

NO. 95-04-1728-D

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

ORAL/VIDEO DEPOSITION
OF
STEVEN SELLERS

ANSWERS AND ORAL/VIDEO DEPOSITION OF STEVEN
SELLERS, a witness produced at the instance of the
Plaintiffs, taken in the above styled and numbered
cause on the 25th day of September, 1997, at 3:51
p.m., before LISA A. BERRY, a Certified Shorthand
Reporter in and for the State of Texas, at the offices
of Meredith, Donnell & Abernethy, located at 6850
Texas Commerce Tower, 600 Travis Street, in the City
of Houston, County of Harris, State of Texas, in
accordance with the Texas Rules of Civil Procedure,
the stipulations hereinafter set forth and pursuant to
Notice.

COPY



dictated. B&R

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1 A P P E A R A N C E S 2 3 MR. C. ANDREW WATERS LAW OFFICES OF C. ANDREW WATERS 100 South Zang, Suite 1420 Dallas, Texas 75219 4 APPEARING FOR THE PLAINTIFFS 5 6 MS. PATRICIA KELLY AT & T WORLDWIDE, L.P. Attn: E. Van Buren, West Tower P.O. Drawer 1429 Hartlingen, Texas 76551 7 8 APPEARING FOR DEFENDANTS W.R. GRACE COMPANY AND PITTSBURGH CORNING CORPORATION 9 10 MR. JAMES V. HEWITT MEREDITH, DONNELL & ABERNETHY 6330 Texas Commerce Tower 600 Travis Houston, Texas 77002 11 12 APPEARING FOR DEFENDANT BROWN & ROOT USA, INC. 13 14 MR. R. HARDING ERWIN, JR. WATKINS & CHASE, L.P. 3003 Eleven Greenway Plaza Houston, Texas 77046 15 16 APPEARING FOR DEFENDANT ARMCO 17 18 ALSO PRESENT: 19 MR. DANIEL PARIS, VIDEOGRAPHER 20 21 22 23 24 25	1 complied with. 2 3 IT IS FURTHER agreed by and between the parties 4 hereto, through their attorneys appearing herein, that 5 if the deposition is not signed and filed prior to any 6 hearing in this cause, that said deposition or a 7 certified copy thereof may be used on the trial of 8 this cause with the same force and effect as though 9 the same had been read and signed by the said witness. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

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1 I N D E X 2 3 WITNESS: STEVEN SELLERS 4 5 Examination by Mr. Waters Page 6 6 Examination by Ms. Kelly Page 71 7 Re-Examination by Mr. Waters. Page 79 8 Re-Examination by Ms. Kelly Page 83 9 10 Witness' Signature Page 95 11 Corrigendum Page 96 12 Reporter's Certificate Page 97 13 14 15 16 17 18 19 20 21 22 23 24 25	1 THE VIDEOGRAPHER: We are on record 2 at 3:51 p.m. This is the videotaped 3 deposition of Steve Sellers in the matter 4 of Manuel P. Gonzales versus Owens-Corning 5 Fiberglas. Today's date is September 6 25th, 1997. This deposition is being 7 taken at Meredith, Donnell & Abernethy, 8 600 Travis Street, Suite 685C, Houston, 9 Texas. 10 The videographer is Daniel Paris 11 with Diana Henjum Reporting Services. 12 Would counsel please announce their 13 appearances for the record? 14 MR. WATSON: Andy Waters for the 15 plaintiffs. 16 MR. ERWIN: Harding Erwin for 17 Armco. 18 MR. HEWITT: Jim Hewitt for 19 Brown & Root U.S.A., Incorporated. 20 MS. KELLY: Trish Kelly, for W.R. 21 Grace & Company of Connecticut, and 22 Pittsburgh Corning Corporation. 23 STEVEN SELLERS, 24 called as a witness, having been first duly sworn, was 25 examined and testified upon his oath as follows:

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1 A G R E E M E N T S 2 3 AS PER RULE 11, the following agreements were 4 agreed to by and between the parties thereto, through 5 their respective attorneys appearing herein: 6 IT IS HEREBY agreed by and between the parties 7 hereto, through their attorneys appearing herein, that 8 any and all objections to any question, except as to 9 form, or answer, except as to responsiveness, 10 contained herein may be made upon the offering of this 11 deposition in evidence upon the trial of this cause 12 with the same force and effect as though the witness 13 were present in person and testifying from the witness 14 stand. 15 IT IS FURTHER agreed by and between the parties 16 hereto, that an objection made by one counsel for the 17 respective parties shall be considered good for all 18 other counsel present. 19 IT IS FURTHER agreed by and between the parties 20 hereto, through their attorneys appearing herein, that 21 this deposition may be signed before any Notary-Public 22 and thereafter returned into Court and used upon the 23 trial of this cause with the same force and effect as 24 though all requirements of the Rules and Statutes with 25 reference to signature and return had been fully	1 * * * 2 E X A M I N A T I O N 3 * * * 4 BY MR. WATERS: 5 Q. Could you state your full name for the 6 record, sir? 7 A. My name is Steven, S-t-e-v-e-n, Paul 8 Sellers, S-e-l-l-e-r-s. 9 Q. How old a man are you, Mr. Sellers? 10 A. I am 46. 11 Q. How are you presently employed? 12 A. I'm employed by Halliburton Company, 13 Shared Services, Health Safety and Environment Group. 14 Q. Just briefly, how would you -- in what way 15 would you characterize Halliburton's business or the 16 nature of its business? 17 A. Halliburton is a multinational company 18 that deals in oil and gas well services, as well as 19 they own engineering and construction company, also. 20 Q. How is Halliburton affiliated with 21 Brown & Root, if it is? 22 A. Halliburton owns Brown & Root. 23 Q. Okay. Based on your understanding of the 24 relationship, is it fair to say that Halliburton is 25 the parent company of Brown & Root?

Page 8 1 A. Yes, sir. 2 Q. How long have you been employed by 3 Halliburton? 4 A. I've been a little less than 21 years. 5 That includes my time with Brown & Root. 6 Q. At what point in time was -- in a formal 7 sense, did your employer change from Brown & Root to 8 Halliburton? 9 A. I started with Brown & Root in November of 10 1976 and worked for them until April of 1984, at which 11 time I transferred to a -- a subsidiary company, 12 Well-X (phonetic) at that time, which was owned by 13 Halliburton. 14 Q. All right. Where are you from originally, 15 sir? 16 A. I was born in Abbeville, Louisiana. 17 Q. A-b-b -- 18 A. -- e-v-i-l-l-e. 19 Q. Okay. And give me a sense, if you will, 20 of your background and educational training through 21 college and professional school. 22 A. Okay. I graduated from Berwick High 23 School in 1968, went to Northeast Louisiana University 24 in Monroe, Louisiana, from '68 to 1973, where 25 I graduated with a Bachelor of Science degree in	Page 11 1 together? 2 A. No, sir, we did not. 3 Q. Okay. Did you maintain contact with 4 Mr. Richardson throughout the period of time after you 5 last saw him in school in Louisiana and when you first 6 saw him -- or when you came to work for Brown & Root? 7 A. Yes, sir. 8 Q. So continuously throughout that time you 9 had some contact with him? 10 A. Yes, sir. 11 Q. Do you recall where he went to school? 12 A. He went to Tulane. 13 Q. Now, as -- in the pharmacy field, where 14 were you employed, what -- 15 A. I -- I was employed in Cut Off, Louisiana 16 and Lafayette, Louisiana. 17 Q. And was Mr. Richardson employed in Houston 18 for Brown & Root? 19 A. Yes, sir. 20 Q. Do you have a sense if he had been at 21 Brown & Root for a lengthy period of time or a short 22 period of time before your arrival? 23 A. If I were to estimate that, I would say at 24 least a couple of years, three years, maybe. 25 Q. But in any event, he encouraged you to
Page 9 1 Pharmacy; worked until 1976 in the field of pharmacy, 2 at which time I went to work for Brown & Root in their 3 safety and health department. 4 Q. All right, sir. Have you given a 5 deposition previously? 6 A. Yes, sir. 7 Q. Okay. Did -- was it a case that involved 8 asbestos in any way? 9 A. No, sir. 10 Q. Was it related to your work with 11 Halliburton or your prior work with Brown & Root? 12 A. It was with Halliburton. 13 Q. You know, from that experience, that I'll 14 be asking you a series of questions? 15 A. Yes, sir. 16 Q. Okay. And if for any reason you don't 17 understand one of my questions or it doesn't make 18 sense to you, will you ask me to stop and rephrase it 19 or repeat it? 20 A. Yes, sir. 21 Q. How was it that you came to seek 22 employment or to gain employment with Brown & Root in 23 November of 1976? 24 A. I did not want to continue working in the 25 field of pharmacy, and I had a friend who worked for	Page 12 1 apply for a position at Brown & Root? 2 A. Yes. 3 Q. Because he understood that you had a 4 background, as you put -- put it, in chemistry and 5 physical sciences that might lend itself to industrial 6 hygiene work? 7 A. Yes. 8 Q. Prior to your signing on with 9 Brown & Root, had you had any formal training 10 regarding industrial hygiene or industrial safety? 11 A. No. 12 Q. And I take it your first position with 13 Brown & Root was as an industrial hygiene technician? 14 A. Yes, sir. 15 Q. Can you describe for me -- well, let me 16 ask this first: In that capacity, did you report 17 directly to Mr. Richardson? 18 A. Yes, sir. 19 Q. Were there other industrial hygiene 20 technicians who were at the same sort of level as you; 21 that is to say, they reported to Mr. Richardson? 22 A. No, sir. 23 Q. Did you replace anyone? 24 A. No, sir. 25 Q. Was this a new position, industrial
Page 10 1 Brown & Root, Carl Richardson, in the safety 2 department. And from my background of pharmacy with 3 the chemistries, the sciences, he felt like I would 4 benefit being an assistant to him in industrial 5 hygiene, an industrial hygiene technician. So, I was 6 hired as an industrial hygiene technician at that time 7 by Brown & Root. 8 Q. How did you know Mr. Richardson? 9 A. We grew up and went to high school 10 together. 11 Q. In Abbeville? 12 A. In Bayou Vista, or Berwick. That's where 13 we grew up. 14 Q. In Louisiana? 15 A. Yes. 16 Q. Okay. Is Mr. Richardson your 17 contemporary; that is to say, are you approximately 18 the same age? 19 A. Yes, sir. 20 Q. Now, as of 1976, how long, to the best of 21 your understanding, had Mr. Richardson been employed 22 by Brown & Root? 23 A. I don't know the answer to that, to be 24 honest with you. 25 Q. Did you and Mr. Richardson go to college	Page 11 1 hygiene technician, as of November '76? 2 A. Yes, sir. 3 Q. Was one of the purposes of this new 4 position to have someone who was technically skilled 5 and able to perform a variety of industrial hygiene 6 functions, including air monitoring or air sampling? 7 MR. HEWITT: Object to the form of 8 the question to the extent it's 9 speculative. 10 A. Can you -- can you please ask that again? 11 Q. (BY MR. WATERS) I'm going to get her to 12 read it back, but by all means, tell me to do that 13 whenever you want it read back. 14 A. Okay. 15 (The requested material was read by 16 the reporter.) 17 A. Yes, sir. 18 Q. (BY MR. WATERS) Upon your arrival at 19 Brown & Root, did you shortly thereafter begin to be 20 trained in the techniques of air monitoring or air 21 sampling? 22 A. I -- I began formal training in a number 23 of areas, not just air monitoring, but in noise 24 sampling, chemical evaluations, audits at that time. 25 Q. All right, sir. Was Mr. Richardson, to

1 the best of your recollection, already qualified to
2 perform air monitoring as of your arrival in November
3 1976?
4 A. Yes, sir.
5 Q. Let's talk a little bit about the formal
6 training you received after November of '76 in these
7 various facets of the field. Can you tell me how that
8 was provided, or did they send you to an outside
9 source for training? Was it in-house training? Give
10 me a sense of how that developed.
11 A. It occurred in a couple of ways: One,
12 through formalized training courses put on by
13 professional organizations and/or colleges; and also,
14 on-the-job training through working with Carl.
15 Q. All right, sir. Let me ask you
16 specifically with respect to training concerning the
17 hazards of asbestos.
18 A. Uh-huh.
19 Q. Where would you have received that
20 training?
21 A. That training would have been on-the-job
22 training with Carl, as well as bits and pieces of
23 asbestos as sampling that have occurred in some of the
24 other formalized classes. I did go to a formal
25 asbestos contractor course, but I don't recall the

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1 Q. And those would include asbestosis, for
2 example?
3 A. Yes.
4 Q. A disease called mesothelioma?
5 A. Yes.
6 Q. A disease -- the disease lung cancer?
7 A. Yes.
8 Q. Did Mr. Richardson teach you, similarly,
9 that asbestos could cause various gastrointestinal
10 cancers?
11 A. Yes.
12 Q. Would you agree with me that by early
13 1977, you were cognizant or aware, as a result of that
14 training with Mr. Richardson, that asbestos was an
15 extremely hazardous substance?
16 A. I -- I can't tell you that it was early in
17 '77, but over a time period within that year,
18 I recognized the -- the hazard nature of asbestos,
19 yes.
20 Q. Fair enough. You recognized, for example,
21 that asbestos was a toxic substance?
22 A. Yes.
23 Q. And you recognized and learned that there
24 were a significant number of regulatory requirements
25 that had to be met and followed if employees or

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1 time frame of that course. It's reflected on my
2 resume, I think, on the specialized sheet, if we
3 need --
4 Q. Did you --
5 A. -- an exact date.
6 Q. Did you bring a copy of your resume with
7 you?
8 A. No, sir, I did not.
9 MR. HEWITT: I'll look to see if
10 I have a copy, if you'd like.
11 MR. WATERS: Okay. That might --
12 might shortcut some of the process.
13 Q. (BY MR. WATERS) All right. So as
14 I understand it, there are essentially two general
15 sources of your training with respect to asbestos:
16 One being the in-house work, on-the-job work you were
17 doing with Carl Richardson; and the other being some
18 coursework that you took of a more formal nature?
19 A. Right.
20 Q. And you mentioned, for example, that you
21 took an asbestos contractor course?
22 A. Yes, sir.
23 Q. Did that -- was the purpose of that course
24 to train people in the requirements associated with
25 the removal or demolition of asbestos material? Is

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1 persons were working with or around asbestos?
2 A. Yes.
3 Q. Can you tell me the first time that you
4 recall doing air sampling or air monitoring for
5 asbestos in the air?
6 A. No, sir, I -- I don't recall that.
7 Q. Okay. Is that -- can you tell me if you
8 recall Mr. Richardson showing you how to do that at
9 some point in time, with the equipment or whatever
10 else?
11 A. I -- I can't recall that.
12 Q. Do you recall one way or another if you
13 learned the -- how to perform the physical act of
14 monitoring from Mr. Richardson, or if you may have
15 learned from some other source, or do you -- do you
16 not recall?
17 A. I don't recall whether it was through the
18 formal training. I'm -- I'm almost certain that Carl
19 would have accompanied me through the sampling process
20 several times before he would have turned me loose on
21 my own to do the sampling.
22 Q. Fair enough. You assume that's the case;
23 you don't have a specific recall?
24 A. No, sir, I don't.
25 Q. Fair enough. Do you recall the first

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1 that what you mean by the term "asbestos contractor"?
2 A. Yes, sir. It was -- it was a course that
3 reflected the regulatory requirements, as well as
4 good, safe practices when handling asbestos.
5 Q. Now, was that something that you -- you
6 were asked to attend; or was that something that you
7 sought out and requested the chance to attend it on
8 your own initiative?
9 A. I don't recall what the impetus of me
10 attending that was.
11 Q. Did you understand at that time that
12 Brown & Root was involved in removal or abatement of
13 asbestos-containing materials at various sites around
14 the country?
15 A. Yes, sir.
16 Q. In your training with Mr. Richardson, your
17 less formal training, if you will, did you learn
18 something about -- from him about the physical hazards
19 or the results, injuries that could result from
20 asbestos exposure?
21 A. Yes.
22 Q. For example, did Mr. Richardson teach you
23 that asbestos exposure can cause a variety of
24 diseases?
25 A. Yes.

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1 occasion you had to be in the vicinity of work ongoing
2 with or around asbestos where dust was created?
3 A. Did -- did you say the first occurrence --
4 Q. Yes, sir.
5 A. -- that that happened? No, sir, I -- I
6 don't.
7 Q. Let me -- let's just take the time frame
8 November '76 until 1980, for starters.
9 A. Okay.
10 Q. Do you recall that in that time frame, on
11 one or more occasions, you would have worked in the
12 vicinity of Brown & Root work that involved asbestos
13 in place or work that created asbestos dust?
14 A. Yes, I would have.
15 Q. Okay.
16 A. I would have.
17 Q. All right. And again, is it fair to say
18 that you -- you don't recall a specific instance -- or
19 maybe you do, or is it just your general recollection
20 that that would have taken place on a number of
21 occasions in that time frame?
22 A. I'm remembering there were some activities
23 of job sites that I monitored for asbestos during that
24 time frame, but I cannot tell you specifically when,
25 where, how, or what the activities were.

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1 Q. Fair enough. Certainly, in the time frame
2 '76 or '77, as part of your formal and informal
3 training, you recognized that if asbestos dust was
4 being created by a job process, it was necessary to
5 monitor, do air sampling to determine the levels of
6 the dust?
7 A. Yes.
8 Q. And you, in fact, performed, on some
9 instances, that type of air monitoring on a variety of
10 jobs from '76 to 1980?
11 A. I don't recall that it would have been in
12 '76 because I started in November of '76; but
13 thereafter, yes, sir.
14 Q. Okay. And similarly, would you have
15 performed, on a variety of occasions, air monitoring
16 related to asbestos dust or asbestos work in the
17 period 1980 to 1984?
18 A. Yes, sir.
19 Q. Can you tell me the first such monitoring
20 you can recall?
21 A. A specific --
22 Q. A specific instance, yes.
23 A. A specific detail is -- is when I looked
24 at these reports, I specifically knew that it was my
25 handwriting; and I can recall doing some insulation

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1 removal, but I can't remember specific dates,
2 projects, or anything without, you know, maybe
3 reviewing the sampling record of my notes pertaining
4 to that. Nothing just boldly stands out in my memory,
5 but I know that I have, on occasions, sampled for
6 asbestos.
7 Q. You'll agree with me that insulation
8 removal is a process that requires both monitoring and
9 application of the other OSHA regulations?
10 A. Yes, sir.
11 Q. Do you recall, in your observation of
12 insulation removal, that it was, in fact, a process
13 that created visible dust?
14 A. If it was asbestos insulation, we had a
15 procedure to wet that down. And there would be
16 visible dust in the immediate area, but it would not
17 be like clouds of dust floating across the -- the
18 plant or the work area.
19 Q. All right. So, on the occasions where you
20 were present performing an industrial hygiene
21 function, you-all made sure that the material was
22 wetted to reduce the amount of the dust?
23 A. That's correct.
24 Q. And presumably, that was in addition to
25 some other precautions that are required under the

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1 regulations?
2 A. Yes, sir.
3 Q. All right. And even with those
4 precautions being taken, I think you'll agree with me
5 that some level of visible dust was created?
6 A. Yes, sir.
7 Q. As an industrial hygienist -- and I -- I
8 should ask: Do you consider yourself to be -- are you
9 certified?
10 A. No, I am not.
11 Q. Okay. Are you a member of a AIHA?
12 A. I was, but I currently am not. Once
13 I switched positions from Brown & Root to Well-X, the
14 duties of industrial hygiene slid to the -- the
15 background, and more formalized safety duties
16 progressed to the front. So, I have not, over the
17 last several years, have a -- a lot of dealing with
18 industrial hygiene work; and I don't consider myself
19 an industrial hygienist.
20 Q. Fair enough. But you were -- you would
21 consider that you were an industrial hygienist in the,
22 let's say, '77 to '84 time frame?
23 A. I was a lot more keen in industrial
24 hygiene activities at that time frame than I was
25 now -- or am now.

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1 Q. Going back to that time frame, '76 or '77
2 through '84, will you agree with me that as an
3 industrial hygienist, in approaching insulation in
4 place, that it was proper to assume that the
5 insulation was asbestos-containing unless testing had
6 been done to confirm otherwise?
7 A. Yes, sir.
8 Q. Do you have any recollection at any time
9 of observing the rip-out or tearout of insulation when
10 protective mechanisms such as you previously described
11 were not being used?
12 A. No, sir.
13 Q. Would you agree with me that the removal
14 or tearout of insulation without the protective
15 mechanisms that we've discussed could and would create
16 a significant amount of dust?
17 ME. ERWIN: Object as vague and
18 ambiguous and overbroad.
19 MR. HEWITT: Object to the
20 overbroad and vague form of the question.
21 It's misleading.
22 MS. KELLY: Join.
23 Q. (BY MR. WATERS) Can you answer?
24 A. Would you repeat it again, please?
25 Q. Absolutely.

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1 MR. WATERS: Would you read that
2 one back?
3 (The requested material was read by
4 the reporter.)
5 A. Number one, it -- it possibly could. And
6 significant, I don't know that it would be significant
7 dust or not. That would -- it may or may not be a
8 significant amount of dust.
9 Q. Okay. If -- let me just ask you a
10 hypothetical question based on your training and
11 experience. If you were to observe the rip-out or
12 tear-out of asbestos insulation, and to also observe
13 that no protective mechanisms were being used, would
14 that be something as a -- that as a safety
15 professional, would concern you?
16 A. Yes, sir.
17 Q. Okay. And you would consider that
18 scenario, that set of circumstances to present a
19 potential hazard?
20 MR. HEWITT: Object to the
21 speculative form of the question. It's an
22 inaccurate hypothetical in terms of what
23 potential hazard may or may not be
24 present, as to whether the insulation
25 contains asbestos or not.

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1 Q. (BY MR. WATERS) You can answer.
2 A. Yes, sir.
3 Q. Can you tell me some of the sites -- well,
4 the easiest way to do this: In the time frame '76 to
5 '84, can you tell me any particular job sites where
6 you have a specific recollection of performing air
7 sampling or air monitoring for asbestos in the air?
8 A. By that, do you mean all the details of
9 the job, or do you mean the -- the general type of
10 activities?
11 Q. Let's start with -- no, I'm not -- at this
12 point in time, I'm not interested in details, just
13 what -- if you have a specific recollection of
14 different facilities or job sites where you performed
15 that function.
16 A. Specific plant titles, no; but I remember
17 monitoring asbestos removal from pipe racks.
18 I remember monitoring transite cutting operations, and
19 I remember the -- the Armeo, after reviewing the
20 documents, the Armeo situation.
21 Q. Okay. And in each and every one of those
22 circumstances, it's your recollection that protective
23 mechanisms and methods to reduce the dust
24 significantly were used?
25 A. Yes, sir.

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1 Q. Now, in some of those instances, if you
2 can recall, did you have levels that were in excess of
3 the permissible exposure level, despite the
4 precautions?
5 A. Please repeat that one more time.
6 MR. WATERS: I'll get her to read
7 it back.
8 (The requested material was read by
9 the reporter.)
10 MR. HEWITT: Object to the
11 ambiguous, misleading, vague form of the
12 question.
13 A. I -- I think that, after reviewing some of
14 the sampling results here, if I'm not mistaken, there
15 were some that were over the levels of the -- the
16 threshold limit value in this particular sampling.
17 The other samplings, I cannot recall if they were over
18 the threshold limit value or not.
19 Q. (BY MR. WATERS) Fair enough. And you
20 understand, of course, that this is not a memory test.
21 I mean, if -- it's been some years. If you don't
22 recall something, feel free to tell me that and we'll
23 move on.
24 A. Yes, sir.
25 Q. Okay. Where is your office presently? Is

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1 it here in Houston?
2 A. Yes, sir. I'm on Highway 6.
3 Q. Okay. Let's talk about Armco. Can you
4 tell me from your personal recollection how many times
5 you would have visited that site for any type of work
6 in the '76 to '84 time frame?
7 A. The only times I remember going to the
8 Armco were the two times that we have the -- the
9 sampling data for.
10 Q. Other than the -- the sampling data that
11 you have reviewed, I take it you don't have any
12 independent recollection of any other visits to that
13 facility?
14 A. I -- I may have, and I don't specifically
15 recall, but I may have gone to the site prior to that
16 to talk with the hygiene or the safety people; but I
17 -- I don't have a vivid recall of that.
18 Q. Okay. With respect to the one visit you
19 specifically recall, were -- was your time spent in
20 only one location at the facility?
21 A. Yes, sir, to the best of my recall, it
22 was.
23 Q. And that was in the connection with the
24 work you did in the bag house?
25 A. That's correct. That was at the wide -- I

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1 think it's the wide flange baghouse --
2 Q. Wide flange baghouse?
3 A. I don't know. There may be more than one
4 set of baghouses there, but --
5 Q. Okay.
6 A. Or -- but whatever is the area that is
7 described on my sampling record, those were the areas
8 that I -- I would --
9 MR. HEWITT: Okay. And just for
10 the record, I believe where this is
11 indicated, there were two records with
12 respect to him being present at the plant
13 that refreshed his memory.
14 MR. WATERS: I think that's right.
15 Q. (BY MR. WATERS) One was in '80, and one
16 was in '81?
17 A. That -- that sounds right.
18 Q. We'll look at those. Okay.
19 Do you have any knowledge or information
20 or opinions that in any way relate to the nature and
21 extent of Brown & Root's work with or around asbestos
22 at that facility in the '74 -- excuse me, '76 to '84
23 time frame, other than what you learned from the work
24 at the baghouse?
25 A. To my -- no, sir, I don't have any other

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1 recollection than those times.
2 Q. Were you aware that the baghouse work had
3 been previously performed by Armco employees?
4 A. Yes, sir.
5 Q. Okay. And you knew that from discussions
6 with Mr. Gunderson?
7 A. Yes, sir, I think his name was Gunderson.
8 One of the --
9 Q. Okay.
10 A. -- either their hygienist or safety
11 person's name, I think, is Gunderson.
12 Q. Do you recall why it was that Armco had
13 requested that Brown & Root perform the job function
14 this time as opposed to Armco?
15 A. No, sir, I don't know.
16 Q. Do you recall the volume of asbestos that
17 was removed in that -- during that process?
18 A. No, sir, I don't.
19 Q. Absent appropriate precautions, would you
20 agree with me that that job function would have been
21 hazardous?
22 A. It could have been hazardous, yes, sir.
23 Q. And it -- it could have involved a -- the
24 release of a significant amount of asbestos fiber, if
25 not done in accordance with the regulations?

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1 MR. HEWITT: Objection --
2 MR. ERWIN: Objection --
3 MR. HEWITT: Speculative.
4 MR. ERWIN: -- vague and ambiguous,
5 overbroad.
6 Q. (BY MR. WATERS) can answer.
7 A. Within the rooms, as I can remember,
8 where the filters were located, there would have been
9 high content of asbestos in the air; but I -- I cannot
10 say how much would have gotten to the outside, open
11 air, because it was some sort of enclosed fixture, if
12 I'm remembering right.
13 Q. Fair enough. Do you recall in your early
14 training and experience that asbestos par -- fibers
15 are extremely small?
16 A. Yes, sir.
17 Q. And, in fact, are -- are, in fact, in
18 visible in -- in and of themselves?
19 A. Yes, sir.
20 Q. And they are extremely aerodynamic, are
21 they not?
22 A. I don't recall that, but --
23 Q. Okay. Do you recall that asbestos fibers,
24 from your training, can stay in the air for long
25 periods of time and can float or carry in a wide area?

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1 A. Yes, sir.
2 Q. And it -- the fibers themselves are what
3 causes the hazard, correct, the inhalation of the
4 fibers?
5 A. That's correct.
6 Q. And it's possible, certainly, for persons
7 to have hazardous exposures to asbestos fibers and not
8 even be able to see them?
9 A. Yes.
10 MR. HEWITT: Objection --
11 MS. KELLY: Objection, calls for
12 speculation.
13 MR. HEWITT: -- also, objection to
14 the form of that last question on the
15 grounds it's overbroad and vague.
16 Q. (BY MR. WATERS) Because of the objection,
17 I think it got on top of your answer. Could you
18 reanswer the question?
19 A. Could you please repeat?
20 Q. I'll get her to read it back.
21 A. Okay.
22 (The requested material was read by
23 the reporter.)
24 A. Yes.
25 Q. (BY MR. WATERS) Can you tell me what it

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1 was that you reviewed in preparation for your
2 deposition?
3 A. There were some documents pertaining to my
4 sampling records and my notes, as well as some general
5 memos pertaining to asbestos and asbestos products,
6 those kinds of documents.
7 Q. All right. And did you meet with
8 Mr. Hewitt, the attorney for Brown & Root, in order to
9 prepare for your deposition?
10 A. Yes, sir.
11 Q. On how many occasions did you meet with
12 him?
13 A. Twice.
14 Q. Today?
15 A. And -- two times previous to today.
16 Q. Okay. So, a total of three times?
17 A. Including today, yes.
18 Q. All right. Can you give -- tell me the
19 total number of hours that you met with Mr. Hewitt,
20 adding all of that up?
21 A. Oh, it might have been two and a half
22 hours.
23 Q. Okay. Do you have any opinions or
24 knowledge concerning the exposure of Armco employees
25 to asbestos dust generated by Brown & Root operations?

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1 MR. HEWITT: Objection to the form
2 of the question. It assumes facts not in
3 evidence, it's overbroad and vague and
4 speculative.
5 Q. (BY MR. WATERS) You can answer.
6 A. My comments here could be based upon the
7 area samples that we put out at the area where we did
8 the sampling. Those area samples seemed to be very
9 low and so, therefore, I would draw the conclusion
10 that they would have no asbestos exposure to the
11 Brown & Root operations there.
12 Q. Okay. Now, to be clear on your answer,
13 you're speaking of the particular -- the two instances
14 in 1980 and 1981, with respect to the baghouse?
15 A. That is correct.
16 Q. Okay. Have you reviewed any other
17 sampling records of Brown & Root asbestos-related
18 operations at the Armco facility?
19 A. No.
20 MR. HEWITT: Object to form of the
21 that last question to the extent it
22 assumes facts not in evidence.
23 Go ahead.
24 A. No, sir, I have not seen any more sampling
25 records, if there are any.

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1 Q. (BY MR. WATERS) All right. So, whatever
2 conclusions you can draw about the level of dust
3 created by Brown & Root asbestos operations at that
4 facility, those are limited to the 1980 and 1981
5 baghouse operations?
6 A. That's correct.
7 Q. In -- in your general duties, 1976 to
8 1984, you became aware, did you not, sir, that
9 Brown & Root personnel frequently worked with or
10 around asbestos-containing materials at a variety of
11 job sites?
12 MR. HEWITT: Object to the
13 overbroad, vague form of the question.
14 A. Brown & Root would have worked in various
15 job sites around the country in or near asbestos, yes.
16 Q. (BY MR. WATERS) Okay. And in addition to
17 the actual asbestos removal work that Brown & Root
18 performed, there were maintenance tasks that
19 Brown & Root employees performed that might cause them
20 to be involved with old asbestos insulation that was
21 in place?
22 MR. HEWITT: Object to the form of
23 that question. It's speculative, assumes
24 facts not in evidence, and it's overbroad
25 and vague.

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1 A. I'm sorry. Could you ask that again,
2 please?
3 Q. I'm going to get her to read it again. I
4 can never remember it the same way, so I've got to --
5 A. Okay.
6 (The requested material was read by
7 the court reporter.)
8 A. Our -- our procedures would have been if
9 we would have any activities that would have impacted
10 any existing asbestos insulation, we would have taken
11 precautions pertaining to our activities around that
12 asbestos.
13 MR. WATERS: Okay. Let me object
14 as nonresponsive.
15 Q. (BY MR. WATERS) And I'll do that from
16 time to time if I think your answer is not responding
17 to what I -- my question. And let me try it again.
18 A. Okay.
19 Q. Because it wasn't a very articulately
20 phrased question. My question is this: In addition
21 to the actual removal of asbestos that Brown & Root
22 performed from time to time, such as the baghouse
23 job --
24 A. Uh-huh.
25 Q. -- will you agree with me that there would

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1 have been other instances, in the context of general
2 maintenance work that Brown & Root employees
3 performed, where it would be necessary to work with or
4 in the vicinity of asbestos insulation materials in
5 place?
6 MR. HEWITT: Object to the form of
7 that question. It assumes facts not in
8 evidence and it's overbroad. It's not
9 limited in geographic location to a
10 particular plant site or time period, and
11 is ambiguous and, therefore, misleading.
12 Q. (BY MR. WATERS) You can answer.
13 A. Yes, sir.
14 Q. Now, is it your testimony that each and
15 every Brown & Root employee who might be required to
16 work around asbestos would have known that the
17 potential dust from that operation could be a hazard?
18 MR. HEWITT: Object to the
19 speculative form of the question.
20 MS. KELLY: Join.
21 A. Yes. Any employee of Brown & Root who
22 would have had activities that related to asbestos
23 would have been trained and -- and notified and
24 protected so that he wouldn't have had that exposure,
25 or she wouldn't have had that exposure.

Page 3

1 Q. (BY MR. WATERS) Okay. And one of the
2 purposes of Brown & Root's efforts to train its
3 employees was so that those employees could take
4 proper precautions and reduce or eliminate the hazards
5 from any exposure they might have?
6 A. That's correct.
7 Q. Will you agree with me that each and every
8 time there was Brown & Root work that disturbed
9 asbestos materials, monitoring was a requirement?
10 A. Yes.
11 Q. And that goes back to 1971, when OSHA
12 first came into place?
13 MS. KELLY: '72.
14 Q. (BY MR. WATERS) '72?
15 A. Yes, sir, that time frame.
16 Q. If for some reason a Brown & Root employee
17 in the time frame '76 to '84 who was required to work
18 with or around asbestos had not been informed of the
19 potential hazard, would you consider that Brown & Root
20 was negligent or careless in not providing that
21 information?
22 MR. HEWITT: I object to the form
23 of the question on the grounds that it's
24 an inaccurate hypothetical with respect to
25 the issues presented in this lawsuit.

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1 It's also misleading, overbroad, and
2 ambiguous, and does not conclude the
3 proper definition of the proper legal
4 standard.
5 MR. WATERS: The proper what?
6 MR. HEWITT: Legal standard.
7 Q. (BY MR. WATERS) You can answer.
8 A. Yes, sir.
9 Q. Similarly, if Brown & Root employees
10 understood that working with or around asbestos could
11 create a potential hazard, and did so without taking
12 the required precautions, would you agree with me that
13 that would be an indication of carelessness or
14 negligence on their parts?
15 MR. HEWITT: The same objections
16 I stated to the last question.
17 A. Yes, sir.
18 Q. (BY MR. WATERS) Will you agree with me
19 that Brown & Root employees involved with asbestos
20 work had a moral and a legal obligation to
21 nonemployees who might be working in the vicinity and
22 might also be exposed to asbestos dust?
23 A. Yes, sir.
24 MR. HEWITT: To the last question,
25 I object to the form of the question on

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1 the grounds that it's misleading,
2 constitutes an inaccurate hypothetical,
3 and fails to state the correct legal
4 standard, and is misleading and ambiguous.
5 Q. (BY MR. WATERS) In addition to the
6 wetting method you described earlier and the
7 monitoring that you described earlier, will you agree
8 that additional requirements involved the posting of
9 warning signs so that workers in the vicinity would
10 know of a potential hazard?
11 A. Yes, sir.
12 Q. The regulations also required use of
13 respiratory protection to eliminate the hazard?
14 A. If you were above the levels, threshold
15 limit -- threshold limit values, it was a requirement,
16 yes, sir.
17 Q. And, of course, the only way to know for
18 certain if you were above a certain level -- well, let
19 me -- let me ask it this way: Is there any way to
20 ascertain the nature of the hazard from merely
21 observing the dust?
22 A. By air monitoring and analysis by a lab.
23 Q. Okay. Understanding that the fibers can
24 be invisible, as we discussed before, is it possible
25 to have air monitoring results above the PEL or the

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1 TLV when you do not have a significant amount of
2 visible dust?
3 A. It could be possible, yes, sir.
4 Q. And if you do have visible dust, that
5 increases the likelihood that your measurements may or
6 will be over the PEL, or permissible exposure limit?
7 A. Not necessarily, because the percent of
8 asbestos in that material may be lower than -- than
9 other pieces of insulation; and it may be inert
10 materials.
11 Q. Okay. Do you, yourself, consider that
12 asbestos-containing products, that in their normal
13 usage allow asbestos fibers to become airborne, are
14 dangerous?
15 A. Could you ask that again, please, sir?
16 Q. Yeah, that was poorly worded. Would you
17 agree with me that asbestos products that, in their
18 normal usage, release asbestos fibers into the air,
19 are potentially dangerous?
20 MR. HEWITT: Objection to the form
21 of the question. It assumes facts not in
22 evidence and is misleading, if that's what
23 asbestos products do in their normal use.
24 A. If asbestos is bonded, there may be no
25 asbestos release. If asbestos fibers are released

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1 from products, then they stand the potential of
2 someone breathing them and harm coming to that person,
3 yes.
4 Q. (BY MR. WATERS) Do you agree that
5 asbestos products that have the potential to release
6 fibers should contain a warning concerning the hazard?
7 A. Yes, sir.
8 Q. Do you agree that asbestos exposure is
9 potentially deadly?
10 A. Yes, sir.
11 Q. Do you have any knowledge whatsoever
12 concerning -- other than the 1980 and '81 baghouse
13 work -- concerning other work at the Armco facility
14 where Brown & Root employees worked with or around
15 asbestos materials in the same time frame, '76 to '84?
16 A. I have no knowledge to that.
17 Q. If you, as -- again, the same time frame,
18 '76 to '84 -- as an industrial hygienist trained by
19 Brown & Root, were to observe asbestos removal work
20 that was creating visible dust, would you shut down
21 that operation until protective measures could be
22 added?
23 MR. HEWITT: Object to the
24 misleading form of the question. It's an
25 inaccurate hypothetical.

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1 A. If I saw the activities where people
2 weren't properly protected, yes, I would make attempt
3 to shut down that operation.
4 Q. (BY MR. WATERS) Now, you say you would
5 make an attempt to shut down the that operation. Are
6 there circumstances where you can imagine that the
7 operation would not be shut down, despite your
8 recommendation?
9 MR. HEWITT: Objection,
10 speculative, and assumes facts not in
11 evidence.
12 A. Project superintendents have the ultimate
13 responsibility for the job. Even though a safety
14 person has the will and desire to shut down a job,
15 sometimes they are overruled.
16 Q. (BY MR. WATERS) Okay. And sometimes
17 other considerations, whether it's efficiency or cost
18 considerations are -- unfortunately, prove to be more
19 important than the safety considerations?
20 MR. HEWITT: Objection; speculative
21 and assumes facts not in evidence.
22 Q. (BY MR. WATERS) Speaking in general.
23 A. Ask again, please, I'm sorry.
24 MR. WATERS: Can you read that one
25 back to him?

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1 (The requested material was read by
2 the reporter.)
3 MS. KELLY: Object also, as
4 argumentative.
5 MR. WATERS: Let me get that in
6 there.
7 Q. (BY MR. WATERS) You can answer.
8 A. I think there are a lot of things that
9 goes into those decisions. Sometimes efficiency,
10 sometimes money affects decisions for a lot of
11 companies, not just Brown & Root and Halliburton.
12 Q. Fair enough. Would you agree with me that
13 in your opinion, safety considerations should come
14 first, ahead of those?
15 A. I think safety considerations are a very
16 important part. They are not the sole leading part,
17 but they are -- they are hand in hand with other
18 things that should be considered.
19 Q. Do you -- do you recall that the
20 regulations specifically required the employer to
21 educate its workers concerning the hazards of
22 asbestos?
23 MR. ERWIN: Vague and ambiguous.
24 A. Yes, sir.
25 Q. (BY MR. WATERS) And to provide them

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1 training so that they would understand the full nature
2 of the hazard?
3 A. Yes, sir.
4 Q. And that would include, for example, that
5 asbestos exposures could cause some of these various
6 diseases we talked about, and particularly various
7 cancers?
8 A. Yes, sir.
9 Q. Did you have any personal involvement with
10 training sessions to advise Brown & Root employees of
11 the nature of some of those hazards?
12 A. Yes, sir.
13 Q. Again, this is in the '76 to '84 time
14 frame?
15 A. That's correct.
16 Q. Okay. Was that in the nature of staff
17 meetings or a meeting with project superintendents?
18 Give me a sense of that, if you can.
19 A. It -- it's not only meetings with
20 superintendents, project leaders, but it would also be
21 with the employees prior to them starting work. It
22 would be what we call "toolbox safety meetings," or
23 prejob safety meetings, where we would discuss
24 personal protective equipment as well as some of the
25 hazards that they may face if they didn't wear that

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1 equipment.
2 Q. All right. And do you -- tell me how many
3 times you recall giving talks or presentations of that
4 nature concerning asbestos in the '76 to '84 time
5 frame.
6 A. I don't have any recollection --
7 recollection to the number of times. It was numerous
8 times, though.
9 Q. I take it from your earlier testimony,
10 that you do not recall giving such training at the
11 Armco facility?
12 A. It was not documented that we had that
13 type of training session, other than the respiratory
14 protection segment of the training; but it's quite
15 possible that I -- I would have mentioned some of the
16 hazards involved, although it's not specifically
17 documented what hazards I talked about.
18 Q. All right. Will you agree with me, sir,
19 that in the time frame '76 to '84, it is quite
20 possible that there were circumstances where
21 Brown & Root employees were exposed to asbestos
22 without the necessary and required protective
23 mechanisms?
24 MR. HEWITT: Object to the
25 speculative form of the question. It's

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1 overbroad, imprecise, and ambiguous.
2 A. It's possible.
3 Q. (BY MR. WATERS) Okay. Can you give me a
4 sense of how many times, approximately, you would have
5 performed air sampling for asbestos in the '76 to '84
6 time frame?
7 A. Ballpark?
8 Q. Yes, sir.
9 A. Oh, 10, 15 times, maybe.
10 Q. Okay. Now, in addition to yourself and
11 Mr. Richardson, was there anyone else who was
12 qualified to do that employed by Brown & Root in the
13 time frame when you worked there?
14 A. Out of the corporate office, no; but we
15 may have had employees on the project that would have
16 been trained to possibly monitor.
17 Q. All right.
18 A. But I don't know that for a fact.
19 MR. WATERS: Okay. Let me object
20 to the nonresponsive portion.
21 Q. (BY MR. WATERS) Would that be speculation
22 on your part, as to whether or not there were others
23 besides yourself and Mr. Richardson qualified to do
24 that?
25 A. Yes, sir.

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1 Q. In Brown & Root, can you give me an idea
2 in the late 1970s of, again, a ballpark of the number
3 of construction jobs or construction sites where work
4 was ongoing at any given time?
5 A. No, sir, I have no clue. It was hundreds.
6 Q. And certainly there were many, many job
7 sites that you and Mr. Richardson were not able to
8 cover where the men may have been working with or
9 around asbestos materials?
10 MR. HEWITT: Object to the
11 speculative form of that question. It
12 assumes facts not in evidence and it's
13 overbroad and vague, rank speculation.
14 Q. (BY MR. WATERS) You can answer.
15 A. It's possible.
16 Q. Was someone hired to replace you in your
17 capacity?
18 A. During the early '80s before I left -- now
19 that I'm thinking about it, we had hired another
20 person to come on as an industrial hygienist. That
21 was a year or so before I left Brown & Root.
22 Q. What was his name?
23 A. Ralph Craig.
24 Q. Is it that C-r --
25 A. -- a-i-g.

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1 Q. Okay. Did you become familiar with the
2 fact that the federal government required retention of
3 monitoring records for at least 20 years?
4 A. Yes, sir.
5 Q. And at Brown & Root, did you make every
6 effort to comply with that requirement and retain all
7 such monitoring records?
8 A. To the best of my knowledge, we did.
9 Q. Okay. So, as we sit here today, absent
10 some unusual circumstances, Brown & Root should be in
11 possession of any and all monitoring records that were
12 completed at least later than September 1977?
13 A. Yes, sir.
14 Q. And if, in fact, there are additional
15 monitoring records that were not retained for whatever
16 reason, then that would be in violation of the
17 regulations?
18 MR. HEWITT: Objection: speculative
19 and it assumes facts not in evidence, and
20 it's overbroad and vague.
21 A. Of the OSHA regulations, yes, sir.
22 Q. (BY MR. WATERS) Okay. Now, can you give
23 me a sense, 1976 to 1984, how much time you spent in
24 the office, the corporate office? I'm sorry, poor
25 question. Give me a ballpark range of how much time

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1 you spent in the office as opposed to how much time
2 you spent in the field.
3 A. Oh, it was probably 50/50.
4 Q. Okay. And how about Mr. Richardson?
5 A. I don't have a feel for --
6 Q. All right.
7 A. -- for --
8 Q. Let me put it to you this way: Would it
9 be fair to say that Mr. Richardson probably spent more
10 time in the office than you did, given he had -- he
11 was somewhat senior to yourself?
12 A. Yes, sir.
13 Q. Do you recall an instance in 1979 where
14 Mr. Richardson expressed concern that asbestos
15 insulation had been removed without the proper
16 monitoring and protections taken in Mississippi?
17 A. I saw a memo to that effect, yes, sir.
18 Q. And -- and -- other than -- the memo was
19 shown to you by counsel for Brown & Root?
20 A. Other than that?
21 Q. No. I'm sorry. Let me ask the question
22 again. The memo of which you just spoke, was that --
23 were you -- did you look at that as part of your
24 consultation or your meeting with the Brown & Root
25 lawyer?

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1 A. Yes, sir.
2 Q. Okay. Other than your review of that
3 document, do you have -- did you have an independent
4 recollection of that event?
5 A. No, sir, I did not.
6 Q. Do you recall Mr. Richardson expressing
7 any concern to you that this had happened or that this
8 might be a potential problem at job sites?
9 A. No, sir.
10 Q. Did you recognize, in reviewing that
11 memorandum, that the work that took place at that
12 Mississippi power plant was in violation of the
13 federal regulations in place at the time?
14 MR. HEWITT: Object to the form of
15 the question. It's speculative, assumes
16 facts not in evidence, it's overbroad and
17 vague.
18 A. Yes, sir.
19 Q. (BY MR. WATERS) And would you agree with
20 me, sir, that the failure to properly monitor and
21 provide protection in that instance was carelessness
22 or negligence on the part of Brown & Root?
23 MR. HEWITT: Same objections, and
24 also doesn't state the applicable legal
25 standard.

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1 Q. (BY MR. WATERS) You can answer.
2 A. It would be considered negligent, yes.
3 Q. I'm going to ask you another hypothetical
4 question based on your training and experience as a
5 safety professional, particularly as an industrial
6 hygiene technician and an industrial hygienist. If
7 corporation knows of a potential hazard in the
8 workplace, understands that there are regulations to
9 be followed to reduce or eliminate the hazard, and
10 yet, still exposes employees or others without taking
11 the necessary precautions, would you agree with me
12 that that is improper practice?
13 MR. HEWITT: Object to the form of
14 that question. It's calling for a legal
15 conclusion on the part of this witness.
16 It's an inaccurate statement of the legal
17 standard. It is misleading and ambiguous.
18 A. Yes.
19 Q. (BY MR. WATERS) All right, sir. Would
20 you agree with me, sir, that a corporation that
21 exposes its employees or others to hazardous
22 substances, despite knowledge of the hazard, and
23 despite an understanding of the regulations, that that
24 corporation's attitude could be described as
25 indifferent?

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1 MR. ERWIN: Objection, vague and
2 ambiguous, improper hypothetical, and
3 particularly to the term "exposed".
4 MR. HEWITT: It's also speculative
5 and argumentative.
6 A. It could, yes, sir.
7 MR. WATERS: Why don't we take 5 or
8 10, use the restroom? And we're making
9 very good progress, so...
10 THE WITNESS: Okay.
11 THE VIDEOGRAPHER: 4:50 p.m. We
12 are off record.
13 (Short recess.)
14 THE VIDEOGRAPHER: It is 5:05 p.m.
15 We are back on record.
16 Q. (BY MR. WATERS) Mr. Sellers, would you
17 agree with me, sir, that in the time frame you were
18 employed at Brown & Root, 1976 to 1984, if there were
19 circumstances where asbestos dust was created in the
20 workplace without the monitoring being done and
21 without other protections, that that -- those
22 circumstances would involve a variety of regulatory
23 violations?
24 MR. ERWIN: Object to vague and
25 ambiguous and overbroad.

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1 MR. HEWITT: It's also speculative
2 and repetitious.
3 A. Yes, sir.
4 Q. (BY MR. WATERS) Did you recall that, in
5 your time with the industrial hygiene folks at
6 Brown & Root, that they had a variety of materials
7 which could be loosely described as an industrial
8 hygiene library?
9 A. I remember there were some reference
10 materials there, yes, sir.
11 Q. Okay. All right. In -- in particular,
12 I want to show you an article from the -- a journal
13 called Occupational Medicine. Do you recall that
14 journal being one of the ones received by
15 Brown & Root?
16 A. I don't recall that.
17 Q. Okay. Did you from time to time review
18 trade -- well, scientific or industrial hygiene
19 publications that pertained to hazards in the
20 workplaces while you were at Brown & Root?
21 A. Yes, sir.
22 Q. Okay. Let me show you an article from the
23 Brown & Root industrial hygiene library, from a
24 journal called Occupational Medicine, entitled
25 "Occupational Cancers of the Respiratory Tract." And,

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1 in particular, under the heading "Asbestos," if you'll
2 read along with me, "Lung cancer associated with
3 asbestos exposure was first reported by Lynch and
4 Smith who, in their paper of 1935, suggested that
5 asbestos" -- "that exposure to asbestos may have a
6 role in the development of lung cancer."
7 Let me ask you first: Did I read that
8 correctly?
9 A. Yes.
10 MR. HEWITT: First -- first, let me
11 object to the form of that question to the
12 extent it assumes facts not in evidence,
13 and it's therefore misleading.
14 MR. ERWIN: Lack of foundation,
15 improper hypothetical.
16 Q. (BY MR. WATERS) All right. Did I read
17 that correctly, sir?
18 A. Yes, sir.
19 Q. All right. Did you become aware, in the
20 time frame 1976 to 1984, that, in fact, asbestos had
21 been identified as a possible workplace cancer-causing
22 agent back in the 1930s?
23 A. I didn't know that it was back in the
24 1930s. I knew that it was a possible lung -- a
25 carcinogen.

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1 Q. Okay. Did you know or did you come to
2 understand during your time with Brown & Root that the
3 cancer connection or the connection between asbestos
4 and cancer had been known for many, many years?
5 MR. HEWITT: I object to the
6 overbroad form of that question. It also,
7 as phrased, calls for an opinion which
8 just -- no predicate or foundation has
9 been laid for this witness to express,
10 that is, a medical opinion.
11 MR. ERWIN: Also vague and
12 ambiguous.
13 Q. (BY MR. WATERS) You can answer.
14 A. For some years. I didn't know many, many
15 meaning, you know, X number of years. I knew that
16 previously it had been identified as a potential
17 cancer-causing agent.
18 Q. Did you become familiar with the fact that
19 there was research by a Dr. Irving Selikoff, that
20 indicated in the early-to mid-1960s that asbestos
21 could cause cancer?
22 A. I remember Dr. Selikoff having worked with
23 that, yes.
24 Q. All right. From time to time, did you
25 review various journals that were circulated in the

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1 office about occupational hazards, that sort of thing?

2 A: Yes, sir.

3 Q: Okay. Let me show you what's been marked

4 AR085 and ask if you've observed that document -- if

5 you've reviewed that document. Sorry. Does that --

6 does that look familiar to you?

7 A: No, sir.

8 Q: Okay. That's fine. Would you agree with

9 me, sir, that friable asbestos in the workplace is a

10 hazardous condition?

11 MR. ERWIN: Object to vague and

12 ambiguous. Lacks specificity as to a time

13 frame.

14 A: Yes, sir.

15 Q: (BY MR. WATERS) Did you become aware that

16 before your arrival at Brown & Root, there had been

17 substitutes found for asbestos-containing thermal

18 insulation that were not hazardous, in that -- in that

19 they did not contain asbestos?

20 MR. HEWITT: Object to the form of

21 that question; assumes facts not in

22 evidence and is speculative.

23 MS. KELLY: Join.

24 A: Please repeat the question.

25 Q: (BY MR. WATERS) Yeah, let me just

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1 rephrase that one. Did you become aware, after you

2 arrived at Brown & Root in '76 -- I may have misspoke

3 a second ago -- did you become aware that there were

4 substitutes for asbestos insulation on the market that

5 did not have the same hazard because they didn't

6 contain asbestos?

7 A: Yes.

8 MR. HEWITT: Same --

9 Q: (BY MR. WATERS) Would you agree with me

10 that in light of that fact, a company that was still

11 using asbestos thermal insulation in the 1980s would

12 be considered negligent?

13 MR. ERWIN: Objection; vague and

14 ambiguous, "using".

15 MR. HEWITT: You're using -- it's

16 very -- very overbroad and speculative as

17 to your use of the term "using," and

18 I object on those grounds.

19 A: Can you describe for me what you mean by

20 "negligent"?

21 Q: (BY MR. WATERS) Yes, sir, careless.

22 A: Careless?

23 Q: Yes, sir.

24 MR. ERWIN: Same objections.

25 MS. KELLY: I'm going to object to

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1 that. It's not a proper legal standard,

2 and I don't think that this man is

3 qualified as an expert to give an opinion

4 on negligence.

5 Q: (BY MR. WATERS) You can answer.

6 A: Please repeat, again.

7 Q: Okay. Would you agree with me, sir, that

8 a company that was using asbestos thermal

9 insulation -- and by "using," I mean using it as new

10 product that they maintained in stores -- that that

11 company would be negligent or careless?

12 MR. ERWIN: Object to the extent

13 that it's posed as a hypothetical.

14 A: Yes.

15 MR. ERWIN: Excuse me, sir. --

16 posed as a hypothetical relevant to the

17 facts of this case, and is an incomplete

18 and improper hypothetical.

19 MR. HEWITT: It also calls for a

20 legal conclusion on the part of the

21 witness. I object on those grounds. And

22 it's misleading and assumes facts not in

23 evidence.

24 Q: (BY MR. WATERS) What is your opinion in

25 that regard, sir?

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1 A: I think you still may be able to have a

2 product that does not release a toxic or hazardous

3 property and -- and it still have a useful purpose.

4 Q: Okay. Are you aware of any thermal

5 insulation products that contained asbestos that would

6 not release asbestos fiber if they were cut or sawed?

7 A: The chances of release would be reduced if

8 it was a bonded material.

9 Q: All right.

10 A: And -- and bonding was evidently

11 recognized by companies as maintaining that integrity

12 a little better.

13 Q: Okay. And if it was not a bonded

14 material, would you agree that its use in the early

15 1980s would be careless or negligent?

16 MR. ERWIN: Same obligations as

17 stated to the last question concerning use

18 of the term "use."

19 MS. KELLY: Join.

20 MR. ERWIN: And incomplete

21 hypothetical.

22 MR. HEWITT: And it calls for a

23 legal conclusion, assumes facts not in

24 evidence.

25 A: Please repeat.

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1 Q: I've got to -- she has got to read that

2 one back.

3 A: Okay.

4 (The requested material was read by

5 the reporter.)

6 A: I don't feel like it would be careless or

7 negligent just because you knew that there was another

8 product that did not contain it out there.

9 Q: (BY MR. WATERS) Let me put it to you this

10 way: If it was used in the '80s without any

11 precautions being taken, would you agree with me that

12 that would be in violation of the regulations and

13 would constitute carelessness or negligence?

14 MR. ERWIN: Same objections as to

15 the term "use" in this particular

16 question. It's vague and ambiguous,

17 overly broad, lacks specificity, and is an

18 incomplete hypothetical.

19 MR. HEWITT: Not applicable to the

20 circumstances related to this lawsuit,

21 therefore, it's misleading.

22 A: Are we talking about tearing it out at

23 this point?

24 Q: (BY MR. WATERS) No, sir. We are talking

25 about utilizing thermal insulation products, taking

Page 61

1 them out of the box in the 1980s, eight years or

2 ten years after substitutes were available, cutting

3 and sawing those products and creating dust in the

4 process without any precautions. What is your opinion

5 of that set of circumstances?

6 MR. HEWITT: Same objections.

7 MS. KELLY: I join.

8 A: It's creating a hazard that I think we

9 could eliminate.

10 Q: (BY MR. WATERS) All right, sir. And that

11 constitutes carelessness, doesn't it?

12 A: Yes.

13 Q: And that type of activity would

14 demonstrate an indifference to the health and safety

15 of the workers, wouldn't it?

16 MR. HEWITT: Again, I'm going to

17 object to the form of the question on the

18 grounds it assumes facts not in evidence.

19 It's an inaccurate hypothetical with

20 respect to the issues and facts and

21 circumstances involved in this lawsuit,

22 and it's misleading and overly broad.

23 Q: (BY MR. WATERS) You can answer.

24 A: Yes, sir.

25 Q: Have you had an opportunity to assess the

Page 62

1 size and scope of abatement projects, asbestos removal
2 projects that perhaps Brown & Root was involved with?
3 A. Only the ones that I had the ability to --
4 to work, yes, sir, in a -- there were other projects
5 that I was not involved with, and I may or may not
6 know the circumstances of the -- the conditions
7 surrounding some of those.
8 Q. Do you recall any removal projects that
9 involved large amounts, large volumes of pipe
10 covering?
11 A. By "large" --
12 Q. Well, for example, there's evidence in
13 this case that there were excess of 100,000 linear
14 feet of asbestos pipe covering removed at one time
15 from the Armco facility. Would you consider that to
16 be a large job?
17 MR. ERWIN: Objection; misstates
18 the evidence -- mischaracterizes the
19 evidence, assumes facts not in evidence,
20 therefore is an incomplete and improper
21 hypothetical to the extent this question
22 relates to this case involving Leo Pyle at
23 the Armco facility Houston Works.
24 MR. HEWITT: Join in the objection,
25 it's misleading.

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1 MS. KELLY: Same.
2 MR. WATERS: It's not the least bit
3 misleading. It's your document. You gave
4 it to me. It says "100,000 linear feet of
5 asbestos pipe covering" --
6 MR. ERWIN: I'll stipulate the
7 document says what it says, but it does
8 not -- I think we have mis- -- differences
9 of opinion as to whether that amount of
10 asbestos was removed from the Armco
11 facility. So, that's why I'm lodging my
12 objection. I'm not meaning to get on your
13 record inappropriately or make
14 unnecessary --
15 MR. WATERS: Okay. Let me -- let
16 me -- now that I think I understand the
17 objection better, let me restate the
18 question.
19 MR. ERWIN: And -- and I'm sorry.
20 Before you conduct another train of
21 thought, we do agree that objections that
22 are made by one defendant are good for
23 every defendant here.
24 MR. WATERS: Yeah, I think we did.
25 Yeah, we did.

Page 64

1 MR. ERWIN: All right. Excuse me,
2 Trish.
3 Q. (BY MR. WATERS) Would you consider
4 100,000 linear feet of asbestos covering on steam
5 pipes to be a very large and significant amount of
6 asbestos?
7 A. From a personal opinion, yes.
8 Q. Okay. And from the standpoint of an
9 industrial hygienist and someone trained in the
10 hazards of asbestos, would you also agree
11 professionally that that is a significant amount of
12 asbestos?
13 A. Yes.
14 Q. Do you recall if Brown & Root ever removed
15 or was ever involved with removal projects for that
16 type or that amount of asbestos insulation?
17 A. I do not know.
18 Q. Do you recall from your own training and
19 experience that a product called Johns-Manville
20 Thermobestos, Thermobestos pipe insulation was an
21 asbestos-containing insulation product?
22 A. I remember the name, but I don't remember
23 if it had asbestos or didn't have asbestos.
24 Q. Okay. Would you agree with me, sir, that
25 it would be totally improper for an employer to tell

Page 65

1 its employees that a material was nonasbestos if, in
2 fact, it contained asbestos?
3 MR. HEWITT: Object to the form of
4 the question. It's speculative and
5 assumes facts not in evidence.
6 A. Please repeat.
7 MR. WATERS: That one you can read
8 back.
9 (The requested material was read by
10 the reporter.)
11 MR. HEWITT: Also calls for a legal
12 conclusion.
13 MR. ERWIN: I object to the form as
14 vague. It misstates the proper legal
15 standards.
16 A. Yes.
17 Q. (BY MR. WATERS) In all of the asbestos
18 monitoring work that you did, did you every monitor
19 the work of electricians who may have been working in
20 the vicinity of asbestos-containing thermal
21 insulation?
22 A. No, sir.
23 Q. Will you agree with me, sir, that the
24 various precautions required by the regulations can be
25 expensive?

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1 A. Yes.
2 Q. And in particular -- in particular, the
3 medical monitoring requirement, that is to say,
4 monitoring of workers with X-ray examinations on a
5 continuing basis; that process can be very expensive,
6 can't it?
7 A. Yes, sir.
8 Q. Do you recall that, in fact, the
9 regulations required that persons exposed to asbestos
10 be continuously monitored over the ensuing years to
11 determine whether they developed any asbestos disease?
12 A. If they continued to work with asbestos,
13 yes.
14 Q. Okay. In your training and experience,
15 did you become aware of the fact that even very small
16 amounts of asbestos dust or asbestos exposure can
17 cause cancer or mesothelioma?
18 MR. HEWITT: Object to the form of
19 that question; no predicate or foundation
20 has been laid, calls for a medical
21 opinion.
22 Q. (BY MR. WATERS) You can answer.
23 A. Yes, sir.
24 Q. Did you become aware of the fact that
25 prior to OSHA, there had been regulations in the

Page 67

1 state -- regulations in place from the state of Texas
2 establishing a threshold limit value or maximum --
3 maximum permitted exposure to employees in the
4 workplace?
5 A. I didn't know that.
6 Q. Okay. Did you become aware that there was
7 something called the Walsh Healy Act that governed not
8 only Brown & Root's work for the federal government,
9 but any corporation that was doing work for the
10 federal government in terms of health and safety?
11 MR. HEWITT: Object to the form of
12 that question to the extent it calls for a
13 legal conclusion on the part of this
14 witness.
15 A. I was aware of the Walsh Healy Act, yes;
16 not the details of it.
17 Q. (BY MR. WATERS) Okay. You were not
18 aware, then, I take it, that the Walsh Healy Act
19 specifically contained a threshold limit value which
20 indicated a maximum permissible exposure to asbestos?
21 A. By Walsh Healy, is that -- are you meaning
22 the OSHA act?
23 Q. No, sir. Prior to OSHA.
24 A. Prior to OSHA, no, sir, I didn't know
25 that.

Page 68 1 Q. Will you agree with me, sir, that workers 2 who are working in the vicinity of asbestos removal 3 but are not actually doing the hands-on removal 4 themselves will be exposed to significant amounts of 5 asbestos unless these various precautions are taken? 6 MR. HEWITT: Object to the 7 overbroad, vague form of the question. 8 It's an incomplete hypothetical, and it 9 does not -- as relative to the 10 circumstances in issue and the facts of 11 this lawsuit. It's overbroad and vague. 12 Q. (BY MR. WATERS) Okay. You can answer. 13 A. They would possibly be exposed, but not 14 necessarily would be exposed over any kind of limits. 15 Q. Okay. Are you familiar with the fact that 16 the disease mesothelioma, that the main cause, if not 17 the only cause of that disease, is asbestos exposure? 18 A. Yes. 19 Q. And if a person develops mesothelioma 20 after a work history at a particular facility, would 21 you agree with me that there were clearly -- there was 22 clearly enough exposure at that facility to cause that 23 asbestos cancer? 24 MS. KELLY: Objection; calls for 25 speculation. This witness is not	Page 71 1 I realized I didn't have that much more to 2 do. 3 MS. KELLY: Me next? 4 MR. WATERS: That's fine. 5 MS. KELLY: Okay. 6 * * * 7 E X A M I N A T I O N 8 * * * 9 BY MS. KELLY: 10 Q. Hi, Mr. Sellers. My name is Trish Kelly. 11 I represent two product manufacturers in this lawsuit. 12 We just met today; is that correct? 13 A. Yes, ma'am. 14 Q. All right. First of all, do you know any 15 of the products that were in use out at the Armco 16 facility? 17 A. No, ma'am. 18 Q. All right. If I were to ask you if you 19 knew the name of W.R. Grace, do you have any 20 recollection of that -- that name? 21 A. Yes, ma'am, I know of the name W.R. Grace 22 from the plant that they had around the Houston 23 area -- 24 Q. Okay. 25 A. -- at one point in time, but that's the
Page 69 1 qualified to give an answer. 2 MR. ERWIN: Also, to the extent 3 it's posed to the hypothetical relative to 4 this case, it assumes facts not in 5 evidence and is an incomplete 6 hypothetical. 7 MR. HEWITT: With no predicate or 8 foundation. 9 Q. (BY MR. WATERS) You can answer. 10 A. I would have to say that there's an 11 indication there's a possibility that it would be, but 12 not -- not a definite link between the two. 13 Q. Okay. Do recall some discussion about 14 burying asbestos on-site at various Brown & Root 15 facilities? 16 A. On -- 17 MR. HEWITT: I'm going to object to 18 the form of the question. It assumes -- 19 assumes facts not in evidence, is 20 speculative. 21 A. I recall the request of potential burying 22 of asbestos on clients' properties where Brown & Root 23 was a contractor, yes. 24 Q. (BY MR. WATERS) All right. What was your 25 recollection or understanding as to the -- what the	Page 72 1 extent of it. 2 Q. Do you know what they made at the 3 Houston -- at the plant? 4 A. No, ma'am, I don't. 5 Q. Okay. Do you know, or do you have any 6 personal knowledge of if there were any product 7 containing asbestos manufactured by W.R. Grace that 8 was in use at the Armco facility? 9 A. I do not know that. 10 Q. Are you familiar with Pittsburgh Corning 11 Corporation? 12 A. Yes, ma'am. 13 Q. And how is it that you know Pittsburgh 14 Corning? 15 A. Through their products and through 16 advertisements. 17 Q. Okay. What products are you talking 18 about? 19 A. Insulation products, paint products. I'm 20 sorry, please repeat again. P -- PPG, did you say? 21 No. You said -- 22 Q. Pittsburgh, PCC, Pittsburgh Corning 23 Corporation. 24 A. Okay. Corning, only through insulation. 25 Q. Okay. Did you ever see any insulation
Page 70 1 regulations permitted in that regard? 2 A. I think it, if I'm recalling right, it was 3 a state-by-state type of allocation on that. 4 Q. All right. Were you involved with the 5 budget process at all with respect to the industrial 6 hygiene program? 7 A. Only in a subprocess, whereas I would 8 recommend to Carl if I needed any equipment or 9 materials; and he, in turn, would put it on the master 10 budget for the department. 11 Q. Okay. 12 MR. HEWITT: Excuse me, can we go 13 off the record for one second? 14 MR. WATERS: Sure. Do you need to 15 shut down? 16 MR. HEWITT: No, I just need to 17 talk to my staff for a second before they 18 leave. 19 THE VIDEOGRAPHER: It's 5:26 p.m. 20 We are off record. 21 (Short recess.) 22 THE VIDEOGRAPHER: It is 5:30 p.m. 23 We are back on record. 24 MR. WATERS: I'll pass the witness. 25 What? Well, I was just kind of going --	Page 73 1 manufactured by Pittsburgh Corning Corporation in use 2 at the Armco facility? 3 A. No, ma'am. 4 Q. Are you familiar with the name Unibestos? 5 A. I've heard the name, but only by virtue of 6 the word. 7 Q. Okay. Then it would be true that you have 8 not seen or know that a product named Unibestos was 9 being used at the Armco facility? 10 A. I would have no knowledge of that, 11 correct. 12 Q. Okay. You can't sit here today and 13 testify as to asbestos exposure of any Armco 14 personnel, can you? 15 A. No, ma'am. 16 Q. Did you know Mr. Leo Pyle? 17 A. No, ma'am. 18 Q. Okay. Did you know what he did? 19 A. No, ma'am. 20 Q. Can you sit here today and tell -- tell us 21 whether or not he may or may not have been exposed to 22 any asbestos-containing products? 23 A. I could not tell you that. 24 Q. Okay. Are you aware that not everyone who 25 was around asbestos-containing products develops an

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1 asbestos disease?
2 A. Please repeat that again, please.
3 Q. Okay. You know that not everyone who
4 works around asbestos-containing products gets a
5 disease?
6 A. That is correct.
7 Q. All right. Earlier on -- I'm confused and
8 I just want to straighten up something: Are you aware
9 of any instances at Armco where Brown & Root workers
10 did asbestos removal without taking proper
11 precautions?
12 A. No, ma'am.
13 MR. WATERS: Objection; calls for
14 speculation.
15 Q. (BY MS. KELLY) As you sit here today,
16 when there was a program ongoing at Armco regarding
17 tear-out or abatement by Brown & Root, you observed
18 proper precautions being taken?
19 A. On the two occasions that -- that I was at
20 Armco and sampled, the proper precautions were taken
21 at that time. If I have said something to the
22 contrary there, then -- then -- in previous
23 statements, I -- I was incorrect. The two times that
24 I monitored, all the precautions were in place with
25 respect to the OSHA-type regulations, the protection,

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1 the air monitoring, et cetera.
2 Q. All right. And the air monitoring that
3 was being done, the air samples were sent out to a
4 laboratory?
5 A. Yes, ma'am.
6 Q. And how was that measured? In cubic
7 centimeters per --
8 A. It was fibers per cubic centimeters,
9 that's correct.
10 Q. Okay. And it was fibers, correct?
11 A. Yes, ma'am.
12 Q. All right. Did it distinguish between the
13 various types of fibers?
14 A. As far as the asbestos fibers?
15 Q. Yes.
16 A. No, ma'am, not to my knowledge.
17 Q. Okay. In other words, when your report
18 came back and it talked about fibers, it didn't say
19 whether it was chrysotile, amosite, or chrysotile
20 fibers?
21 A. No, ma'am.
22 Q. Okay. Do you know of any air monitoring
23 that was done by Brown & Root that reflected any of
24 that?
25 A. No, ma'am, I don't know.

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1 Q. Okay. You're not aware of the mechanism
2 that is put in place for -- for people who are around
3 asbestos-containing products that would cause them to
4 develop a disease?
5 A. Please repeat again.
6 Q. Okay. You are not a doctor?
7 A. No, ma'am, I'm not a doctor.
8 Q. All right. You're not aware, then, of the
9 mechanism that causes asbestosis or any disease caused
10 by asbestos --
11 A. No, ma'am, I am not.
12 Q. -- exposure?
13 Q. You discussed with Mr. Waters earlier that
14 you knew that asbestos can cause certain types of
15 diseases, and he mentioned various gastrointestinal
16 cancers. Are you -- do you know that that is -- that
17 asbestos causes GI cancer?
18 A. When I -- when I was thinking of GI, I was
19 thinking of esophagus and that type of -- of cancer;
20 whereas I have seen literature that says that it's
21 possible to have cancer of that type through asbestos
22 exposure, only in literature.
23 Q. Okay. We're talking about
24 gastrointestinal?
25 A. Okay. No, ma'am.

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1 Q. All right. What literature have you
2 studied?
3 A. I -- I have seen -- let me back up here.
4 I have seen some information in the packet of material
5 of notes that I looked through that said, through
6 asbestos exposure, these types of diseases could come
7 about; and it was listed on that -- that sheet there
8 (indicating).
9 Q. You, yourself, have not done any
10 epidemiological studies regarding what types of cancer
11 are caused by asbestos exposure?
12 A. No, ma'am.
13 Q. All right. And you've done no study to
14 see what the current research indicates with regard to
15 what types of cancers --
16 A. No, ma'am.
17 Q. -- may be caused?
18 A. That's correct.
19 Q. All right. Since you -- in 1984, when you
20 left Brown & Root and went over to Well-X, have you --
21 I understood that you have not kept up with any of the
22 industrial hygiene area?
23 A. The duties of industrial hygiene are not
24 as current -- they have slid. More safety predominant
25 duties have come up, and less industrial hygiene

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1 duties were on my plate, yes, ma'am; and I have not
2 kept up very thoroughly with the IH side.
3 Q. And so it's -- it's fair to say that, just
4 as you said, it's not -- you do not -- you've not kept
5 up with the current state of the literature and
6 what -- what should or should not go on in an
7 industrial hygiene setting, right?
8 A. That's correct.
9 MS. KELLY: Pass the witness.
10 MR. HEWITT: No questions at this
11 time.
12 MR. ERWIN: I reserve mine until
13 the time of trial.
14 MR. WATERS: Just a couple
15 follow-ups.
16 ***
17 R E - E X A M I N A T I O N
18 ***
19 BY MR. WATERS:
20 Q. With respect to the issue of
21 gastrointestinal cancers --
22 A. Uh-huh.
23 Q. -- you mentioned a document. Is this the
24 Brown & Root document that you were speaking of that
25 contains information about asbestos and that sort of

Page 79

1 thing? Do you recall being shown -- shown this by the
2 Brown & Root lawyer?
3 A. Yes.
4 Q. Okay. Do you remember this document
5 being -- being disseminated in the IH department or at
6 Brown & Root back in the '70s?
7 A. No, I don't.
8 Q. Okay. Well, let me -- let me just
9 represent to you that there was testimony yesterday
10 from a witness -- what was his name? Mr. Ward; is
11 that right?
12 MR. HEWITT: Hodges.
13 MR. ERWIN: Hodges.
14 Q. (BY MR. WATERS) -- Mr. Hodges, that this
15 was a document that was distributed among Brown & Root
16 employees at some level?
17 MR. HEWITT: Object to the form of
18 that question as assuming facts not in
19 evidence and a mischaracterization of
20 earlier testimony.
21 Q. (BY MR. WATERS) All right. Looking at
22 this Brown & Root document, if you'll read along with
23 this last sentence where it starts, "However," can you
24 read that to the jury?
25 A. Yes, sir. "However, they still are" --

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1 "are at an increased risk of other asbestos-induced
2 diseases including asbestosis, mesothelioma, and
3 gastrointestinal cancers."
4 Q. Okay.
5 MS. KELLY: Wait a minute. I want
6 to ask him about that.
7 MR. WATERS: That would be fine.
8 MS. KELLY: I mean, when you are
9 done.
10 MR. WATERS: Okay.
11 Q. (BY MR. WATERS) Did you come to
12 recognize, and did Brown & Root recognize, that the
13 Occupational Safety and Health Administration was a
14 good source of information, rules, guidelines, and
15 regulations concerning the hazards of asbestos?
16 A. Yes, sir.
17 Q. And, in -- in fact, did you at -- at Brown
18 & Root rely on OSHA for that type of information?
19 A. Yes, sir.
20 Q. Let me show you from the Federal Register
21 of OSHA findings, June 20th, 1986, if you'll follow
22 along with me. If you'll look over here on Page
23 22620, "OSHA concludes that well conducted studies
24 demonstrate a substantially increased rate of lung
25 cancer and mesothelioma mortality among workers having

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1 and there would be no sense in removing it.
2 Q. (BY MR. WATERS) Okay. But the removal
3 process itself, one of the reasons it's so expensive
4 is because of all of the precautions that need to be
5 taken?
6 A. That's correct.
7 MR. WATERS: I'll pass the witness.
8 MS. KELLY: I just have one
9 follow-up.
10 ***
11 R E - E X A M I N A T I O N
12 ***
13 BY MS. KELLY:
14 Q. This document that Mr. Waters showed you
15 that was, I guess, produced --
16 MR. WATERS: At Brown & Root.
17 Q. (BY MS. KELLY) -- at Brown & Root, do you
18 do you know when it was, the date of this?
19 A. No, ma'am.
20 Q. Okay. And so I assume that you haven't
21 gone back and seen anything that may have followed it
22 up?
23 A. No, ma'am, I have not.
24 MS. KELLY: Okay. Thank you.
25 MR. WATERS: No questions.

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1 low cumulative exposures to asbestos." First of all,
2 did I read that correctly?
3 A. Yes, you did.
4 Q. And is -- is this inclusion from OSHA
5 consistent with your reflection and your
6 understanding or the ones that, in fact, low
7 cumulative exposures to asbestos could cause these
8 types of cancer in a particular lung cancer?
9 MR. HEWITT: Object to the form of
10 that question. No predicate foundation
11 has been laid for this witness to express
12 such an opinion. It's misleading.
13 MR. ERWIN: Also vague and
14 ambiguous as to the time frame, so...
15 Q. (BY MR. WATERS) You can answer.
16 A. It could, yes, sir.
17 Q. We talked earlier about substitutes. Do
18 you recall that --
19 A. Yes, sir.
20 Q. -- testimony?
21 If you'll follow along here at Page 22651
22 of the OSHA findings, it states, "In the past, the
23 price of substitute materials has been much higher
24 than the price of asbestos." First of all, did I read
25 that correctly?

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1 THE VIDEOGRAPHER: It is 5:47 p.m.
2 We are off record.
3 (Deposition concluded at 5:47 p.m.)
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1 A. Yes, you did.
2 Q. Do -- do you recall, sir, that based on
3 your time frame in the field, '76 to '84, that the
4 substitute materials that were being used in
5 substitution for thermal insulation were much more
6 expensive than the asbestos materials?
7 A. I didn't have any knowledge on the cost.
8 Q. All right. You were aware, or you did
9 become aware that abatement or removal of asbestos was
10 an extremely expensive procedure?
11 A. It was an -- it was an expensive
12 procedure. I did not consider it "extremely".
13 Q. Okay.
14 A. You know, that word, I guess, means
15 different things to different people.
16 Q. All right. And certainly, whatever the
17 expense may have been, in your mind, it would have
18 been justified because of the significant safety
19 considerations?
20 MR. ERWIN: Objection; vague and
21 ambiguous.
22 MR. HEWITT: It's also speculative
23 and assumes facts not in evidence.
24 A. If it's creating hazards, yes. If it's in
25 place, then it would be creating no hazard for anyone,

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

CORRIGENDUM

I, STEVEN SELLERS, wish to make the following changes or corrections in the testimony as originally given:

PAGE LINE CHANGE

STEVEN SELLERS

STATE OF _____ }
COUNTY OF _____ }

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by STEVEN SELLERS, the witness herebefore named, on this _____ day of _____, A.D., 1997.

Notary Public in and for the State of _____

County of _____

My Commission Expires: _____

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APPEARING FOR DEFENDANT
ARMCO
Taxable Cost: _____

8. A copy of this certificate was served on all parties shown herein
GIVEN UNDER MY HAND AND SEAL OF OFFICE on this
the _____ day of _____, 1997.

LISA A. BERRY, CSR #3104
CSR EXPIRATION DATE: 12/31/98

STATE OF TEXAS *
COUNTY OF HARRIS *

I, LISA A. BERRY, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the foregoing answers in response to the questions propounded were made before me by STEVEN SELLERS, the witness hereinbefore named, after said witness had been first duly cautioned and sworn to testify to the truth, the whole truth and nothing but the truth.

Further certification requirements pursuant to Rules 205 and 206 will be certified to after they have occurred.

I further certify the above and foregoing deposition is a full, true, correct and complete transcript of the proceedings had at the time of taking of this deposition.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 30th day of September, 1997.

LISA A. BERRY, CSR #3104
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My Commission Expires: 12/31/98

NO. 95-04-1723-D

MANUEL P. GONZALES, ET AL. } IN THE DISTRICT COURT OF
VS. } CAMERON COUNTY, TEXAS
OWENS-CORNING FIBERGLAS CORPORATION, ET AL. } 103RD JUDICIAL DISTRICT

ORAL DEPOSITION OF STEVEN SELLERS
TAKEN ON SEPTEMBER 25, 1997

I, LISA A. BERRY, Certified Shorthand Reporter, CSR #3104, hereby certify that:

1. This deposition transcript is a true record of the testimony given by the witness named herein, after said witness was duly sworn by me.
2. _____ is the charge for the preparation of the completed deposition transcript and any copies of exhibits attached thereto, charged to Defendants Pro Rata as noted.

3. The deposition transcript was submitted on _____ to _____ for the witness to examine, sign and return to DIANA HENJUM REPORTING SERVICES, P.C., by _____.

a. The deposition transcript was returned, properly executed by the witness, to the deposition officer ().

b. The deposition transcript was returned unsigned because of _____ refusal to sign. _____ absence of witness; _____ no reason given.

c. The deposition was not returned _____
d. The deposition was retained by _____ by agreement of the Parties _____.

5. I further certify that the attached change/correction sheet contains any changes, and the reasons therefor, made by the witness.

6. The original executed transcript, or a certified copy thereof, if applicable, together with all exhibits, was () was not () delivered to the Custodial Attorney, MR. C. ANDREW WATERS, LAW OFFICES OF C. ANDREW WATERS, 400 South Zang, Suite 1420, Dallas, Texas 75208 on _____, 1997.

7. Pursuant to information made a part of the record at the time said testimony was taken, the following includes all pages of record.

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