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MEMORANDUM

To: All RWB Trial Attorneys
From: Pat Folkerth
Date: January 5, 1996
Re: New W.R. Grace Transcript

We just received a copy of the testimony of Earl Lovick in Johnson v. W.R. Grace, USDC, MT, Aug. 23, 1990. This is a very interesting transcript which Roger Worthington got for us. Lovick testifies:

He became manager of the Libby mill 1968 when the previous manager, Raymond A. Blake, died of lung cancer.

Lovick had surgery for asbestos-related pleural disease in the early 1970's. At that time, most of his work was done in the office in downtown Libby.

Lovick confirms that by 1967 Zonolite recognized there was an "asbestosis problem with some of our employees."

In a confidential memo dated March 3, 1969, R.A. Schneider (chief engineer of Construction Products Division), stated that Zonolite's vermiculite contained 3% asbestos. Lovick confirms that at that time the plant was disposing of 630 tons of asbestos a day. He also confirms that some of the asbestos was discarded on the side of a mountain and it eventually "ran down the mountain into a creek." This creek polluted the Kootenai River.

Lovick also confirms that workers in the mill were exposed to massive dust exposures. Very fine tremolite asbestos dust was a component of the vermiculite dust which coated all six levels of the mill. Sometimes there would be accumulations of 5 or 6 inches on the rafters.

The ore was first processed at a "wet" mill before it was sent to a "dry" mill. At the wet mill, the dust turned to mud. Lovick confirms that in some of the work performed by millwrights, they came in contact with the asbestos-containing "mud."

Even after processing, Grace's vermiculite still contained some tremolite asbestos.

Lovick maintained an asbestos file at the mill in Libby. Included in this file were death certificates of employees who had worked at the mill prior to 1963. These death certificates

were provided to McGill University because Zonolite hired them to evaluate the effects of tremolite exposure on former employees. The file also included reports from state agencies and internal reports regarding dust sampling. Lovick authenticates these as Grace/Zonolite business records.

In 1956 Lovick received an industrial hygiene report from the state of Montana. Lovick confirms that he understood that asbestos created a significant health hazard for his employees after reading that report. He did not give the report to any of his employees.

Lovick confirms that he received another report from the state of Montana in 1958. Although the dust levels were slightly lower than those found in 1956, the state found concentrations from 12 to 31 percent. The state also said those counts, if anything, could be low.

About that time, Lovick learned that an employee named Glen Taylor had developed some lung problems relating to asbestos.

Dr. J. M. Carins sent an x-ray report to Raymond Blake on July 20, 1959. Grace had commissioned Carrins to conduct an x-ray study in 1959. Out of 130 x-rays, 48 were abnormal. Interstitial fibrosis showed up in 26, and one showed a malignant lesion. Lovick confirms that the report showed an exceptionally high level of lung problems for a group of 130 people.

Lovick also confirms that the company received still another state of Montana industrial hygiene report on the Libby mill dated March 6, 7 & 8, 1962. This study was made after a conference with Blake and R.A. Kujawa, chief engineer of the plant. Robert Vinton acted as guide for the state inspectors. Kujawa later died of colon cancer and Vinton died of lung cancer. Neither man had been included in the McGill study. This 1962 study again confirmed that Zonolite continued to have a serious dust problem in the dry mill in 1962.

When McGill investigated the effects of tremolite exposure on Zonolite employees in 1963, there were 240 living employees who were not included in the study.

Lovick confirms that documents relating to the acquisition of the Zonolite company by W.R. Grace and the agreement and plan of reorganization between Grace and Zonolite are W.R. Grace documents.

Another Montana State Board of Health Report on the Zonolite plant dated April 11, 1963 also confirmed that there appeared to be little, if any, improvement at the plant. Lovick was employed at Libby when that report was received.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MILDRED E. JOHNSON,

Plaintiff,

-vs-

W. R. GRACE AND COMPANY,

Defendant.

Civil Docket
No. 88-145-M-HP

COPY

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

Heard in the Courtroom
United States Courthouse
Missoula, Montana
August 23, 1990

BEFORE THE HONORABLE HARRY PREGERSON
UNITED STATES NINTH CIRCUIT COURT JUDGE

TINA C. BRILZ, RPR
Official Court Reporter
United States District Court
301 South Park - Drawer 10122
Helena, Montana 59626

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