes, yes.

21 Q. And you would acknowledge asbestos is one of
22 several causes?

23 A. Correct.

24 Q. In the United States, what is your opinion as to
25 the other causes of mesothelioma for workers who are

1 occupationally exposed to asbestos?

2 A. Radiation therapy is one other potential cause.
3 Some people would say that a portion of mesotheliomas are
4 caused by genetic defects; and there are some people that
5 really have no explanation at all.

6 Q. So, you believe that mesothelioma can be caused by
7 genetic defects?

8 A. That's what I've read.

9 Q. I'm sorry. I was asking what you believe. As an
10 industrial hygienist who was with Exxon, do you believe that
11 mesothelioma can be caused by genetic defects?

12 A. I do.

13 Q. You do? Do you believe that mesothelioma in an
14 occupationally exposed person to asbestos that you've seen
15 case reports where the doctor said it was idiopathic?

16 MR. GARDNER: Objection; form.

17 A. I'm sorry. Repeat that, please.

18 Q. (BY MR. HEARD) That was a horribly worded question
19 which is why the lawyer here for Exxon very capably objected
20 to it.

21 Have you seen case reports where a doctor in a case
22 where a patient was diagnosed with mesothelioma and had
23 occupational exposure to asbestos diagnosed him with
24 idiopathic mesothelioma?

25 A. I'm not personally aware of that, no.

1 Q. So, do you believe that there are cases in
2 occupationally exposed or people exposed to asbestos where
3 their mesothelioma has no explanation?

4 MR. GARDNER: Objection; form.

5 A. I think there could be.

6 Q. (BY MR. HEARD) Okay. But you're not personally
7 familiar with any such cases is what you just told me, I
8 think?

9 A. Yes.

10 Q. The answer is, no, you're not personally aware of
11 any such cases?

12 A. Okay. No.

13 Q. Are there any other causes in the United States of
14 mesothelioma that you're aware of?

15 A. Well, I did read one report that people who worked
16 with sugarcane have an excess of incidence of mesothelioma.
17 That's the only common thread that they see, is the fact that
18 they're involved in working around sugarcane.

19 Q. Do you remember where you read that report?

20 A. Let's see. I think I read it on a website that is
21 sponsored by a mesothelioma information institute or
22 something of that nature.

23 Q. Did you actually read the medical or scientific
24 report that that information came from?

25 A. The original document, no.

1 Q. Well, I mean, did you read it on the website, the
2 document?

3 A. Yes.

4 Q. What do you mean by "original document"? I'm not
5 talking about something you're holding in your hand like this
6 (indicating). I'm saying did you read the actual report,
7 scientific study that said --

8 A. No, no, I didn't read the actual scientific report.

9 Q. You read something that was on the website
10 referencing --

11 A. Right.

12 Q. -- that kind of --

13 A. Right. Summarizing the various causes.

14 Q. So, do you believe that sugarcane can cause
15 mesothelioma?

16 A. I don't think anybody knows that. It's just that
17 it's somehow related to it.

18 Q. All right. You believe that asbestos can cause
19 lung cancer, correct?

20 MR. GARDNER: Objection; form.

21 A. Same clarification -- depending on the level of
22 exposure and the duration, it can.

23 Q. (BY MR. HEARD) What is the level of exposure that
24 you deem necessary for a person occupationally exposed to
25 asbestos to cause mesothelioma, for example?

1 A. I don't think anybody can put their finger on a
2 specific level. I wouldn't try to.

3 Q. Well, you keep saying depending on the level and
4 the length of exposure. What do you mean by that?

5 A. Well, there, I'm sure, is a range of exposure based
6 on individuals' susceptibility that could cause that effect.
7 And I'm sure there are some people that could be heavily
8 exposed and never experienced the disease, whereas other
9 people who have a, quote, "light" exposure potentially could.
10 I'm sure it depends on the individual susceptibility.

11 Q. There's some people who can be exposed to asbestos
12 during an entire working lifetime and never get the disease,
13 correct?

14 A. I would assume if it was a high enough level,
15 anybody could experience some effect.

16 Q. I'm talking about the disease mesothelioma. There
17 are people who work over a working lifetime being exposed to
18 asbestos who never get mesothelioma, correct?

19 MR. GARDNER: Objection; form.

20 A. I think I'd have to have an idea of the level of
21 exposure and the duration. You're saying a full working
22 lifetime?

23 Q. (BY MR. HEARD) Yes, sir.

24 A. I'd say it would depend on the level of exposure,
25 yeah.

1 Q. Okay. Well, and certainly the converse is true,
2 too, as you just mentioned, that there are people who have
3 much lower exposures but because of whatever reason medically
4 they may get mesothelioma -- at much lower levels -- than the
5 person who never gets mesothelioma and has worked a lifetime?

6 A. But there are people who are never exposed to
7 asbestos who never get mesothelioma.

8 MR. HEARD: Objection; nonresponsive.

9 Q. (BY MR. HEARD) My question is: There are people
10 who have much lower exposures than occupational exposures who
11 get mesothelioma, right?

12 MR. GARDNER: Objection; form.

13 Q. (BY MR. HEARD) You've reviewed case reports or
14 case literature on mesothelioma; haven't you?

15 A. No, I haven't.

16 Q. You have not? Okay. You haven't reviewed medical
17 studies or scientific articles on necessary exposure levels
18 to cause the disease mesothelioma?

19 A. No.

20 Q. Same true with lung cancer?

21 A. In terms of exposure level.

22 Q. Yes, sir. I'm asking you the same question with
23 respect to lung cancer. Have you reviewed medical and
24 scientific literature that addresses the exposure level and
25 length of exposure necessary for a person to get lung cancer

1 from asbestos exposure?

2 A. I've seen several studies of that nature, yes.

3 Q. So, you haven't seen them with respect to
4 mesothelioma, right?

5 A. I haven't specifically studied reports regarding
6 meso and exposure levels, no.

7 Q. But you have lung cancer?

8 A. I've seen some that address it.

9 Q. And what is your opinion as to the exposure level
10 and length necessary for a person to get an asbestos-related
11 lung cancer?

12 A. I think it's generally accepted that there is a
13 potential for lung cancer in persons that have been exposed
14 to the extent that they already have asbestosis. So, it
15 would take a fairly significant exposure over a fairly long
16 timeframe.

17 Q. So, in other words, in your opinion a person who
18 has enough exposure where when they go get their x-ray taken,
19 their histories taken, and they have asbestosis clinically
20 and they have lung cancer -- develop lung cancer later that
21 that can be attributed to asbestos exposure, correct?

22 MR. GARDNER: Objection; form.

23 A. Well, it depends on other types -- there's, like,
24 smoking history, that type of thing. It's potentially --
25 yes, I believe that. I'd agree. It is potentially

1 connected.

2 Q. (BY MR. HEARD) And your limitation there relates
3 to smoking. You want to make sure you look at their smoking
4 history, correct?

5 A. Right. And the limitation is that they would need
6 to be exposed to the extent that they develop fibrosis and
7 asbestosis.

8 Q. Right. Which you can see on an x-ray, right?

9 A. I believe you can.

10 Q. What about asbestosis? How much exposure, then,
11 and length of exposure do you need to get the disease
12 asbestosis in your opinion?

13 A. I'd say significant, in other words, at levels --
14 well, I don't know if I'm really qualified to say that.

15 Q. Okay. That's fair.

16 A. It's definitely --

17 Q. That's fair. If you're not qualified, just tell
18 me. We'll move on.

19 A. All right.

20 Q. You feel like a medical doctor ought to address
21 that? Would that be fair?

22 A. I'm sorry?

23 Q. You feel like a medical doctor ought to address
24 that?

25 A. Exactly.

1 Q. What about latency? Are you in the same position
2 with respect to latency, that a medical doctor ought to
3 address latency issues?

4 A. I think it would be more appropriate. I mean, I
5 can tell you what my general understanding is just from my
6 research and education; but I think -- assuming we're going
7 to have medical people involved -- that they're probably the
8 best ones to answer the question.

9 Q. Where were we?

10 A. I think we're almost finished.

11 Q. I hope so because it's about that time. Larson
12 No. 14, what is that; and what is the significance of it?

13 A. This is the original OSHA permanent asbestos
14 regulation that was published in 1972. I think what
15 happened -- that came off the 1972 Jim Hammond "Asbestos
16 Handling Procedure." I don't know if this is supposed to be
17 a stand-alone exhibit.

18 Q. Okay. Larson No. 16, what is that document?

19 A. Okay. This is a report published, again, by this
20 Roy Bonsib who published the earlier 1937 document on dust,
21 who published a later document in 1943 titled "Safeguarding
22 Petroleum Refineries and Their Workers."

23 Q. Who is that presented to?

24 A. It was published in the INDUSTRIAL SAFETY SURVEY
25 journal.

1 Q. Does that deal with protecting workers against
2 asbestos?

3 A. It addresses a wide range of potential hazards in
4 refineries. It does address dust; but I don't believe that
5 Roy Bonsib, in this particular later publication, addressed
6 asbestos-containing insulation. I don't believe it's
7 addressed in this.

8 Q. Okay. Well, my question was: Does it address the
9 asbestos hazard?

10 MR. GARDNER: Objection; form.

11 Q. (BY MR. HEARD) And protection against the asbestos
12 hazard?

13 MR. GARDNER: Objection; form.

14 A. I don't think that particular document does.

15 Q. (BY MR. HEARD) What is Exhibit No. 21?

16 A. Okay. This is an earlier epidemiology study that
17 Humble Oil conducted to determine the health status of their
18 workforce in -- let's see --

19 THE WITNESS: Do you see a date on there?

20 MR. GARDNER: I don't see a date. It gives
21 a time period.

22 A. Oh, okay. Here it is. Covered a 21-year period
23 ending in 1955; and I think the significance, very briefly,
24 of this is that they did study causes of deaths from
25 pulmonary fibrosis as well as lung cancer. And in this

1 particular study, the mortality due to those diseases and
2 others were well below what would be expected in the normal
3 United States population. And they felt that was significant
4 because this study covered employees that would have been
5 employed as early as -- let's see -- 1934. I'm sorry --
6 January 1st, 1935, through December 31st, 1955. They
7 concluded "There were 179 cancer deaths reported in a
8 population which averaged 15,257 annually. This is
9 equivalent to an overall cancer death rate of 55.9 per
10 hundred thousand per year."

11 Q. When is the first time you saw that document?

12 A. Yesterday.

13 Q. Given to you by the lawyers, right?

14 A. Correct.

15 Q. Those lawyers who represent Exxon?

16 A. Yes.

17 Q. When you worked with OSHA from 1973 to 1976, were
18 you of the opinion that asbestos was the most dangerous toxic
19 substance unleashed on the American workforce?

20 MR. GARDNER: Objection; form.

21 A. At that period of time, I thought it was one of
22 many hazardous materials. I told you about the target health
23 hazard program.

24 Q. (BY MR. HEARD) Right.

25 A. We looked at asbestos. We also looked at lead,

1 silica; and quite frankly, at that time I think most people
2 thought silica was probably a greater hazard than asbestos.
3 Now, over time I think we've learned more about asbestos.
4 So, the gravity, I think, has changed since the 1970s to the
5 present.

6 Q. As far as the work -- I keep forgetting the name of
7 it -- sorry about that. As far as the special emphasis
8 inspections program that you were a part of, would you agree
9 that silica and asbestos were two of the most hazardous toxic
10 substances in the American workforce while you were with
11 OSHA?

12 MR. GARDNER: Objection; form.

13 A. They were being used on a widespread basis. I
14 won't call them the most toxic, but certainly they were a
15 hazard.

16 Q. (BY MR. HEARD) They were what?

17 A. They were a hazard, a potential hazard.

18 Q. I mean, that's why they were included on the target
19 health hazards --

20 A. Absolutely. But you were saying whether asbestos
21 was the most toxic material ever used in the workplace; and
22 I'd say it was one of them.

23 Q. I didn't say that, though. OSHA said that; didn't
24 they?

25 A. No, OSHA never --

1 Q. In 1972?

2 A. They said it was a potential occupational health
3 hazard. I'll agree with you there. It certainly was and is
4 to this day.

5 Q. Well, asbestos and silica were two of the five
6 substances on the target health hazards program.

7 A. Right.

8 Q. The reason they were on the target health hazards
9 program is there was a major concern in the country that
10 workers weren't being protected against the health hazard,
11 correct, presented by asbestos and silica?

12 MR. GARDNER: Objection; form.

13 Q. (BY MR. HEARD) Isn't that right?

14 MR. GARDNER: Objection; form.

15 A. Let me -- it was based on the fact that there was a
16 very high potential toxicity, and there was widespread use.
17 It wasn't toxicity alone.

18 Q. Right.

19 MR. HEARD: I think that's all we have time
20 for today, if that's okay with you. So, we'll just go
21 out of here with all these conversations we've had and
22 see what they want to do about it. Is that all right
23 with everybody?

24 MR. GARDNER: Yeah.

25 (Deposition adjourned at 1:32 p.m.)

CHANGES AND SIGNATURE

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1 I, BRUCE LARSON, have read the foregoing deposition and
2 hereby affix my signature that same is true and correct,
3 except as noted above.

4
5 _____
6 BRUCE LARSON

7 THE STATE OF _____)

8 COUNTY OF _____)

9
10 Before me, _____, on this day personally
11 appeared BRUCE LARSON, known to me to be the person whose
12 name is subscribed to the foregoing instrument and
13 acknowledged to me that they executed the same for the
14 purposes and consideration therein expressed.

15 Given under my hand and seal of office this ____ day
16 of _____, 2004.

17 _____
18 NOTARY PUBLIC IN AND FOR THE STATE OF _____
19
20
21
22
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CAUSE NO. 03CV0588

LOUISE ALTIMORE * IN THE DISTRICT COURT OF
*
VS. * GALVESTON COUNTY, TEXAS
*
QUIGLEY COMPANY, INC., ET AL. * 405TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION
ORAL DEPOSITION OF BRUCE LARSON
MARCH 23, 2004

I, Suzi Gladney, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, BRUCE LARSON, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on _____ to the witness or to the attorney for the witness for examination, signature, and return to me by _____, 2004;

That the amount of time used by each party at the deposition is as follows:

Mr. Heard - 2 hours, 30 minutes

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes all parties of record:

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8
9 I further certify that I am neither counsel for, related
10 to, nor employed by any of the parties or attorneys in the
11 action in which this proceeding was taken, and further that I
am not financially or otherwise interested in the outcome of
the action.

12 Further certification requirements pursuant to Rule 203
13 of TRCP will be certified to after they have occurred.

14 Certified to by me on this 31st day of March, 2004.
15
16

17 _____
SUZI GLADNEY, CSR, RPR
18 Texas CSR No. 6857
Expiration: 12/31/2004
Word for Word Reporting
19 Firm Registration No. 222
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22
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25

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on _____;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Mr. Denman H. Heard, Custodial Attorney;

That \$_____ is the deposition officer's charges to the PLAINTIFF LOUISE ALTIMORE for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this ____ day of _____, 2004.

SUZI GLADNEY, CSR, RPR
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